

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: December 16, 2011
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 10

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

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

Senator Bray called the meeting to order at 1:45 p.m.

Senator Bray recognized David Thomas, the state's Inspector General, to present to the Commission a series of revisions to Titles 4 and 5 of the Indiana Code. He stated that this bill moves criminal provisions into two new articles in Title 35 and reorganizes these penalties into four general sections that are easier to understand than in their current organization. He told the Commission members that this bill also makes two substantive changes to the existing code by repealing sections that deal with printing services and reckless lending to another person. Mr. Thomas indicated that no appellate decisions have been written involving these two sections, therefore he concluded that these sections could be safely repealed and not affect enforcement of criminal laws.

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.

Mr. Thomas distributed to Commission members a handout (Exhibit A) that describes the reorganization.

The Commission members voted by a voice vote to leave in a section of statute that would have repealed language that would have decriminalized certain actions of administrative law judges. (IC 4-21.5-3-36)

Exhibit B contains the proposed language that the Commission recommends be introduced in the 2012 General Assembly. The Commission recommended by a 13-0 vote that this bill be introduced.

Senator Bray recognized Senator Head to describe a proposed change (Exhibit C) in a bill that deals with child solicitation.

The commission members voted 5-8 to not recommend introduction of this bill in the 2012 General Assembly.

Senator Bray adjourned the meeting at 3:00 p.m.

OFFENSES AGAINST STATE PUBLIC ADMINISTRATION

Exhibit A

IC 35-44.2

PROPOSAL:

	IC 35-44.2-1 Interference with state government operations offenses	
SECTION 7	IC 35-44.2-1-1	Retaliation to reporting a violation
SECTION 1	IC 35-44.2-1-2	Retaliation to reporting to inspector general
SECTION 2	IC 35-44.2-1-3	Obstructing the inspector general
SECTION 4	IC 35-44.2-1-4	Obstructing the department of corrections ombudsman
SECTION 6	IC 35-44.2-1-5	Obstructing the department of child services ombudsman
	IC 35-44.2.1-6	Interfering with state examiner
	IC 35-44.2-1-7	Refusal to follow state examiner directives
	IC 35-44.2-1-8	Annual report to state examiner
	IC 35-44.2-1-9	False certification of oath and affirmation
	IC 35-44.2-1-10	False or deficient financial disclosure statement
	IC 35-44.2-1-11	Failure to respond to attorney general upon demand of accounting
	IC 35-44.2-1-12	Commercial driver training school requirements
	IC 35-44.2-1-13	Publication of notices
	IC 35-44.2-1-14	Disclosure requirements by public works consultants
	IC 35-44.2-2 Purchasing offenses	
SECTIONS 13, 14	IC 35-44.2-2-1	Depository rule
SECTION 12	IC 35-44.2-2-2	Cashbook rule
SECTION 11	IC 35-44.2-2-3	Itemization and certification rule
SECTIONS 16, 17	IC 35-44.2-2-4	Competitive bidding rule
SECTION 10	IC 35-44.2-2-5	State teachers retirement fund accounting
	IC 35-44.2-2-6	Institutional borrowing without legislative approval
	IC 35-44.2-2-7	Disposal of law enforcement vehicles
	IC 35-44.2-3 Contracting offenses	
	IC 35-44.2-3-1	State public works contracting violations
	IC 35-44.2-3-2	Hospital bonding authority contracting restrictions
	IC 35-44.2-3-3	Law enforcement academy building commission contracting restrictions
	IC 35-44.2-3-4	Wage scale of public works contractor and subcontractor employees
	IC 35-44.2-3-5	Artificial dividing of public works projects
	IC 35-44.2-3-6	Employee organization restrictions
	IC 35-44.2-4 Confidentiality of records, meetings and information offenses	
SECTIONS 15	IC 35-44.2-4-1	Disclosure of confidential information
	IC 35-44.2-4-2	Disclosure of social security information
	IC 35-44.2-1-3	Disclosure of inspector general information
	IC 35-44.2-4-4	Disclosure of criminal intelligence information
	IC 35-44.2-4-5	Disclosure of enterprise zone information
	IC 35-44.2-4-6	Disclosure of state examiner examinations
	IC 35-44.2-4-7	Destruction of public records

OFFENSES AGAINST GENERAL PUBLIC ADMINISTRATION

IC 35-44.1

New cite Offense (old cite)

IC 35-44.1-1 General offenses

- IC 35-44.1-1-1 Official misconduct (IC 35-44-1-2)
- IC 35-44.1-1-2 Bribery (IC 35-44-1-1)
- IC 35-44.1-1-3 Ghost employment (IC 35-44-2-4)
- IC 35-44.1-1-4 Conflict of interest (IC 35-44-1-3)
- IC 35-44.1-1-5 Profiteering from public service (IC 35-44-1-7)

IC 35-44.1-2 Interference with general government operations offenses

- IC 35-44.1-2-1 Perjury (IC 35-44-2-1)
- IC 35-44.1-2-2 Obstruction of justice; exception (IC 35-44-3-4)
- IC 35-44.1-2-3 False reporting or informing (IC 35-44-2-2)
- IC 35-44.1-2-4 False identity statement; defense (IC 35-44-2-6)
- IC 35-44.1-2-5 Assisting a criminal (IC 35-44-3-2)
- IC 35-44.1-2-6 Impersonation of a public servant (IC 35-44-2-3)
- IC 35-44.1-2-7 Unlawful use of a police radio (IC 35-44-3-12)
- IC 35-44.1-2-8 Manufacturing and selling official badge (IC 35-44-2-5)
- IC 35-44.1-2-9 Failure to appear (IC 35-44-3-6)
- IC 35-44.1-2-10 Failure to respond to a summons (IC 35-44-3-6.5)
- IC 35-44.1-2-11 Interference with jury service (IC 35-44-3-10)
- IC 35-44.1-2-12 Interference with witness service (IC 35-44-3-11.1)

IC 35-44.1-3 Detention offenses

- IC 35-44.1-3-1 Resisting law enforcement (IC 35-44-3-3)
- IC 35-44.1-3-2 Disarming law enforcement officer (IC 35-44-3-3.5)
- IC 35-44.1-3-3 Refusal to aid an officer (IC 35-44-3-7)
- IC 35-44.1-3-4 Escape (IC 35-44-3-5)
- IC 35-44.1-3-5 Trafficking with an inmate (IC 35-44-3-9)
- IC 35-44.1-3-6 Trafficking with inmate outside a facility (IC 35-44-3-9.3)
- IC 35-44.1-3-7 Prisoner possessing dangerous device or material (IC 35-44-3-9.5)
- IC 35-44.1-3-8 Possession of cell phone while incarcerated (IC 35-44-3-9.6)
- IC 35-44.1-3-9 Sex offender violating lifetime parole provisions (IC 35-44-3-13)
- IC 35-44.1-3-10 Sexual misconduct [with those in lawful detention] (IC 35-44-1-5)

IC 35-44.1-4 Firefighting and emergency offenses

- IC 35-44.1-4-1 "Dispatched firefighter" defined (IC 35-44-4-1)
- IC 35-44.1-4-2 "Emergency incident area" defined (IC 35-44-4-2)
- IC 35-44.1-4-3 "Firefighter" defined (IC 35-44-4-3)
- IC 35-44.1-4-4 "Firefighter protective clothing and fire protective gear" defined (IC 35-44-4-4)
- IC 35-44.1-4-5 Refusing to leave emergency incident area (IC 35-44-4-5)
- IC 35-44.1-4-6 Firefighter improperly refusing to leave incident area (IC 35-44-4-6)
- IC 35-44.1-4-7 Person improperly entering emergency incident area (IC 35-44-4-7)
- IC 35-44.1-4-8 Obstructing or interfering with firefighter (IC 35-44-4-8)
- IC 35-44.1-4-9 Obstructing an emergency medical person (IC 35-44-3-8.5)

IC 35-44.1-5 Illegal aliens offenses

- IC 35-44.1-5-1 Application (IC 35-44-5-1)
- IC 35-44.1-5-2 "Alien" defined (IC 35-44-5-2)
- IC 35-44.1-5-3 Transporting an illegal alien (IC 35-44-5-3)
- IC 35-44.1-5-4 Harboring an illegal alien; landlord exception (IC 35-44-5-4)
- IC 35-44.1-5-5 Exception for transporting, moving, or caring for a child (IC 35-44-5-5)
- IC 35-44.1-5-6 Determination that alien is in the United States in violation of law (IC 35-44-5-6)
- IC 35-44.1-5-7 Impounding motor vehicles (IC 35-44-5-7)

Exhibit B

Draft Title 4 and 5 revision. Prepared for the Criminal Code Evaluation Commission.

SECTION 1. IC 4-2-6-13, AS AMENDED BY P.L.89-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) Except as provided in subsection (b), a state officer, an employee, or a special state appointee shall not retaliate or threaten to retaliate against an employee, a former employee, a special state appointee, or a former special state appointee because the employee, former employee, special state appointee, or former special state appointee did any of the following:

- (1) Filed a complaint with the commission or the inspector general.
- (2) Provided information to the commission or the inspector general.
- (3) Testified at a commission proceeding.

(b) A state officer, an employee, or a special state appointee may take appropriate action against an employee who took any of the actions listed in subsection (a) if the employee or special state appointee:

- (1) did not act in good faith; or
- (2) knowingly or recklessly provided false information or testimony to the commission.

(c) A person who violates this section is subject to action under section 12 of this chapter **and criminal prosecution under IC 35-44.2-1-2.**

SECTION 2. IC 4-2-6-14, AS AMENDED BY P.L.222-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) A person may not do any of the following:

- (1) Knowingly or intentionally induce or attempt to induce, by threat, coercion, suggestion, or false statement, a witness or informant in a commission proceeding or investigation conducted by the inspector general to do any of the following:
 - (A) Withhold or unreasonably delay the production of any testimony, information, document, or thing.
 - (B) Avoid legal process summoning the person to testify or supply evidence.
 - (C) Fail to appear at a proceeding or investigation to which the person has been summoned.
 - (D) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a commission proceeding or investigation to mislead a commissioner or commission employee.
- (2) Alter, damage, or remove a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in a commission proceeding or investigation conducted by the inspector general.
- (3) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a commission proceeding or investigation to mislead a commissioner or commission employee.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. **is subject to criminal prosecution under IC 35-44.2-1-3.**

SECTION 3. IC 4-11-1-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 6: An officer who recklessly lends to any person a greater amount of funds than he is authorized by law to lend commits a Class B misdemeanor.~~

SECTION 4. IC 4-13-1.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 11. A person who **interferes with the ombudsman is subject to criminal prosecution under IC 35-44.2-1-4.**

- (1) intentionally interferes with or prevents the completion of the work of the ombudsman;
- (2) knowingly offers compensation to the ombudsman in an effort to affect the outcome of an investigation or a potential investigation;
- (3) knowingly or intentionally retaliates against an offender or another person who provides information to the ombudsman; or
- (4) makes threats because of an investigation or potential investigation against the ombudsman; a person who has filed a complaint; or a person who provides information to the ombudsman;

commits a Class A misdemeanor:

SECTION 5. IC 4-13-4.1-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 4. (a) Neither the commissioner of the department of administration nor any employee of his department may be financially interested or have any personal beneficial interest in the purchase of any printing, lithographing, paper, binding, stationery, printing materials, or office supplies.

(b) If the commissioner of the department of administration or an employee of his department knowingly, falsely certifies any bill on account of the public printing, lithographing, binding, stationery, printing material, or office supplies, he commits a Class D felony.

SECTION 6. IC 4-13-19-11, AS ADDED BY P.L.182-2009(ss), SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) A person who **interferes with the ombudsman is subject to criminal prosecution under IC 35-44.2-1-**

4. 15

- (1) except as provided in subsection (b), intentionally interferes with or prevents the completion of the work of an ombudsman;
- (2) knowingly offers compensation to an ombudsman in an effort to affect the outcome of an investigation or a potential investigation;
- (3) knowingly or intentionally retaliates against another person who provides information to an ombudsman; or
- (4) knowingly or intentionally threatens an ombudsman; a person who has filed a complaint; or a person who provides information to an ombudsman; because of an investigation or potential investigation;

commits interference with the office of the department of child services ombudsman; a Class A misdemeanor:

(b) Expungement of records held by the department of child services that occurs by statutory mandate, judicial order or decree, administrative review or process, automatic operation of the Indiana Child Welfare Information System (ICWIS) computer system; or in the normal course of business shall not be considered intentional interference or prevention for the purposes of subsection (a):

SECTION 7. IC 4-15-10-4, AS AMENDED BY P.L.222-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Any employee may report in writing the existence of:

- (1) a violation of a federal law or regulation;
- (2) a violation of a state law or rule;
- (3) a violation of an ordinance of a political subdivision (as defined in

*Repealed
Printing
Services*

IC 36-1-2-13); or

(4) the misuse of public resources;

to a supervisor or to the inspector general.

(b) For having made a report under subsection (a), the employee making the report may not:

- (1) be dismissed from employment;
- (2) have salary increases or employment related benefits withheld;
- (3) be transferred or reassigned;
- (4) be denied a promotion the employee otherwise would have received; or
- (5) be demoted.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employee's appointing authority, the appointing authority's designee, or the ethics commission. However, any state employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under the procedure as set forth in IC 4-15-2-34 through IC 4-15-2-35.5. **IC 4-15-2.2-42.**

(d) An employer who knowingly or intentionally violates this section commits a Class A misdemeanor. **is subject to criminal prosecution under IC 35-44.2-1-1.**

SECTION 8. IC 4-21.5-3-36 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 36: An individual who:

- (1) is serving alone or with others as an administrative law judge or as a person presiding in a proceeding under sections 28 through 31 of this chapter; and
- (2) knowingly or intentionally violates section 11, 12, or 13 of this chapter;

commits a Class A misdemeanor.

SECTION 9. IC 4-21.5-3-36 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 36: An individual who:

- (1) is serving alone or with others as an administrative law judge or as a person presiding in a proceeding under sections 28 through 31 of this chapter; and
- (2) knowingly or intentionally violates section 11, 12, or 13 of this chapter;

commits a Class A misdemeanor.

SECTION 10. IC 5-10.4-3-16, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. A person who recklessly violates:

- (1) IC 21-6.1-3-9 (repealed); IC 21-6.1-3-11 (repealed); IC 21-6.1-3-15 (repealed); or IC 21-6.1-3-18 (repealed); before July 1, 2006; or
- (2) section 10, 12, 14, or 15 of this chapter, after June 30, 2006;

commits a Class A misdemeanor. **section 10, 12, 14, or 15 of this chapter is subject to criminal prosecution under IC 35-44.2-2-4.**

SECTION 11. IC 5-11-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A person who knowingly violates section 1 of this chapter commits a Class B felony. **is subject to criminal prosecution under IC 35-44.2-2-3.**

SECTION 12. IC 5-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Every public officer who receives or distributes public funds shall:

- (1) keep a cashbook into which the public officer shall enter daily, by item, all

Administrative Law Judge
Order of the State
of Indiana
Administrative Law
Section

Ex parte Conn

State of Indiana
Administrative Law
Section
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*cashbook rule
depository rule*

receipts of public funds; and

(2) balance the cashbook daily to show funds on hand at the close of each day.

(b) The cashbook is a public record and is open to public inspection in accordance with IC 5-14-3.

(c) A person who violates this section is subject to criminal prosecution under IC 35-44.2-2-2.

SECTION 13. IC 5-13-14-3, AS AMENDED BY P.L.107-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A public servant who violates the depository duties in this article is subject to criminal prosecution under IC 35-44.2-2-1. knowingly or intentionally:

(1) fails to deposit public funds; or

(2) deposits or draws any check or negotiable order of withdrawal against the funds;

except in the manner prescribed in this article; commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750); and a Class E felony if the amount involved is at least fifty thousand dollars (\$50,000). The public servant also is liable upon the public servant's official bond for any loss or damage that may accrue: accrues.

SECTION 14. IC 5-13-14-3 IS REPEALED [EFFECTIVE JULY 1, 2012] . Sec. 3: A public servant who knowingly or intentionally:

(1) fails to deposit public funds; or

(2) deposits or draws any check or negotiable order of withdrawal against the funds;

except in the manner prescribed in this article; commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750); and a Class E felony if the amount involved is at least fifty thousand dollars (\$50,000). The public servant also is liable upon the public servant's official bond for any loss or damage that may accrue:

SECTION 15. IC 5-14-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency, except as provided by IC 4-15-10, who knowingly or intentionally discloses information classified as confidential by state statute, **including information declared confidential under sections 3(a) through (b) of this chapter**, commits a Class A misdemeanor.

(b) A public employee may be disciplined in accordance with the personnel policies of the agency by which the employee is employed if the employee intentionally, knowingly, or recklessly discloses or fails to protect information classified as confidential by state statute.

(c) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency who unintentionally and unknowingly discloses confidential or erroneous information in response to a request under IC 5-14-3-3(d) or who discloses confidential information in reliance on an advisory opinion by the public access counselor is immune from liability for such a disclosure.

(d) This section does not apply to any provision incorporated into state law from a federal statute.

SECTION 16. IC 5-17-1-5 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 5: A

person making any such bid, offer, proposal, estimate or contract to sell or lease, who knowingly violates this chapter commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of his conviction.

SECTION 17. IC 5-17-1-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 6. Any person, officer, board, commissioner, department commission or purchasing agent who knowingly violates any of the terms of this chapter commits a Class D felony.

SECTION 18. IC 35-44 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Offenses Against Public Administration).

SECTION 19. IC 35-44.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

ARTICLE 44.1. OFFENSES AGAINST GENERAL PUBLIC ADMINISTRATION

Chapter 1. General public administration

Sec. 1. A public servant who knowingly or intentionally:

- (1) commits an offense in the performance of the public servant's official duties;
- (2) solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment;
- (3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or
- (4) fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies;

commits official misconduct, a Class D felony.

Sec. 2. (a) A person who:

- (1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant or because of any official act performed or to be performed by the public servant, former public servant, or person selected to be a public servant;
- (2) being a public servant, solicits, accepts, or agrees to accept, either before or after the person becomes appointed, elected, or qualified, any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the person's employment or function as a public servant;
- (3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;
- (4) solicits, accepts, or agrees to accept any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;

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(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use the person's best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that the person will fail to use the person's best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(A) withhold any testimony, information, document, or thing;

(B) avoid legal process summoning the person to testify or supply evidence; or

(C) absent the person from the proceeding or investigation to which the person has been legally summoned;

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(A) withhold any testimony, information, document, or thing;

(B) avoid legal process summoning the witness or informant to testify or supply evidence; or

(C) absent himself or herself from any proceeding or investigation to which the witness or informant has been legally summoned; or

(9) confers or offers or agrees to confer any property on an individual for:

(A) casting a ballot or refraining from casting a ballot; or

(B) voting for a political party, for a candidate, or for or against a public question;

in an election described in IC 3-5-1-2 or at a convention of a political party authorized under IC 3;

commits bribery, a Class C felony.

(b) It is not a defense that the person whom the accused person sought to control was not qualified to act in the desired way.

Sec. 3. (a) A public servant who knowingly or intentionally:

(1) hires an employee for the governmental entity that the public servant serves; and

(2) fails to assign to the employee any duties, or assigns to the employee any duties not related to the operation of the governmental entity;

commits ghost employment, a Class D felony.

(b) A public servant who knowingly or intentionally assigns to an employee under the public servant's supervision any duties not related to the operation of the governmental entity that the public servant serves commits ghost employment, a Class D felony.

(c) A person employed by a governmental entity who, knowing that the person has not been assigned any duties to perform for the entity, accepts property from the entity commits ghost employment, a Class D felony.

(d) A person employed by a governmental entity who knowingly or intentionally

accepts property from the entity for the performance of duties not related to the operation of the entity commits ghost employment, a Class D felony.

(e) Any person who accepts property from a governmental entity in violation of this section and any public servant who permits the payment of property in violation of this section are jointly and severally liable to the governmental entity for that property. The attorney general may bring a civil action to recover that property in the county where the governmental entity is located or the person or public servant resides.

(f) For the purposes of this section, an employee of a governmental entity who voluntarily performs services:

- (1) that do not:
 - (A) promote religion;
 - (B) attempt to influence legislation or governmental policy; or
 - (C) attempt to influence elections to public office;
- (2) for the benefit of:
 - (A) another governmental entity; or
 - (B) an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
- (3) with the approval of the employee's supervisor; and
- (4) in compliance with a policy or regulation that:
 - (A) is in writing;
 - (B) is issued by the executive officer of the governmental entity; and
 - (C) contains a limitation on the total time during any calendar year that the employee may spend performing the services during normal hours of employment;

is considered to be performing duties related to the operation of the governmental entity.

Sec. 4. (a) The following definitions apply throughout this section:

- (1) "Dependent" means any of the following:
 - (A) The spouse of a public servant.
 - (B) A child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is:
 - (i) unemancipated; and
 - (ii) less than eighteen (18) years of age.
 - (C) An individual more than one-half (1/2) of whose support is provided during a year by the public servant.
- (2) "Governmental entity served by the public servant" means the immediate governmental entity being served by a public servant.
- (3) "Pecuniary interest" means an interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:
 - (A) the public servant; or
 - (B) a dependent of the public servant who:
 - (i) is under the direct or indirect administrative control of the public servant; or
 - (ii) receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public

servant.

(b) A public servant who knowingly or intentionally:

- (1) has a pecuniary interest in; or**
- (2) derives a profit from;**

a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony.

(c) It is not an offense under this section if:

(1) The public servant or the public servant's dependent receives compensation through salary or an employment contract for:

- (A) services provided as a public servant; or**
- (B) expenses incurred by the public servant as provided by law.**

(2) The public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars (\$250) or less.

(3) The contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government.

(4) The public servant:

- (A) acts in only an advisory capacity for a state supported college or university; and**
- (B) does not have authority to act on behalf of the college or university in a matter involving a contract or purchase.**

(5) A public servant under the jurisdiction of the state ethics commission (as provided in IC 4-2-6-2.5) obtains from the state ethics commission, following full and truthful disclosure, written approval that the public servant will not or does not have a conflict of interest in connection with the contract or purchase under IC 4-2-6 and this section. The approval required under this subdivision must be:

- (A) granted to the public servant before action is taken in connection with the contract or purchase by the governmental entity served; or**
- (B) sought by the public servant as soon after the contract or purchase as the public servant becomes aware of the facts that give rise to a question of conflict of interest.**

(6) A public servant who makes a disclosure that meets the requirements of subsection (d) or (e) and is:

- (A) not a member or on the staff of the governing body empowered to contract or purchase on behalf of the governmental entity, and functions and performs duties for the governmental entity unrelated to the contract or purchase;**
- (B) appointed by an elected public servant;**
- (C) employed by the governing body of a school corporation and the contract or purchase involves the employment of a dependent or the payment of fees to a dependent;**
- (D) elected; or**
- (E) a member of, or a person appointed by, the board of trustees of a**

state supported college or university.

(7) The public servant is a member of the governing board of a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1.

(d) A disclosure must:

- (1) be in writing;
- (2) describe the contract or purchase to be made by the governmental entity;
- (3) describe the pecuniary interest that the public servant has in the contract or purchase;
- (4) be affirmed under penalty of perjury;
- (5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity before final action on the contract or purchase;
- (6) be filed within fifteen (15) days after final action on the contract or purchase with:

(A) the state board of accounts; and

(B) if the governmental entity is a governmental entity other than the state or a state supported college or university, the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase; and

(7) contain, if the public servant is appointed, the written approval of the elected public servant (if any) or the board of trustees of a state supported college or university (if any) that appointed the public servant.

(e) This subsection applies only to a person who is a member of, or a person appointed by, the board of trustees of a state supported college or university. A person to whom this subsection applies complies with the disclosure requirements of this chapter with respect to the person's pecuniary interest in a particular type of contract or purchase which is made on a regular basis from a particular vendor if the individual files with the state board of accounts and the board of trustees a statement of pecuniary interest in that particular type of contract or purchase made with that particular vendor. The statement required by this subsection must be made on an annual basis.

Sec. 5. (a) As used in this section, "pecuniary interest" has the meaning set forth in section 3(a)(3) of this chapter.

(b) A person who knowingly or intentionally:

- (1) obtains a pecuniary interest in a contract or purchase with an agency within one (1) year after separation from employment or other service with the agency; and
- (2) is not a public servant for the agency but who as a public servant approved, negotiated, or prepared on behalf of the agency the terms or specifications of:

(A) the contract; or

(B) the purchase;

commits profiteering from public service, a Class D felony.

(c) This section does not apply to negotiations or other activities related to an economic development grant, loan, or loan guarantee.

(d) This section does not apply if the person receives less than two hundred fifty

dollars (\$250) of the profits from the contract or purchase.

(e) It is a defense to a prosecution under this section that:

- (1) the person was screened from any participation in the contract or purchase;
- (2) the person has not received a part of the profits of the contract or purchase; and
- (3) notice was promptly given to the agency of the person's interest in the contract or purchase.

Chapter 2. Interference with general government operations

Sec. 1. (a) A person who:

- (1) makes a false, material statement under oath or affirmation, knowing the statement to be false or not believing it to be true; or
- (2) has knowingly made two (2) or more material statements, in a proceeding before a court or grand jury, which are inconsistent to the degree that one (1) of them is necessarily false;

commits perjury, a Class D felony.

(b) In a prosecution under subsection (a)(2) of this section:

- (1) the indictment or information need not specify which statement is actually false; and
- (2) the falsity of a statement may be established sufficient for conviction, by proof that the defendant made irreconcilably contradictory statements which are material to the point in question.

Sec. 2. (a) A person who:

(1) knowingly or intentionally induces, by threat, coercion, or false statement, a witness or informant in an official proceeding or investigation to:

- (A) withhold or unreasonably delay in producing any testimony, information, document, or thing;
 - (B) avoid legal process summoning him to testify or supply evidence;
- or
- (C) absent himself from a proceeding or investigation to which he has been legally summoned;

(2) knowingly or intentionally in an official criminal proceeding or investigation:

- (A) withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders him to produce the testimony, information, document, or thing;
 - (B) avoids legal process summoning him to testify or supply evidence;
- or
- (C) absents himself from a proceeding or investigation to which he has been legally summoned;

(3) alters, damages, or removes any record, document, or thing, with intent to prevent it from being produced or used as evidence in any official proceeding or investigation;

(4) makes, presents, or uses a false record, document, or thing with intent that the record, document, or thing, material to the point in question, appear

in evidence in an official proceeding or investigation to mislead a public servant; or

(5) communicates, directly or indirectly, with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror;

commits obstruction of justice, a Class D felony.

(b) Subdivision (a)(2)(A) does not apply to:

(1) a person who qualifies for a special privilege under IC 34-46-4 with respect to the testimony, information, document, or thing; or

(2) a person who, as an:

(A) attorney;

(B) physician;

(C) member of the clergy; or

(D) husband or wife;

is not required to testify under IC 34-46-3-1.

Sec. 3. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.

(c) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(d) A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false;

(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or missing endangered adult (as defined in IC 12-7-2-131.3) or gives false information in the official investigation of a missing child or missing endangered adult knowing the report or information to be false;

(5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3) that employs the officer:

(A) alleging the officer engaged in misconduct while performing the officer's duties; and

(B) knowing the complaint to be false; or

(6) makes a false report of a missing person, knowing the report or information is false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

Sec. 4. (a) A person who:

(1) with intent to mislead public servants;

(2) in a five (5) year period; and

(3) in one (1) or more official proceedings or investigations;

has knowingly made at least two (2) material statements concerning the person's identity that are inconsistent to the degree that one (1) of them is necessarily false commits false identity statement, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the material statements that are the basis of a prosecution under subsection (a) concerning the person's identity are accurate or were accurate in the past.

(c) In a prosecution under subsection (a):

(1) the indictment or information need not specify which statement is actually false; and

(2) the falsity of a statement may be established sufficient for conviction by proof that the defendant made irreconcilably contradictory statements concerning the person's identity.

Sec. 5. (a) A person not standing in the relation of parent, child, or spouse to another person who has committed a crime or is a fugitive from justice who, with intent to hinder the apprehension or punishment of the other person, harbors, conceals, or otherwise assists the person commits assisting a criminal, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person assisted has committed a Class B, Class C, or Class D felony; and

(2) a Class C felony if the person assisted has committed murder or a Class A felony, or if the assistance was providing a deadly weapon.

(b) It is not a defense to a prosecution under this section that the person assisted:

(1) has not been prosecuted for the offense;

(2) has not been convicted of the offense; or

(3) has been acquitted of the offense by reason of insanity.

However, the acquittal of the person assisted for other reasons may be a defense.

Sec. 6. A person who falsely represents that the person is a public servant, with intent to mislead and induce another person to submit to false official authority or otherwise to act to the other person's detriment in reliance on the false representation, commits impersonation of a public servant, a Class A misdemeanor. However, a person who falsely represents that the person is:

(1) a law enforcement officer; or

(2) an agent or employee of the department of state revenue, and collects any property from another person;

commits a Class D felony.

Sec. 7. (a) A person who knowingly or intentionally:

- (1) possesses a police radio;**
- (2) transmits over a frequency assigned for police emergency purposes; or**
- (3) possesses or uses a police radio:**
 - (A) while committing a crime;**
 - (B) to further the commission of a crime; or**
 - (C) to avoid detection by a law enforcement agency;**

commits unlawful use of a police radio, a Class B misdemeanor.

(b) Subsection (a)(1) and (a)(2) do not apply to:

- (1) a governmental entity;**
- (2) a regularly employed law enforcement officer;**
- (3) a common carrier of persons for hire whose vehicles are used in emergency service;**
- (4) a public service or utility company whose vehicles are used in emergency service;**
- (5) a person who has written permission from the chief executive officer of a law enforcement agency to possess a police radio;**
- (6) a person who holds an amateur radio license issued by the Federal Communications Commission if the person is not transmitting over a frequency assigned for police emergency purposes;**
- (7) a person who uses a police radio only in the person's dwelling or place of business;**
- (8) a person:**
 - (A) who is regularly engaged in newsgathering activities;**
 - (B) who is employed by a newspaper qualified to receive legal advertisements under IC 5-3-1, a wire service, or a licensed commercial or public radio or television station; and**
 - (C) whose name is furnished by his employer to the chief executive officer of a law enforcement agency in the county in which the employer's principal office is located;**
- (9) a person engaged in the business of manufacturing or selling police radios; or**
- (10) a person who possesses or uses a police radio during the normal course of the person's lawful business.**

(c) As used in this section, "police radio" means a radio that is capable of sending or receiving signals transmitted on frequencies assigned by the Federal Communications Commission for police emergency purposes and that:

- (1) can be installed, maintained, or operated in a vehicle; or**
- (2) can be operated while it is being carried by an individual.**

The term does not include a radio designed for use only in a dwelling.

Sec. 8. (a) A person who knowingly or intentionally manufactures and sells or manufactures and offers for sale:

- (1) an official badge or a replica of an official badge that is currently used by a law enforcement agency or fire department of the state or of a political subdivision of the state; or**

(2) a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or of a political subdivision of the state;

without the written permission of the chief executive officer of the law enforcement agency commits unlawful manufacture or sale of a police or fire insignia, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is:

(1) a Class D felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-44-2-3; and

(2) a Class B felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-47-12.

(c) It is a defense to a prosecution under subsection (a)(1) if the area of the badge or replica that is manufactured and sold or manufactured and offered for sale as measured by multiplying the greatest length of the badge by the greatest width of the badge is:

(1) less than fifty percent (50%); or

(2) more than one hundred fifty percent (150%);

of the area of an official badge that is used by a law enforcement agency or fire department of the state or a political subdivision of the state as measured by multiplying the greatest length of the official badge by the greatest width of the official badge.

Sec. 9. (a) A person who, having been released from lawful detention on condition that he appear at a specified time and place in connection with a charge of a crime, intentionally fails to appear at that time and place commits failure to appear, a Class A misdemeanor. However, the offense is a Class D felony if the charge was a felony charge.

(b) It is no defense that the accused person was not convicted of the crime with which he was originally charged.

(c) This section does not apply to obligations to appear incident to release under suspended sentence or on probation or parole.

Sec. 10. (a) A person who, having been issued:

(1) a complaint and summons in connection with an infraction or ordinance violation; or

(2) a summons, or summons and promise to appear, in connection with a misdemeanor violation;

notifying him to appear at a specific time and place, intentionally fails to appear at the specified time and place commits failure to respond to a summons, a Class C misdemeanor.

(b) It is no defense that judgment was entered in favor of the person in the infraction or ordinance proceeding or that the person was acquitted of the misdemeanor for which he was summoned to appear.

Sec. 11. A person who knowingly or intentionally:

(1) dismisses his employee;

(2) deprives his employee of employment benefits; or

(3) threatens such a dismissal or deprivation;

because the employee has received or responded to a summons, served as a juror, or attended court for prospective jury service commits interference with jury service, a Class B misdemeanor.

Sec. 12. A person who knowingly or intentionally:

- (1) dismisses an employee;**
- (2) deprives an employee of employment benefits; or**
- (3) threatens such a dismissal or deprivation;**

because the employee has received or responded to a subpoena in a criminal proceeding commits interference with witness service, a Class B misdemeanor.

Chapter 3. Detention

Sec. 1. (a) A person who knowingly or intentionally:

- (1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;**
- (2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or**
- (3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;**

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Class D felony if:

(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or

(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person;

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person; and

(4) Class A felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of a law enforcement officer while the law enforcement officer is engaged in the officer's official duties.

(c) For purposes of this section, a law enforcement officer includes an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), (b)(3), or (b)(4), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction

under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

(f) If a person is convicted of an offense involving the use of a motor vehicle under:

(1) subsection (b)(1)(A), if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;

(2) subsection (b)(2); or

(3) subsection (b)(3);

the court may notify the bureau of motor vehicles to suspend or revoke the person's driver's license and all certificates of registration and license plates issued or registered in the person's name in accordance with IC 9-30-4-6(b)(3) for the period described in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform the bureau whether the person has been sentenced to a term of incarceration. At the time of conviction, the court may obtain the person's current driver's license and return the license to the bureau of motor vehicles.

Sec. 2. (a) As used in this section, "officer" includes the following:

(1) A person employed by:

(A) the department of correction;

(B) a law enforcement agency;

(C) a probation department;

(D) a county jail; or

(E) a circuit, superior, county, probate, city, or town court;

who is required to carry a firearm in performance of the person's official duties.

(2) A law enforcement officer.

(b) A person who:

(1) knows that another person is an officer; and

(2) knowingly or intentionally takes or attempts to take a firearm (as defined in IC 35-47-1-5) or weapon that the officer is authorized to carry from the officer or from the immediate proximity of the officer:

(A) without the consent of the officer; and

(B) while the officer is engaged in the performance of his or her official duties;

commits disarming a law enforcement officer, a Class C felony. However, the offense is a Class B felony if it results in serious bodily injury to the officer, and the offense is a Class A felony if it results in death to the officer or if a firearm (as defined in IC 35-47-1-5) was taken and the offense results in serious bodily injury to the officer.

Sec. 3. A person who, when ordered by a law enforcement officer to assist the officer in the execution of the officer's duties, knowingly or intentionally, and without a reasonable cause, refuses to assist commits refusal to aid an officer, a Class B misdemeanor.

Sec. 4. (a) A person, except as provided in subsection (b), who intentionally flees

from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order or intentionally removes an electronic monitoring device or GPS tracking device commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

Sec. 5. (a) As used in this section, "juvenile facility" means the following:

(1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) Except as provided in subsection (d), a person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

(1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;

(2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility;

(3) delivers, or carries to a worksite with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew; or

(4) possesses in or carries into a penal facility or a juvenile facility:

(A) a controlled substance; or

(B) a deadly weapon;

commits trafficking with an inmate, a Class A misdemeanor.

(c) If the person who committed the offense under subsection (b) is an employee of:

(1) the department of correction; or

(2) a penal facility;

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall impose a mandatory five thousand dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2.

(d) The offense under subsection (b) is a Class C felony if the article is:

(1) a controlled substance;

(2) a deadly weapon; or

(3) a cellular telephone or other wireless or cellular communications device.

Sec. 6. (a) As used in this section, "contraband" means the following:

(1) Alcohol.

(2) A cigarette or tobacco product.

(3) A controlled substance.

(4) An item that may be used as a weapon.

(b) As used in this section, "inmate outside a facility" means a person who is incarcerated in a penal facility or detained in a juvenile facility on a full-time basis as the result of a conviction or a juvenile adjudication but who has been or is being transported to another location to participate in or prepare for a judicial proceeding. The term does not include the following:

(1) An adult or juvenile pretrial detainee.

(2) A person serving an intermittent term of imprisonment or detention.

(3) A person serving a term of imprisonment or detention as:

(A) a condition of probation;

(B) a condition of a community corrections program;

(C) part of a community transition program;

(D) part of a reentry court program;

(E) part of a work release program; or

(F) part of a community based program that is similar to a program described in clauses (A) through (E).

(4) A person who has escaped from incarceration or walked away from secure detention.

(5) A person on temporary leave (as described in IC 11-10-9) or temporary release (as described in IC 11-10-10).

(c) A person who, with the intent of providing contraband to an inmate outside a facility:

(1) delivers contraband to an inmate outside a facility; or

(2) places contraband in a location where an inmate outside a facility could obtain the contraband;

commits trafficking with an inmate outside a facility, a Class A misdemeanor. However, the offense is a Class D felony if the contraband is an item described in subsection (a)(3), and a Class C felony if the contraband is an item described in subsection (a)(4).

Sec. 7. A person who knowingly or intentionally while incarcerated in a penal facility possesses a device, equipment, a chemical substance, or other material that:

(1) is used; or

(2) is intended to be used;

in a manner that is readily capable of causing bodily injury commits a Class C felony. However, the offense is a Class B felony if the device, equipment, chemical substance, or other material is a deadly weapon.

Sec. 8. A person who knowingly or intentionally possesses a cellular telephone or other wireless or cellular communications device while incarcerated in a county jail commits a Class A misdemeanor.

Sec. 9. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a crime that was committed by the person commits a Class D felony if, at the time of the violation:

(1) the person's lifetime parole has been revoked two (2) or more times; or

(2) the person has completed the person's sentence, including any credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

Sec. 10. As used in this section, "service provider" means a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention.

(b) A service provider who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is subject to lawful detention commits sexual misconduct, a Class C felony.

(c) A service provider at least eighteen (18) years of age who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is:

- (1) less than eighteen (18) years of age; and
- (2) subject to lawful detention;

commits sexual misconduct, a Class B felony.

(d) It is not a defense that an act described in subsection (b) or (c) was consensual.

(e) This section does not apply to sexual intercourse or deviate sexual conduct between spouses.

Chapter 4. Firefighting and emergency services

Sec. 1. As used in this chapter, "dispatched firefighter" means a member of:

- (1) the fire company having jurisdiction over an emergency incident area; or
- (2) a fire company that has entered into a mutual aid agreement with the fire company having jurisdiction over an emergency incident area;

who has been dispatched by the local fire department having jurisdiction over the particular emergency incident area.

Sec. 2. As used in this chapter, "emergency incident area" means the area surrounding a structure, vehicle, property, or area that is:

- (1) defined by police or firefighters with flags, barricades, barrier tape, or other markers; or
- (2) one hundred and fifty (150) feet in all directions from the perimeter of the emergency incident;

whichever is greater.

Sec. 3. As used in this chapter, "firefighter" has the meaning set forth in IC 9-18-34-1.

Sec. 4. As used in this chapter, "fire protective clothing and fire protective gear" includes any of the following items generally used by firefighters:

- (1) Outer fire retardant clothing and headgear.
- (2) Fire gloves.
- (3) Self contained breathing apparatus.
- (4) Emergency medical services protective gear.
- (5) Hazardous materials protective gear.

Sec. 5. A person who is not a firefighter who knowingly or intentionally refuses to leave an emergency incident area immediately after being requested to do so by a firefighter or law enforcement officer commits a Class A misdemeanor.

Sec. 6. A firefighter who:

(1) has not been dispatched to an emergency incident area;
(2) enters an emergency incident area; and
(3) refuses to leave an emergency incident area immediately after being requested to do so by a dispatched firefighter or law enforcement officer;
commits a Class C infraction.

Sec. 7. A person other than a firefighter who, with intent to mislead a firefighter or law enforcement officer as to the person's status as a dispatched firefighter, knowingly or intentionally enters an emergency incident area while wearing, transporting, or otherwise possessing a uniform, fire protective clothing, or fire protective gear commits a Class A misdemeanor. However, the offense is a Class D felony if, as a proximate result of the person entering the emergency incident area, a person or firefighter suffers bodily injury (as defined in IC 35-41-1-4).

Sec. 8. A person who knowingly or intentionally obstructs or interferes with a firefighter performing or attempting to perform the firefighter's emergency functions or duties as a firefighter commits obstructing a firefighter, a Class A misdemeanor.

Sec. 9. (a) "Emergency medical person" means a person who holds a certificate issued by the Indiana emergency medical services commission to provide emergency medical services.

(b) A person who knowingly or intentionally obstructs or interferes with an emergency medical person performing or attempting to perform his emergency functions or duties as an emergency medical person commits obstructing an emergency medical person, a Class B misdemeanor.

Chapter 5. Illegal alien offenses

Sec. 1. This chapter does not apply to the following:

- (1) A church or religious organization conducting activity that is protected by the First Amendment to the United States Constitution.
- (2) The provision of assistance for health care items and services that are necessary for the treatment of an emergency medical condition of an individual.
- (3) A health care provider (as defined in IC 16-18-2-163(a)) that is providing health care services.
- (4) An attorney or other person that is providing legal services.
- (5) A person who:
 - (A) is a spouse of an alien or who stands in relation of parent or child to an alien; and
 - (B) would otherwise commit an offense under this chapter with respect to the alien.
- (6) A provider that:
 - (A) receives federal or state funding to provide services to victims of domestic violence, sexual assault, human trafficking, or stalking; and
 - (B) is providing the services described in clause (A).
- (7) An employee of Indiana or a political subdivision (as defined in IC 36-1-2-13) if the employee is acting within the scope of the employee's employment.
- (8) An employee of a school acting within the scope of the employee's

employment.

Sec. 2. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).

Sec. 3. (a) A person who knowingly or intentionally:

- (1) transports; or
- (2) moves;

an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law commits transporting an illegal alien, a Class A misdemeanor.

(b) If a violation under this section involves more than nine (9) aliens, the violation is a Class D felony.

Sec. 4. (a) A person who knowingly or intentionally:

- (1) conceals;
- (2) harbors; or
- (3) shields from detection;

an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law, commits harboring an illegal alien, a Class A misdemeanor.

(b) If a violation under this section involves more than nine (9) aliens, the violation is a Class D felony.

(c) A landlord that rents real property to a person who is an alien does not violate this section as a result of renting the property to the person.

Sec. 5. A person who transports, moves, or cares for a child (as defined in IC 35-47-10-3) who is an alien does not violate this chapter as a result of transporting, moving, or caring for the child.

Sec. 6. A determination by the United States Department of Homeland Security that an alien has come to, entered, or remained in the United States in violation of law is evidence that the alien is in the United States in violation of law.

Sec. 7. A law enforcement officer shall impound a motor vehicle, other than a motor vehicle used in public transportation and owned or operated by the state or a political subdivision, that is used to commit a violation of section 3 or 4 of this chapter.

SECTION 20. IC 35-44.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

ARTICLE 44.2. OFFENSES AGAINST STATE PUBLIC ADMINISTRATION

Chapter 1. Interference with state government

Sec. 1. (a) As used in this section, "state supervisor" has the meaning set forth in IC 4-15-10-1.

(b) As used in this section, "violation" means:

- (1) a violation of a federal law or regulation;
- (2) a violation of a state law or rule;
- (3) a violation of an ordinance of a political subdivision (as defined in IC 36-1-2-13); or
- (4) the misuse of public resources.

(c) A state supervisor who knowingly or intentionally:

- (1) dismisses from employment;
- (2) withholds a salary increase or employment related benefit of;
- (3) transfers or reassigns;
- (4) denies a promotion that would have been received by; or
- (5) demotes:

a state employee in retaliation for the state employee reporting in writing the existence of a violation commits retaliation for reporting a violation, a Class A misdemeanor.

Sec. 2. (a) As used in this section, "state employee" means:

- (1) an employee (as defined in IC 4-2-6-1(a)(8));
- (2) a special state appointee (as defined in IC 4-2-6-1(a)(16); or
- (3) a state officer (as defined in IC 4-2-6-1(a)(17)).

(b) A state employee who knowingly or intentionally retaliates or threatens to retaliate against another state employee or former state employee for:

- (1) filing a complaint with the state ethics commission or the inspector general;
- (2) providing information to the state ethics commission or the inspector general; or
- (3) testifying at a state ethics commission proceeding;

commits retaliation for reporting to the inspector general, a Class A misdemeanor.

(c) It is a defense to a prosecution under this section that the reporting state employee or former state employee:

- (1) did not act in good faith; or
- (2) knowingly, intentionally, or recklessly provided false information or testimony to the state ethics commission or the inspector general.

Sec. 3. (a) A person who:

- (1) knowingly or intentionally induces or attempts to induce, by threat, coercion, suggestion, or false statement, a witness or informant in a state ethics commission proceeding or investigation conducted by the inspector general to do any of the following:
 - (A) Withhold or unreasonably delay the production of any testimony, information, document, or thing.
 - (B) Avoid legal process summoning the person to testify or supply evidence.
 - (C) Fail to appear at a proceeding or investigation to which the person has been summoned.
 - (D) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a state ethics commission proceeding or inspector general investigation to mislead a state ethics commissioner or inspector general employee;
- (2) alters, damages, or removes a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in a state ethics commission proceeding or inspector general investigation; or
- (3) makes, presents, or uses a false record, document, or thing with the intent that the record, document, or thing appear in a state ethics commission

proceeding or inspector general investigation to mislead a state ethics commissioner or inspector general employee;
commits obstructing the inspector general, a class A misdemeanor.

Sec. 4. A person who:

- (1) intentionally interferes with or prevents the completion of the work of the department of corrections ombudsman;
- (2) knowingly offers compensation to the department of corrections ombudsman in an effort to affect the outcome of an investigation or a potential investigation;
- (3) knowingly or intentionally retaliates against an offender or another person who provides information to the department of corrections ombudsman; or
- (4) makes threats because of an investigation or potential investigation against:
 - (A) the department of corrections ombudsman;
 - (B) a person who has filed a complaint; or
 - (C) a person who provides information to the department of corrections ombudsman;

commits obstructing the department of corrections ombudsman, a Class A misdemeanor.

Sec. 5. (a) A person who knowingly or intentionally:

- (1) interferes with or prevents the completion of the work of a department of child services ombudsman;
- (2) offers compensation to a department of child services ombudsman in an effort to affect the outcome of an investigation or a potential investigation;
- (3) retaliates against another person who provides information to a department of child services ombudsman; or
- (4) threatens a department of child services ombudsman, a person who has filed a complaint, or a person who provides information to a department of child services ombudsman, because of an investigation or potential investigation;

commits interference with the department of child services ombudsman, a Class A misdemeanor.

(b) It is a defense to a prosecution under subsection (a) if the conduct is the expungement of records held by the department of child services that occurs by statutory mandate, judicial order or decree, administrative review or process, automatic operation of the Indiana Child Welfare Information System (ICWIS) computer system, or in the normal course of business.

Sec. 6. A person who interferes with the state examiner is subject to a civil action for an infraction under IC 5-11-1-10.

Sec. 7. A person who refuses to follow the state examiner's directives is subject to a civil action for an infraction under IC 5-11-1-21.

Sec. 8. A person who fails to provide an annual report to the state examiner is subject to a civil action for an infraction under IC 5-11-13-3.

Sec. 9. A state agency's special deputy who makes a false certification of an oath or affirmation is subject to a civil action for an infraction under IC 4-2-4-3.

Sec. 10. A person who makes a false or deficient financial disclosure statement is subject to a civil action for an infraction under IC 4-2-6-8.

Sec. 11. A person who fails to respond to the attorney general upon a demand of an accounting is subject to a civil action for an infraction under IC 4-6-2-6.

Sec. 12. A person who violates commercial driver training school requirements is subject to a civil action for an infraction under IC 5-2-6.5-15.

Sec. 13. A person who fails to follow the publication of notices rules is subject to a civil action for an infraction under IC 5-3-1-9.

Sec. 14. A consultant who fails to file a disclosure concerning a public works project is subject to a civil action for an infraction under IC 5-16-11-11.

Chapter 2. Purchasing offenses

Sec. 1. A public servant (as defined in IC 35-41-1-24) who knowingly or intentionally fails to deposit public funds (as defined in IC 5-13-4-20) not later than one (1) business day following the receipt of the funds, in a depository in the name of the state or political subdivision by the public servant having control of the funds, commits a violation of the depository rule, a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000).

Sec. 2. A public servant (as defined in IC 35-41-1-24) who receives public funds (as defined in IC 5-13-4-20) and fails to:

- (1) keep a cashbook (as defined in IC 5-13-5-1);
- (2) not later than one (1) business day following the receipt of the funds, enter into the cashbook, by item, all receipts of public funds; or
- (3) balance the cashbook daily to show funds on hand at the close of each day;

commits a violation of the cashbook rule, a Class B misdemeanor.

Sec. 3. (a) This subsection does not apply to the following:

- (1) A state educational institution (as defined in IC 21-7-13-32).
- (2) A municipality (as defined in IC 36-1-2-11).
- (3) A county.
- (4) An airport authority operating in a consolidated city.
- (5) A capital improvements board of managers operating in a consolidated city.
- (6) A board of directors of a public transportation corporation operating in a consolidated city.
- (7) A municipal corporation organized under IC 16-22-8-6.
- (8) A public library.
- (9) A library services authority.
- (10) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.
- (11) A school corporation (as defined in IC 36-1-2-17).
- (12) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
- (13) A municipally owned utility (as defined in IC 8-1-2-1).
- (14) A board of an airport authority under IC 8-22-3.

- (15) A conservancy district.
- (16) A board of aviation commissioners under IC 8-22-2.
- (17) A public transportation corporation under IC 36-9-4.
- (18) A commuter transportation district under IC 8-5-15.
- (19) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
- (20) A county building authority under IC 36-9-13.
- (21) A soil and water conservation district established under IC 14-32.
- (22) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.
- (23) The commuter rail service board established under IC 8-24-5.
- (24) The regional demand and scheduled bus service board established under IC 8-24-6.

(b) A disbursing officer (as described in IC 5-11-10) who knowingly or intentionally pays a claim that is not:

- (1) fully itemized; and
- (2) properly certified to by the claimant or some authorized person in the claimant's behalf, with the following words of certification: I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid;

commits a violation of the itemization and certification rule, a Class A misdemeanor.

Sec. 4. (a) As used in this section, a "purchase" means:

- (1) the purchase of materials, equipment, goods and supplies for ten thousand dollars (\$10,000) or more; or
- (2) the leasing of equipment for five thousand dollars (\$5,000) or more.

(b) A state purchaser of materials (as described in IC 5-17-1) who fails to advertise (as defined in IC 5-3-1) for, receive, or consider bids for purchase commits unlawful competitive bidding, a class A misdemeanor.

Sec. 5. A person who knowingly, intentionally, or recklessly violates:

- (1) IC 5-10.4-3-10;
- (1) IC 5-10.4-3-12;
- (1) IC 5-10.4-3-14; or
- (1) IC 5-10.4-3-15;

commits improper teacher's retirement fund accounting, a Class A misdemeanor.

Sec. 6. A board of trustees or correctional facility that borrows without legislative approval under IC 4-10-14-1 is subject to a civil action for an infraction under IC 4-10-14-2.

Sec. 7. A person who improperly disposes of a law enforcement vehicle is subject to a civil action for an infraction under IC 5-22-22-9.

Chapter 3. State public works contracting

Sec. 1. A person who violates provisions relating to state public works contracts is subject to criminal prosecution under:

- (1) IC 4-13.6-4-10;
- (2) IC 4-13.6-4-12; or

(3) IC 4-13.6-4-14.

Sec. 2. A person who has a conflict of interest with respect to a hospital bonding authority contract is subject to criminal prosecution under IC 5-1-4-22.

Sec. 3. A member or person employed by the law enforcement academy building commission who has a conflict of interest with respect to an action by the commission is subject to criminal prosecution under IC 5-2-2-11.

Sec. 4. A person who commits a wage scale violation in a state public works contract is subject to criminal prosecution under IC 5-16-7-3.

Sec. 5. A person who unlawfully divides a public works project is subject to a civil action for an infraction under IC 5-16-7-6.

Sec. 6. A person who improperly engages in certain employee organization activities is subject to a civil action for an infraction under IC 4-15-17-9.

Chapter 4. Confidentiality of records and meetings

Sec. 1. A person who discloses confidential information is subject to criminal prosecution under IC 5-14-3-10.

Sec. 2. (a) An employee of a state agency who unlawfully discloses a Social Security number is subject to criminal prosecution under IC 4-1-10-8.

(b) An employee of a state agency who makes a false representation to obtain a Social Security number is subject to criminal prosecution under IC 4-1-10-9.

(c) An employee of a state agency who negligently discloses a Social Security number is subject to a civil action for an infraction under IC 4-1-10-10.

Sec. 3. A person who unlawfully discloses confidential inspector general information is subject to criminal prosecution under IC 4-2-7-8.

Sec. 4. A person who unlawfully discloses criminal intelligence information is subject to criminal prosecution under IC 5-2-4-7.

Sec. 5. A person who unlawfully discloses enterprise zone information is subject to criminal prosecution under IC 5-28-15-8.

Sec. 6. A person who unlawfully discloses advance notice of a state examiner investigation is subject to criminal prosecution under IC 5-11-1-18.

Sec. 7. A person who unlawfully destroys certain public records is subject to criminal prosecution under IC 5-15-6-8.

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Increases the penalty for child solicitation to a Class C felony. Removes the Class C felony enhancement if child solicitation is committed by means of a computer. Increases the penalty for child solicitation to a Class B felony if a person commits the offense by using a computer network and, with the intent to engage in sexual intercourse or deviate sexual conduct, travels to meet the child.

SECTION 1. IC 35-42-4-6, AS AMENDED BY P.L.216-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual.

- (1) in person;
- (2) by telephone;
- (3) in writing;
- (4) by using a computer network (as defined in IC 35-43-2-3(a));
- (5) by advertisement of any kind; or
- (6) by any other means;

to perform an act described in subsection (b) or (c).

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in

- (1) sexual intercourse,
- (2) deviate sexual conduct, or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person,

commits child solicitation, a ~~Class D~~ Class C felony. However, the offense is a Class E felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person:

- (1) commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and, **with the intent to engage in sexual intercourse or deviate sexual conduct, travels to meet the child or individual the person believes to be a child; or**
- (2) has a previous unrelated conviction for committing the **an offense under this section. by using a computer network (as defined in IC 35-43-2-3(a)).**

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

- (1) sexual intercourse,
- (2) deviate sexual conduct, or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person,

1 commits child solicitation, a Class D Class C felony. However, the offense is a Class E felony if
2 it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B
3 felony if the person:

4 (1) commits the offense by using a computer network (as defined in
5 IC 35-43-2-3(a)) and, **with the intent to engage in sexual intercourse or**
6 **deviate sexual conduct, travels to meet the child or individual the person**
7 **believes to be a child; or**

8 (2) has a previous unrelated conviction for committing the **an offense under this**
9 **section. by using a computer network (as defined in IC 35-43-2-3(a)).**

10 (d) In a prosecution under this section, including a prosecution for attempted solicitation,
11 the state is not required to prove that the person solicited the child to engage in an act described
12 in subsection (b) or (c) at some immediate time.
13
14