



CRIMINAL CODE EVALUATION COMMISSION

Legislative Services Agency
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Members

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en. Randall Head
en. Greg Taylor
en. Lindel Hume
ep. Ralph Foley
ep. Greg Steuerwald
ep. Matt Pierce
ep. Linda Lawson
udge John Marnocha
udge Lance D. Hamner
rofessor Craig Bradley
rtorney General Greg Zoeller
ommissioner Bruce Lemmon
avid Powell
arry Landis
hief Justice Randall Shepard

SA Staff:

ill James, Staff Person for the Commission
ndrew Hedges, Attorney for the Commission
.C. Norwalk, Attorney for the Commission
ark Goodpaster, Fiscal Analyst for the
ommission

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

MEETING MINUTES¹

Meeting Date: November 2, 2011
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 8

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

Members Absent: Rep. Matt Pierce; Rep. Linda Lawson; Professor Craig Bradley.

Senator Bray called the meeting to order at 10:40 am.

As the first order of business, Senator Bray recognized Ms. Kelsey Kauffman (DePauw University) to present on reentry issues and on drug-free zones.

Ms. Kauffman first described the problems that offenders on probation experience when they are required to pay user fees. She played a video of ex-offenders who work at a recycling plant in Indianapolis. These persons described how much they pay for various fees and child support. An accompanying handout illustrates the amounts that these persons pay each month and the percentage of each person's monthly income this amount entails. (See Exhibit A.)

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.

Gregg Keesling, President of RecycleForce, told the Commission members that his firm employs about 400 ex-offenders. He indicated that these court-ordered fees are disrupting the lives of his employees because of disciplinary hearings that his employees are required to attend when they fail to pay their mandated fees. He indicated that 60% of his employees believe that if they don't pay fees because they have insufficient funds, their probation could be revoked. (See Exhibit B.)

He indicated that probation officers are increasingly becoming debt collectors. He said that fee increases and the emphasis on fee collection has made some ex-offenders resort to illegal activities to pay for the fees. He concluded by telling the Commission that it needs to be careful about increasing user fees on ex-offenders because the fees add up and become difficult for people to pay.

Steve Covey, a local business owner who runs a not-for-profit business that hires ex-offenders, told the Commission members that these fees put a real burden on ex-offenders.

Next, Ms. Kauffman presented a series of slides that show drug-free zones in Indianapolis. (See Exhibit C.) She told the Commission members that the drug-free zones in urban areas are too large and tend to overlap. She estimates that 53% of Indianapolis inside Interstate 465 is in a drug-free zone. She also indicated that this analysis does not consider the zones created by the presence of youth program centers.

She recommended that the Commission members consider three factors when considering changes to drug laws:

- (1) How many areas should be protected.
- (2) Ensuring clearly marked boundaries.
- (3) Ensuring that the distance between the crime areas and children are effective.

She also recommended that the Commission members visit the website about Indiana drug-free zones (<http://acad.depauw.edu/~kkauffman/newdrugzonelaws/>) to examine in more detail the impact of drug-free zones.

Mark Goodpaster, Senior Fiscal Analyst for the Commission, next spoke about the trends in misdemeanor diversions and infraction and ordinance violation deferrals. (See Exhibit D.)

Representative Ralph Foley presented a bill draft (Exhibit E) that contained the following proposals:

- PD 3199 - Substance Abuse Treatment Fund
- PD 3198 - Probation Improvement Fund
- PD 3012 - Sentencing Disclosure and Victim Notification
- PD 3202 - Victim Rights
- PD 3200 - Class D Felony Sentencing
- PD 3203 - Credit Restricted Felons
- PD 3201 - Probation Sanctions
- PD 3197 - County Offender Fund

Senator Bray indicated that the Commission members would vote on the bill at the next meeting.

Review of PD 3255 (Exhibit F) – This PD reorganizes definitions in Title 35 and makes technical corrections. The Commission voted 12 - 0 to recommend introduction of this bill in the 2012 General Assembly.

Senator Bray recognized Senator Taylor to discuss the topic of criminal records. Senator Taylor introduced Michael Ross to the Commission members. Mr. Ross told the Commission about his difficulties in obtaining consistent employment since he was charged for Class C Robbery that was later reduced to theft. He provided the Commission with a timeline of events related to this issue. (See Exhibit G.) Senator Bray commented that some procedures need to be established by the Indiana State Police to update their records that they maintain on persons who are arrested, convicted, and sentenced.

Senator Bray announced that the next meeting date would be November 17, 2011, at 1 pm.

There being no further business, the meeting was adjourned at 1:15 pm.

User Fees and Recidivism Rates in Marion County

Is There a Correlation?

A Summarized Review of
Preliminary Findings

November 2, 2011

Exhibit A
Criminal Code Evaluation
Commission
Meeting #8 November 2, 2011

Overview

The following is an abbreviated summary of preliminary findings of an independent research project conducted by Indiana Tech students during September and October, 2011. Dawn Grimes and Charlilah Howard are completing final coursework as students of the school's Organizational Leadership undergraduate degree program.

This interim report has been prepared for Gregg Keesling, President of RecycleForce, Inc., who allowed these students any-time, as-needed, access to RecycleForce employees for: direct observation; in-depth interviews; and to participate in the short form survey.

Having successfully completed this survey with RecycleForce employees, these students intend to continue this research with other probationers* in Marion County. They have sought out and the gained support of other local non-profit agencies which have agreed to work with them as they continue to gather data to better understand how User Fees may impact recidivism in Marion County.

**For clarity and ease of reading, "probationers" will henceforth refer to any individual on probation, on early-release through a Community Transition Program or any other individual under criminal justice supervision and who is required to pay User Fees to maintain compliance as a condition of probation or early-release.*

User Fees, Catch 22?

Overall, preliminary data suggests that User Fees may be creating a greater burden to taxpayers than they the cost they are aimed to save. Our survey results show, overwhelmingly, that the financial challenges probationers must navigate to maintain compliance, and provide for their basic needs, are extremely high.

While, the cost to taxpayers for early release programs and probation is a legitimate concern, User Fees, which are mandated by disparate agencies and levied without consideration for ability to pay, may ultimately outweigh intended cost-savings -- which are diminished or eliminated by the cost of processing, re-processing and re-institutionalizing probationers who could not pay their fees.

RecycleForce

The RecycleForce workforce program focuses on transitional jobs, employability skills training and supportive services, has successfully placed more than 360 ex-offender workers in full-time paid employment. RecycleForce offers 13 different key certifications and training skills as well self-development. The recidivism rate for these workers is 25% --roughly half the county average.

Survey Results

On October 24, 2011, we delivered a ten question survey to RecycleForce employees during the company's daily morning meeting. Of 29 hourly employees, 23 were eligible to

participate. The others are not, and have never been on probation or parole. Our data collection and input, to date, is as follows:

BACKGROUND OF PARTICIPANTS

Time on Probation or Parole

- 94% on parole or probation for 1 year or more
- 4% on parole or probation for 6 months to 1 year
- 2% on parole or probation for less than 6 months

Previously on parole or probation and returned to Department of Corrections on violation.

- 39% have been returned to DOC on violation in the past
- 44% have been on parole in the past but were not returned to DOC on violation.
- 17% are on parole or probation for the first time and are not currently in violation

- **Employment**

- 85% are employed full time working 40 or more hours per week
- 13% are employed part time working 20-39 hours per week
- 2% are unemployed

User Fee and Child Support Obligations

- 58% are obligated to pay User Fees and child support
- 41% are obligated to pay only User Fees

Income

- The average income is **958.46** per month
- The average User Fee obligation **280.05** per month
- The average child support obligation per month is **244.75** per month

Based on these figures the average income available for to a probationer to pay for living expenses is: 433.85 per month

BEHAVIOR / ATTITUDE

Ability to pay User Fees and maintain compliance with probation or parole

The majority of respondents said they believe their inability to pay User Fees will result in a technical violation. Only 22% believe there is a low chance of this occurring. No respondent believed there is no chance they will receive a technical violation for an inability to pay User Fees.

- 38% believe there is **Very High** chance
- 22% believe there is a **High** chance
- 17% believe there is **Some** chance

Criminal Activity

Most respondents said they have never resorted to committing a crime to pay User Fees or for basic living expenses.

- 66% reported never committing a crime for this reason
- 26% said they had occasionally committed a crime to pay User Fees or basic needs
- 7% said they had committed a crime once in order to pay User Fees or basic living expenses

Cause for violation resulting in return to the Department of Corrections

The majority, **65% of respondents**, believe that an ability to pay User Fees or child support is the leading reason they may be receive a technical violation resulting in a return to DOC.

- 10% said drug or alcohol use may cause them to be in violation
- 10% said they cannot get used to living outside of the DOC
- 7% identified missed drug and alcohol classes or probation visits
- 3 % identified an inability to find work
- 2% said an inability to find a job.

Evaluation

Centralized Authority / Oversight

In our opinion, a number of goals may be accomplished through the establishment of a central authority or “clearing house” which provides oversight and has authority over the application and administration of all User Fees. Under the current structure, state probationers transferring to county judicial oversight, it seems logical that this agency would be a county-level unit. This unit may serve as liaison, coordinator and centralized authority between and over all User Fee collecting agencies. Additionally, this unit may serve as a one-stop and/or first-stop resource for the probationer seeking to maintain compliance. This agency may provide intervention and guidance for probationers in need of User Fee assessment, intervention and/or financial counseling or assistance with basic needs, or other accommodations to maintain probation /parole compliance.

Access to Basic Supports

Based on analysis of collected data and in-depth interviews, we also conclude that the most essential component to complete and full rehabilitation is a strong support network. It is vital to reformation that former felons have access to:

- Basic federal supports including: food stamps and subsidized or low-cost housing.
- Interpersonal and professional skills training, transitional counseling and when necessary, psychological counseling and therapy.

The need of a probationer applying for such supports should take into account all of the financial obligations of the applicant to include the cost of User Fees and child support.

Recommendations

- Consideration of the implementation of a central authority which has direct oversight, intervention and negotiation authority
- Consideration of sliding fee scales which take child support obligations and income into account when applying for basic federal supports like food stamps and subsidized housing
- Broader use of alternative sentencing and rehabilitation/reform programs which provide support structure to probationers (These alternatives and programs are specifically identified and discussed in the full-length research report, also available for your review.)

Follow Up Strategy

Charlilah Howard and Dawn Grimes have committed to continuing to work with RecycleForce to make necessary refinements to the ten question survey and to working with other non-profit agencies in Marion County to deliver the survey to as many probationers as possible over the next 3 months. They have the support from a leading outreach agency, PACE and have reached out to an Professor of Criminal Justice at IUPUI to solicit his opinion and assistance as we continue to gather and analyze data which may be incorporated into a presentation to Indiana Legislators in the late winter or early spring of 2012.

THE TRUTH ABOUT USER FEES

Under state law a person cannot be sent to jail for debt owed. However, a probation officer may file a violation for non-payment of user fees, which will result in the probationer serving time in jail awaiting a trial before a judge. Additionally a program that an ex-offender is enrolled in (such as drug or alcohol counseling) can dismiss them from their class for non-payment, at which time a probation officer will file a Technical Rule Violation (TRV) for not completing the program.

The fees that an ex-offender may face include, but are not limited to: Probation Fees, Drug or Alcohol Counseling, Drug Testing (which can vary per month), Child Support, Daily Reporting, and Restitution Fees.

For many ex-offenders, not being able to pay their user fees is the most frightening thing they will face on their return to the community. Just imagine trying to rehabilitate yourself, adhering to all rules of the court and of your P.O., and then not being able to come up with the money to make your fees for the month. Do you pay rent, buy groceries, or pay your fees? The realization that they may go back to jail if they don't come up with the money is just as frightening as realizing that they may be evicted or perhaps their children will go hungry.

RecycleForce invites you to learn the truth about user fees from some of our most successful clients!



Sallie

Monthly Income after taxes: \$1081.98

	Probation Fees: \$65
	Counseling: \$180
+	Drug Testing: \$80
<hr/>	
Total Fees:	\$325
	30.04% of income

**Exhibit B
Criminal Code Evaluation
Commission
Meeting #8 November 2, 2011**

RECYCLEFORCE USER FEE DATA



Eugene

Monthly Income after taxes: \$1081.98

Probation Fees: \$50
Counseling: \$280
Drug Testing: \$10
+ Child Support: \$200

Total Fees: \$540

49.91% of income



John

Monthly Income after taxes: \$1099.89

Probation Fees: \$43
Counseling: \$140
Drug Testing: \$10
Child Support: \$120
+ Polygraph: \$45

Total Fees: \$358

32.55% of income



Brandon

Monthly Income after taxes: \$1081.98

Probation Fees: \$70
Drug Testing: \$10
+ Child Support: \$240

Total Fees: \$320

29.58% of income

RECYCLEFORCE USER FEE DATA



Angel

Monthly Income after taxes: \$1081.98

Probation Fees:	\$80
Counseling:	\$180
Drug Testing:	\$10
+ Polygraph:	\$45
Total Fees:	\$315
	29.67% of income



Eddra

Monthly Income after taxes: \$1081.98

Probation Fees:	\$55
Drug Testing:	\$10
+ Child Support:	\$620
Total Fees:	\$685
	63.31% of income



Anonymous

Monthly Income after taxes: \$1081.98

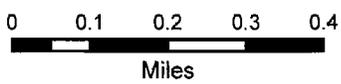
Probation Fees:	\$42
Counseling:	\$140
Drug Testing:	\$10
Child Support:	\$150
Polygraph Fees:	\$45
+ Back Fees:	\$35
Total Fees:	\$422
	39% of income

"Drug-Free" Superzones Near Arsenal High School Indianapolis, Indiana



Exhibit C
Criminal Code Evaluation
Commission
Meeting #8 November 2, 2011

-  Interstates
-  Railroads
-  Schools
-  Parks
-  Family Housing Complexes
- 1000 ft Buffers**



Projection:
 Universal Transverse Mercator Zone 16N

Horizontal Datum:
 1983 North American Datum

Date Sources:
 Indiana Geological Survey igs.indiana.edu
 Indiana Spatial Data Portal www.indiana.edu/~gisdata/

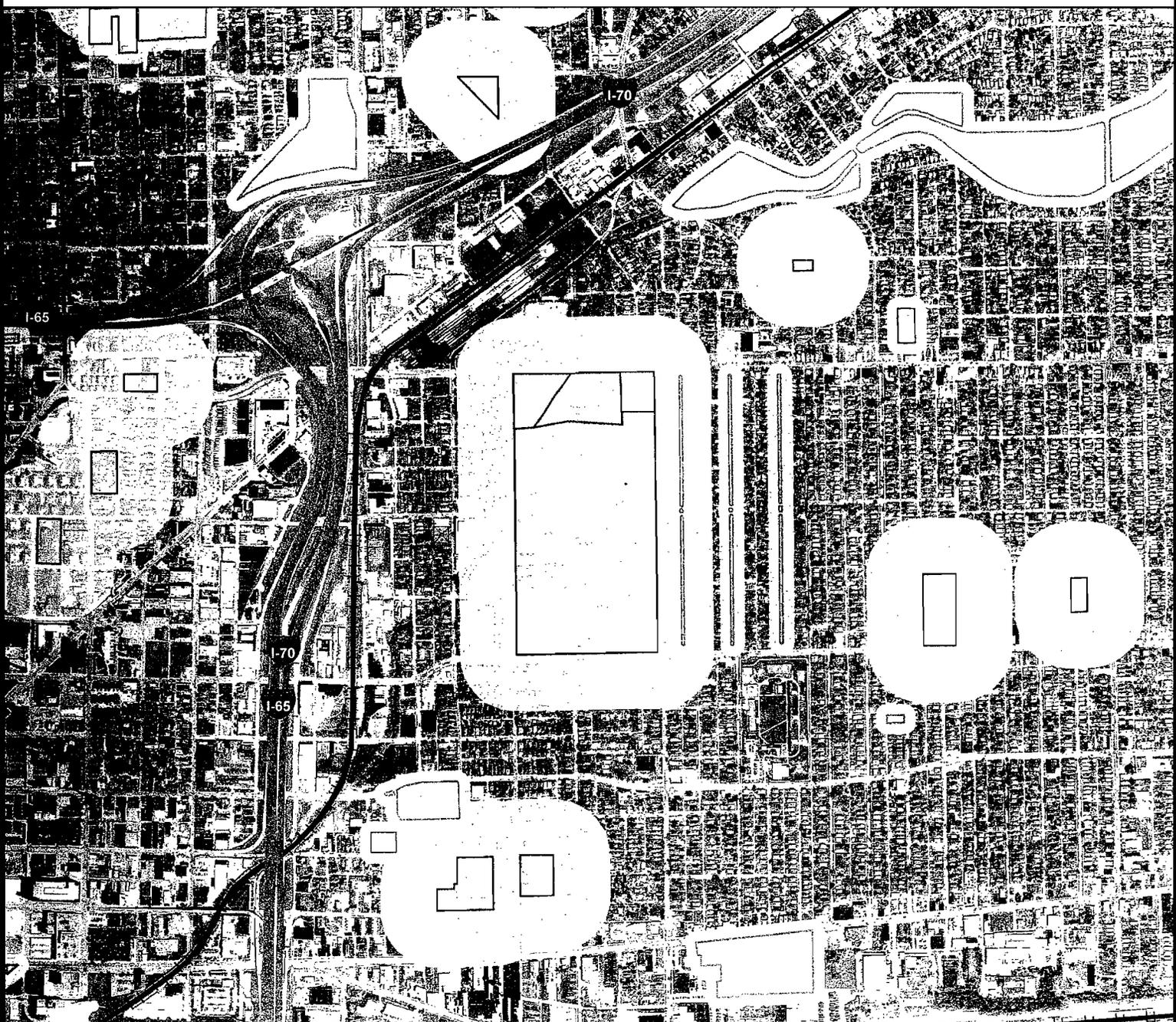
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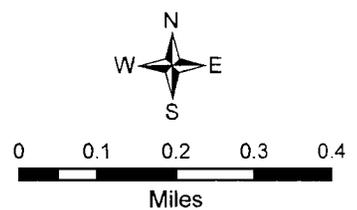
Possible "Drug-Free" Zones Near Arsenal High School Indianapolis, Indiana

Schools: 500 feet -- Parks: 100 feet -- Housing: 100 feet



-  Schools
-  Parks
-  Family Housing Complexes

- 500 ft School Buffers
- 100 ft Park Buffers
- 100 ft Housing Buffers



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ImagisGIS Mapping and Geographic Information System

Possible "Drug-Free" Zones Near Arsenal High School Indianapolis, Indiana

Schools: 100 feet -- Parks: 100 feet -- Housing: 100 feet



-  Schools
-  Parks
-  Family Housing Complexes

100 ft School Buffers

100 ft Park Buffers

100 ft Housing Buffers

Interstates

Railroads



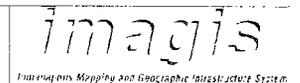
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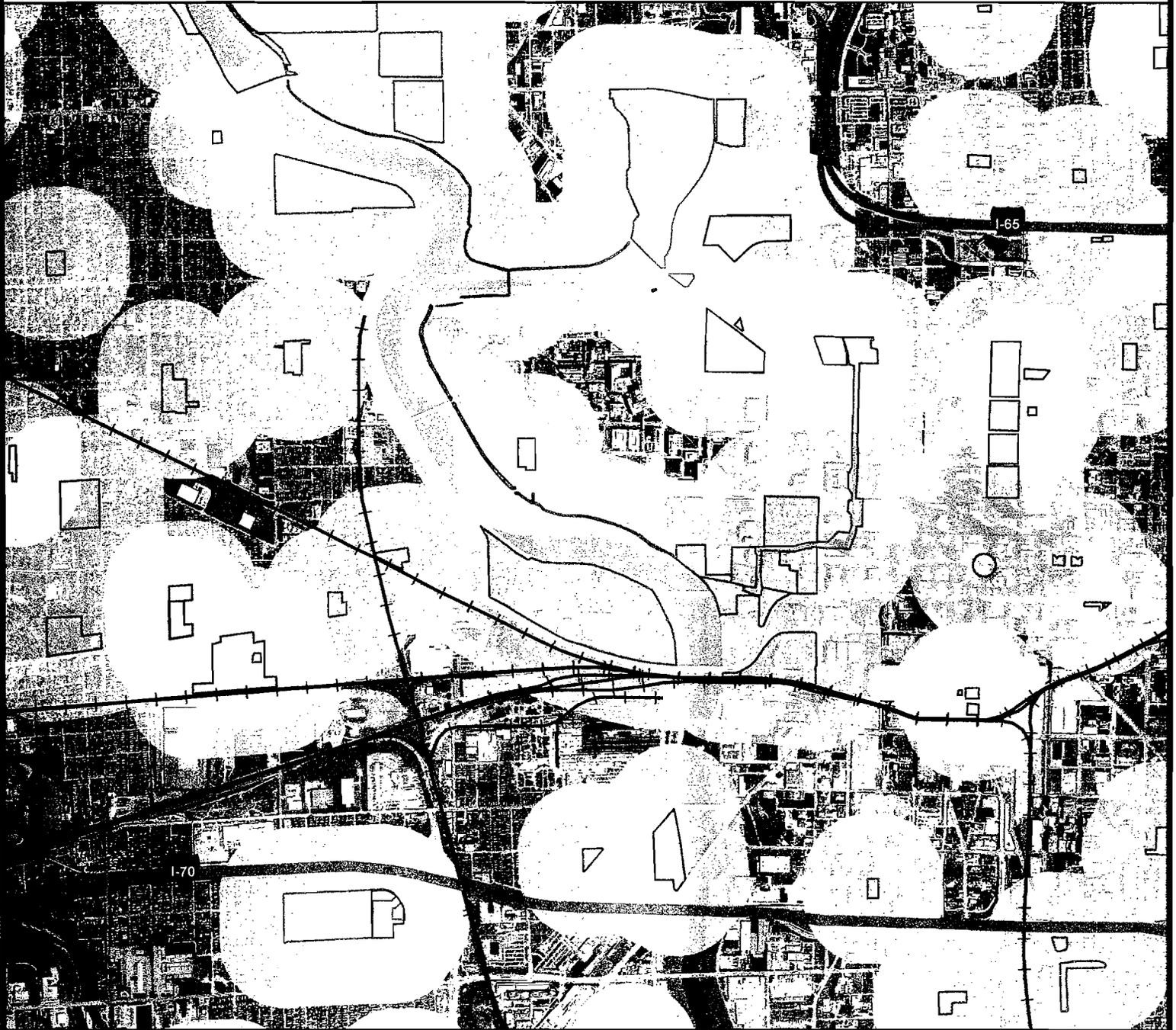
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"Drug-Free" Superzones Near Crispus Attucks Middle School and the Indianapolis Zoo



-  Schools
-  Parks
-  Family Housing Complexes

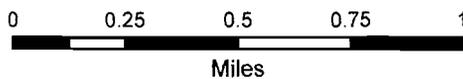
 Interstates

 Railroads

1000 ft School Buffers

1000 ft Park Buffers

1000 ft Housing Buffers



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Possible "Drug-Free" Zones Near Crispus Attucks Middle School and the Indianapolis Zoo

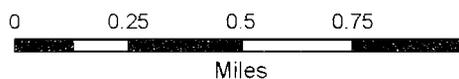
Schools: 500 feet -- Parks: 100 feet -- Housing: 100 feet



-  Schools
-  Parks
-  Family Housing Complexes

- 500 ft School Buffers
- 100 ft Park Buffers
- 100 ft Housing Buffers

-  Interstates
-  Railroads



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Possible "Drug-Free" Zones Near Crispus Attucks Middle School and the Indianapolis Zoo

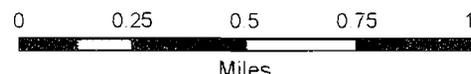
Schools: 100 feet -- Parks: 100 feet -- Housing: 100 feet



-  Schools
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- 100 ft School Buffers
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Fees for Deferrals from Misdemeanors

Fee	Cite	Fee Amount	Distribution
Deferral Prosecution Fee	IC 33-37-5-17	\$120 one time fee	70% state general fund 30% local general fund
Pretrial Diversion Program Fee	IC 33-37-4-1(c)	\$50 initial \$10 monthly	County User Fee Fund IC 33-37-8-5
Proposed New Fee	IC 33-37-5-17(c) in PDOC	\$30 one time fee	State Probation Improvement Fund

Fees for Deferrals for Infractions and Ordinance Violations

Fee	Cite	Fee Amount	Distribution
Deferral Prosecution Fee	IC 34-28-5-1	\$70 one time fee	
Pretrial Diversion Program Fee	IC 33-37-4-2(e)	\$52 initial \$10 monthly	
Proposed New Fee	IC 33-37-5-31 in PDOC	\$15 one time fee	State Probation Improvement Fund

33-37-4-1 Criminal Cost Fees; additional fees

Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

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

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

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

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

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

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

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

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

- (1) The clerk shall apply the partial payment to general court costs.
 - (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
 - (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
 - (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
 - (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.
- As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.16; P.L.95-2004, SEC.4; P.L.2-2005, SEC.100; P.L.176-2005, SEC.4; P.L.182-2009(ss), SEC.392.

33-37-4-2 Infraction or ordinance violation costs fee; additional fee

Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
 - (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);
- the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

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

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

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

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection (e)).

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

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

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

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

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

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

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.17; P.L.95-2004, SEC.5; P.L.2-2005, SEC.101; P.L.176-2005, SEC.5; P.L.182-2009(ss), SEC.393.

33-37-5-17 Deferred prosecution fees

Sec. 17. (a) This section applies to actions in which the court defers prosecution under IC 33-39-1-8.

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

As added by P.L.98-2004, SEC.16. Amended by P.L.176-2005, SEC.10.

33-37-7-2 Circuit Court Clerk's Distribution of Fees

Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).

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

33-37-7-4

Fees collected by clerk of circuit court; county share

Sec. 4. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

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

33-37-7-6 Fees collected by clerk of circuit court; city or town share

Sec. 6. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit or superior court located in the county is three percent (3%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

34-28-5-1 Prosecution in name of state or municipality; rules; limitations; burden of proof; deferral programs; agreement for community restitution or service

Sec. 1. (a) As used in this section, "probationary license" refers to a license described in IC 9-24-11-3(b) or IC 9-24-11-3.3(b).

(b) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(c) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(d) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(e) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(f) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(g) Subsection (h) does not apply to an individual holding a probationary license who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:

IC 9-19

IC 9-21

IC 9-24

IC 9-25

IC 9-26

IC 9-30-5

IC 9-30-10

IC 9-30-15.

(h) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);
- (3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;
- (4) the defendant in the action agrees to pay a fee of seventy dollars (\$70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);
- (5) the agreement is filed in the court in which the action is brought; and
- (6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

(i) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-41-1-4.6) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

- (1) the:
 - (A) defendant; and
 - (B) attorney for the municipal corporation;agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;
- (2) the terms of the agreement described in subdivision (1):
 - (A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and
 - (B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;
- (3) the agreement is filed in the court where the judgment was entered; and
- (4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this

subsection.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2000, SEC.12; P.L.98-2004, SEC.123; P.L.176-2005, SEC.24; P.L.200-2005, SEC.1; P.L.101-2009, SEC.17.

Relevant Sections from HEA 1113 2005

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

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a deferred prosecution fee of ~~fifty one hundred twenty dollars (\$50)~~ **(\$120)** for court costs.

SECTION 24. IC 34-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2005]: Sec. 1.

(a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) **This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle.** The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay ~~court costs a fee of twenty-five seventy dollars (\$25) (\$70)~~ to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

(5) the agreement is filed in the court in which the action is brought; and

(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

9-30-3-14 Moving traffic offense committed by person other than the owner; notice to owner; contents

Sec. 14. (a) As used in this section, "moving traffic offense" means a violation of a statute, an ordinance, or a rule relating to the operation or use of motor vehicles while the motor vehicle is in motion.

(b) If a court convicts a person for a moving traffic offense and the person is known or believed by the court not to be the owner of the motor vehicle, the court shall, within seven (7) days after entering the conviction, deposit with the United States Postal Service, first class postage prepaid, notice addressed to the owner of the motor vehicle giving the owner the following information:

- (1) The name and address of the person convicted.
- (2) The name and address of the owner of the motor vehicle.
- (3) The offense upon which the conviction was made.
- (4) The date of arrest of the person convicted and the location of the place of the offense.
- (5) The license plate number of the motor vehicle.
- (6) The operator's or chauffeur's license number of the person convicted.
- (7) The date of the conviction and the name of the court making the conviction.

As added by P.L.2-1991, SEC.18.

33-39-1-8 Withholding of prosecution; applicability grounds; conditions; notification

Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law

106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

(1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or

(2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:

(A) intoxication; or

(B) the operation of a motor vehicle;

if the offense involving intoxication or the operation of a motor vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(c) This section does not apply to a person:

(1) who is arrested for or charged with an offense under:

(A) IC 7.1-5-7-7(a), if the alleged offense occurred while the person was operating a motor vehicle;

(B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;

(C) IC 35-42-2-2(c)(1);

(D) IC 35-42-2-4(b)(1); or

(E) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and

(2) who held a probationary license (as defined in IC 9-24-11-3(b) or IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.

(d) A prosecuting attorney may withhold prosecution against an accused person if:

(1) the person is charged with a misdemeanor;

(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and

(4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

(e) An agreement under subsection (d) may include conditions that the person:

(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;

(2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment;

(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;

- (4) support the person's dependents and meet other family responsibilities;
- (5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;
- (6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;
- (7) report to the prosecuting attorney at reasonable times;
- (8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and
- (9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(f) An agreement under subsection (d)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(g) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

(h) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

(i) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (e)(6):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

As added by P.L.98-2004, SEC.18. Amended by P.L.176-2005, SEC.21; P.L.234-2007, SEC.168; P.L.101-2009, SEC.16.

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Sen. Greg Taylor
Sen. Lindel Hume
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Rep. Greg Steuerwald
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Authority: P.L. 182-2009(ss)

To: Members of the Criminal Code Evaluation Commission
From: Mark Goodpaster
Date: October 27, 2011
Re: Trends in Misdemeanor Diversions and Infraction and Ordinance Violation
Deferrals

Senator Bray asked me to examine whether certain fee increases affected the number of cases deferred after HEA 1113 – 2005 increased deferral fees for misdemeanors, infractions and ordinance violations after July 1, 2005.

To determine whether this fee increase reduced the number of cases deferred, I compared the number of cases deferred for misdemeanors, infractions and ordinance violations prior to July 1, 2005 with the number of cases deferred in the calendar years after the increase. The case information was separated by trial courts and city and town courts for each county. I would expect that the number of cases that were deferred would decline if persons who are charged with one of these offenses were especially sensitive to the fee increase imposed then. The fee for misdemeanor deferrals was increased from \$50 to \$120. The fee for infractions and ordinance violations deferrals was increased from \$25 to \$70.

Based on information contained in the Indiana Judicial Reports between 2002 and 2010, it appears that misdemeanor deferrals in city and town courts declined, while the number of deferrals was generally higher in all other situations after the fee increase than before the increase.

Background:

The \$120 Pretrial Diversion Fee (IC 33-37-5-17) is charged when a prosecuting attorney withholds prosecution of a person charged with a misdemeanor and the person agrees to conditions of a pretrial diversion program offered by the prosecutor. **Prior to July 1, 2005, the pretrial diversion fee was \$50.** Besides this fee, an initial user fee of \$50 plus \$10 for each month the person remains in the program, is charged along with the other routinely

charged fees in a criminal case. 70% of the revenue from this fee is deposited into the State General Fund, while 30% is deposited in local general fund accounts.

The \$70 Deferral Program Fee (IC 34-28-5-1) is charged when the prosecuting attorney or attorney for the municipal corporation sets up a deferral program for infractions and ordinance violations. **Prior to July 1, 2005, the deferral program fee was \$25.** Besides this fee, an initial user fee of up to \$52 and a monthly user fee not to exceed \$10 is charged. The total is distributed to the county auditor or local fiscal officer, depending upon the court collecting, to be deposited in the relevant local user fee fund.

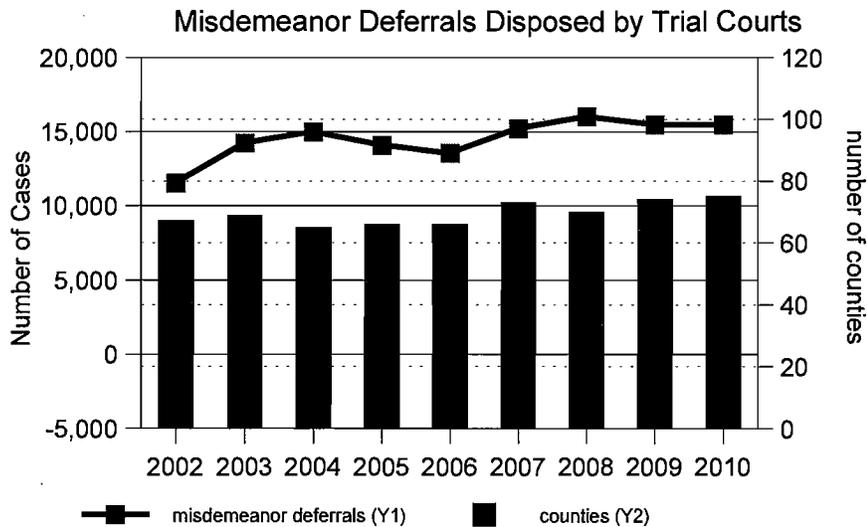
Trends in Deferrals and Diversions

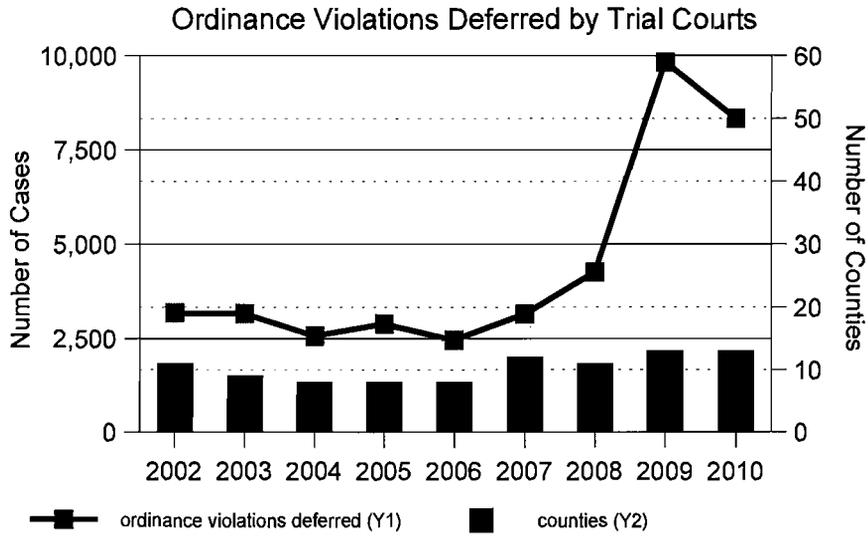
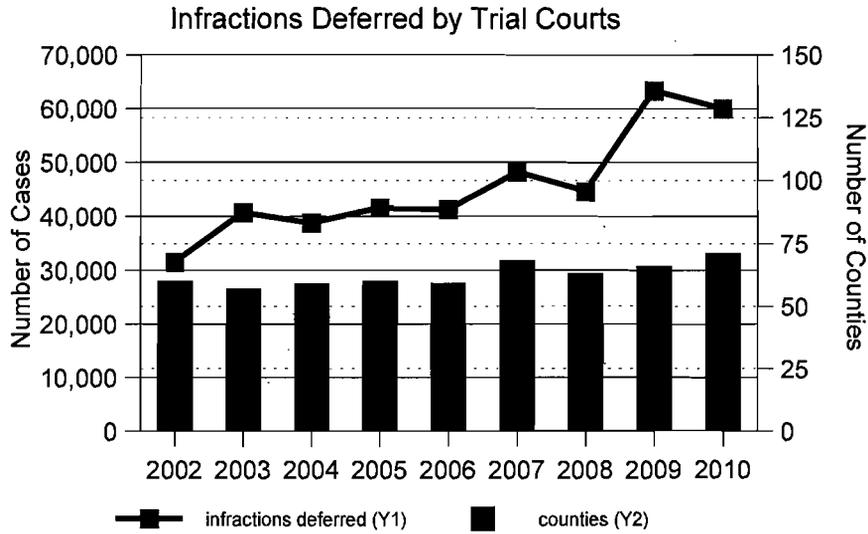
The Division of State Court Administration has been reporting on deferrals since 2002 for misdemeanors, infractions and ordinance violations.

I examined the reported dispositions at the county level for each trial court and city and town court between 2002 and 2010 and summarized these trends in the following charts. Each chart shows the number of reported deferrals by case type and the number of counties that reported deferrals by calendar year.

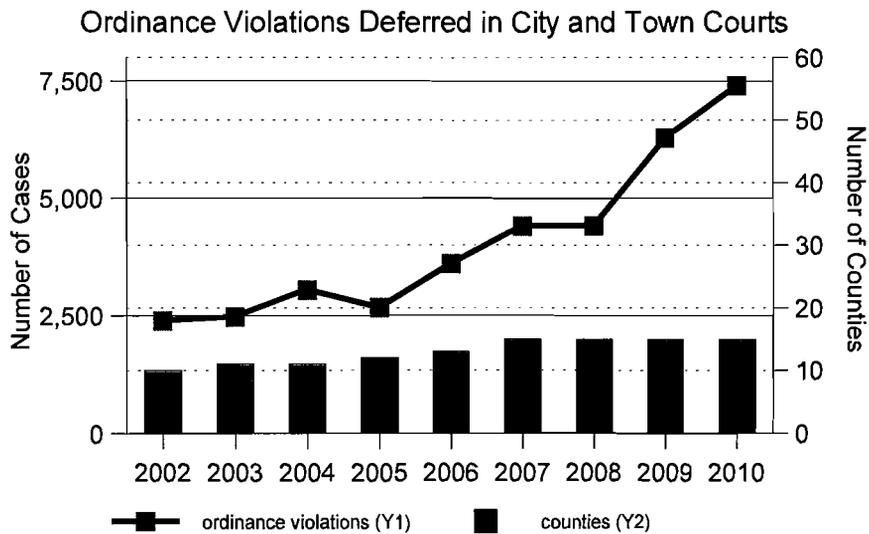
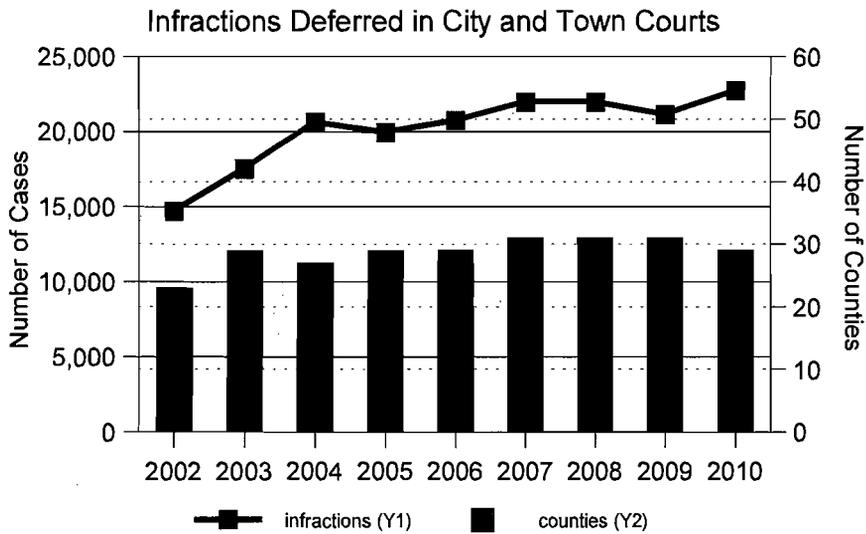
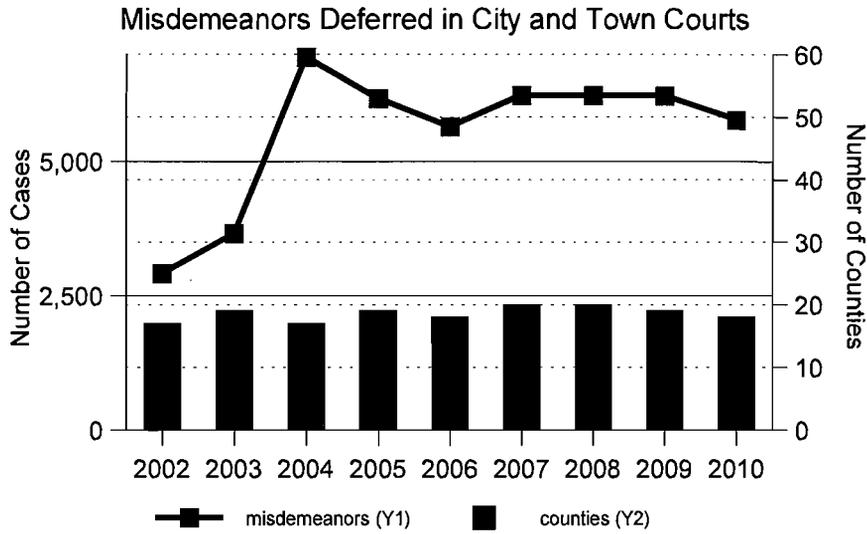
Since the fee increases began on July 1, 2005, the charts below show the trends occurring over this nine-year period and whether or not the number of deferrals have declined. .

Trial Courts – The number of cases deferred by trial courts in each county are shown in this section.





City and Town Courts – The following charts show the number of counties reporting deferred cases in city and town courts.



4

Requires the department of correction (department) to establish an automated victim notification system. Requires the department to 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 on a person convicted of a felony a sentence that involves a commitment to the department, the court shall state in the sentencing order and abstract of judgment certain information. Provides that a person convicted of a Class D felony may not be committed to the department of correction unless the person entire period of incarceration is at least six months at the time of sentencing. Requires the judicial conference to: (1) adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation; and (2) submit a report to the department detailing the number of Class D felony conviction for each county. Provides procedures under which a person on probation may be sanctioned by a probation officer. 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 abstract of judgment that the person is a credit restricted felon. Requires the 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. Establishes the probation improvement fund administered by the department of correction to award grants based on the recommendation by the judicial conference of Indiana 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 an infractions 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 fees and the pretrial diversion fee for an infractions or ordinance violations. Requires that credit time earned by certain offenders shall be reduced to the extent that 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.

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

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

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

(A) is assigned to a:

(i) department facility; or

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

(B) is transferred to a:

(i) department facility; or

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

(C) is given a different security classification;

(D) is released on temporary leave;

(E) is discharged; or

(F) has escaped;

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

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

(I) has requested clemency or pardon consideration;

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

(i) facility; or

(ii) work release program;

or is permitted to participate in another minimum security assignment; or

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

(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.

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

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

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

(2) is released on temporary leave;

(3) is discharged; or

(4) has escaped.

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

- (c) An automated victim notification system may transmit information to a person by:
- (1) telephone;
 - (2) electronic mail; or
 - (3) another method as determined by the department.

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

- (1) the committed offender's projected date of release from imprisonment;**
- (2) the facility where the committed offender is imprisoned; and**
- (3) the current security classification of the committed offender.**

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

- (1) annually;**
- (2) quarterly;**
- (3) monthly; or**
- (4) when triggered by an event described in subsection (a)(1).**

SECTION 3. IC 11-10-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. **(a) The department shall develop a methodology for determining the average daily cost of incarcerating an offender.**

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

- (1) must include the additional expenses of providing food, clothing, and health care to a new offender; and**
- (2) do not include the costs of new facilities or additional staff.**

SECTION 4. IC 11-10-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

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

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

- (1) reduce the number of Class D felony offenders committed to the department; and**
- (2) maintain fewer Class D felony offender commitments to the department.**

Sec. 2. The department shall determine the average length of stay for a Class D felony offender who has an executed sentence of less than one (1) year in the department. This determination shall be based on a one (1) year period.

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

(b) The department shall provide a local rehabilitation incentive to each county that commits to the department in one (1) calendar year fewer Class D felony offenders than the baseline average established for that county under subsection (a). Each county that has a reduction in Class D felony commitments for a calendar year is entitled to an incentive based on the reduction in the department's incarceration costs attributable to the county's

reduction in Class D felony commitments, as determined according to the formula set forth in subsection (c).

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

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

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

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

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

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

(1) more than ten (10) more Class D felony offenders than the baseline average; or

(2) more offenders than one hundred and five percent (105%) of the county's baseline average;

whichever is greater, established for that county under section 3(a) of this chapter.

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

STEP ONE: Subtract the baseline average established for a county under section 3(a) of this chapter from the number of Class D felony offenders that the county commits to the department in a calendar year.

STEP TWO: If the STEP ONE remainder is ten (10) or less, the disincentive amount is zero (0). Otherwise, multiply the number of offenders determined under STEP ONE by the average number of days of the length of stay for a Class D felony offender in the department, as determined under section 2 of this chapter.

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

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

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

Sec. 6. (a) Before September 1, 2012, the department, using the report issued by the Indiana judicial center under IC 33-38-9-11 for calendar year 2011 and the number of

Class D felony offender commitments made to the department in calendar year 2011, shall determine the number of offenders convicted in calendar year 2011 of Class D felonies in all counties and, of that number, the percentage of Class D felony offenders who were committed to the department. The statewide average percentage calculated under this subsection shall be a baseline average for the purposes of this section.

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

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

STEP ONE: The department shall determine for a county the number of Class D felony offenders that the county committed to the department in the previous calendar year.

STEP TWO: The department shall determine the percentage of Class D felony offenders that the county committed to the department in the previous calendar year by dividing the STEP ONE number by the total number of Class D felony convictions in that county in the previous calendar year, as stated in the report submitted by the Indiana judicial center under IC 33-38-9-11.

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

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

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

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

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

- (1) whose probation has been revoked;**
- (2) whose participation in a community corrections program has been**

- terminated as a result of a violation of program requirements;
- (3) whose participation in a problem solving court program has been terminated as a result of a violation of program requirements; or**
- (4) who is committed temporarily to the department under IC 35-33-11-1.**

Sec. 9. The department may adopt rules under IC 4-22-2 to implement this chapter.

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

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

- (1) educational and occupational qualifications for employment as a probation officer;
- (2) compensation of probation officers;
- (3) protection of probation records and disclosure of information contained in those records; and
- (4) presentence investigation reports;
- (5) a schedule of progressive probation incentives and violation sanctions, including judicial review procedures; and**
- (6) qualifications for probation officers to administer probation violation sanctions under IC 35-38-2-3(e).**

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

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

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

- (1) the implementation and management of probation case classification; and
- (2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

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

- (1) Eligibility standards.
- (2) Testing requirements and procedures.
- (3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-35-5.
- (4) Procedures and requirements for placement in residential special education

institutions or facilities under IC 20-35-6-2 and 511 IAC 7-27-12.

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

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

(B) coordination with:

(i) individual case plans; and

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

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

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

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

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

- (1) selection, training, distribution, and removal of probation officers;
- (2) methods and procedure for the administration of probation, including investigation, supervision, workloads, record keeping, and reporting; and
- (3) use of citizen volunteers and public and private agencies.

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

SECTION 6. IC 11-13-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 2.5. Probation Improvement Fund

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

Sec. 2. (a) The probation improvement fund is established to provide grants under sections 3 and 4 of this chapter. The fund shall be administered by the department of correction.

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

- (1) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.**
- (2) Amounts deposited under IC 33-37-7-2(o).**
- (3) Amounts deposited under IC 33-37-7-8(j).**

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

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

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

*Added
new
text*

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

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

(A) to:

- (i) focus supervision resources on persons who pose a high likelihood of committing another offense, as determined by a validated risk assessment;**
- (ii) develop and use a progressive sanctions policy to guide decisions concerning how to respond to violations of conditions of supervision; and**
- (iii) reduce the risk posed by persons who have been convicted of a felony and are on probation, through effective supervision, sanctions, and addressing any needs the persons have for substance abuse treatment, mental health services, or other services; and**

(B) as approved by the department of correction; and

(2) reduce the number of probation revocations:

(A) involving persons under the supervision of the county probation department who have been convicted of a felony; and

(B) that result in a person serving a prison sentence.

(b) To receive a grant under this section, a county probation department must submit an application to the department of correction:

(1) on a form; and

(2) in the manner;

prescribed by the department of correction.

(c) The department of correction shall determine the amount of a grant awarded under this section.

Sec. 4. (a) The department of correction:

(1) may award a grant from the fund to a county that supervises persons who have been convicted of a felony to consolidate and improve the efficiency of:

(A) probation administration and services; and

(B) community corrections programs;

in the county; and

(2) shall make the awarding of the grant contingent on the ability of the county probation department to demonstrate a minimal level of coordination with other offender supervision agencies operating in the same county, including community corrections programs, parole authorities, and other probation agencies.

(b) To receive a grant under this section, a county must submit an application to the department of correction:

(1) on a form; and

(2) in the manner;

prescribed by the department of correction.

(c) The department of correction shall determine the amount of a grant awarded

under this section.

Sec. 5. The department of correction may adopt rules under IC 4-22-2 that are necessary to implement this chapter.

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

SECTION 7. IC 11-13-3-3, AS AMENDED BY P.L.105-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

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

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

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:
 - (A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.
 - (B) Assignment to a minimum security work release program.

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

- (1) **not later than twenty-four (24) hours after the escape of a committed**

offender;

~~(1)~~ **(2)** at least forty (40) days before: a

(A) the discharge or release of a committed offender; or

(B) the date of a hearing occurs; concerning a committed offender's possible discharge or release; and

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

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

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

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

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

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

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

- (1) nature and circumstances of the crime for which the offender is committed;
- (2) offender's prior criminal record;
- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
- (2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
- (3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
- (4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
- (5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

- (1) will engage in further specified criminal activity; or
- (2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), except as provided in subsection (n), the board may order and consider a community investigation, which may include an investigation and report that substantially reflects the attitudes and opinions of:

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

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

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

- (1) the person was convicted of a crime of violence (as defined in IC 35-50-1-2);
- or

(2) the person is a sex offender (as defined in IC 11-8-8-4.5).

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

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

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

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

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

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

The clerk shall collect from an accused person paying a pretrial diversion program fee under this subsection an additional county offender deferral fee of thirty dollars (\$30) under IC 33-37-5-17(c).

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

- (1) the pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

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

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

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 9. IC 33-37-4-2, AS AMENDED BY P.L.182-2009(ss), SECTION 393, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

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

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

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

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (~~IC 33-37-5-17~~): (IC 33-37-5-17(b)).

(7) A jury fee (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(11) A public defense administration fee (IC 33-37-5-21.2).

(12) A judicial insurance adjustment fee (IC 33-37-5-25).

(13) A judicial salaries fee (IC 33-37-5-26).

(14) A court administration fee (IC 33-37-5-27).

(15) A DNA sample processing fee (IC 33-37-5-26.2).

(16) A pretrial diversion fee for an infraction or ordinance violation (IC 33-37-5-31).

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

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

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

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

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

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

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

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

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

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

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

SECTION 11. IC 33-37-5-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 31. In each action in which a person is required to pay a pretrial diversion fee for an infraction or ordinance violation, the clerk shall collect a fee of fifteen dollars (\$15).**

SECTION 12. IC 33-37-7-2, AS AMENDED BY P.L.229-2011, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions

resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) 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).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) The following:
 - (A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
 - (B) For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(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.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall

deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The clerk shall distribute one hundred percent (100%) of the service fees

collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. IC 33-37-7-8, AS AMENDED BY P.L.182-2009(ss), SECTION 396, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) ~~IC 33-37-5-17~~ IC 33-37-5-17(b) (deferred prosecution fees).

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

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

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

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

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

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) 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).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

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

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections 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.

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

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

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

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

- (1) The public defense administration fee collected under IC 33-37-5-21.2.
- (2) The DNA sample processing fees collected under IC 33-37-5-26.2.

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

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

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

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

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

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

SECTION 14. IC 33-38-9-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. Not later than May 1 of each year, the Indiana judicial center shall submit to the department of correction a report detailing the number of offenders convicted of Class D felonies in each county in the previous calendar year.**

SECTION 15. IC 35-38-1-7.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 7.8. (a) At the time of sentencing, a court shall determine whether a person is a credit restricted felon (as defined in IC 35-41-1-5.5).**

(b) A determination under subsection (a) must be based upon:

(1) evidence introduced at trial; or

(2) a factual basis provided as part of a guilty plea.

(c) Upon determining that a defendant is a credit restricted felon, a court shall advise the defendant of the consequences of this determination.

(d) A judge shall record a determination that a defendant is a credit restricted felon on a form prepared by the division of state court administration.

(e) If a court determines that a person is a credit restricted felon, the court shall state in the person's sentencing order and abstract of judgment that the person is a credit restricted felon.

SECTION 16. IC 35-38-1-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 31. If a court imposes on a person convicted of a felony a sentence that involves a commitment to the department of correction, the court shall state in the sentencing order and the abstract of judgment:**

(1) the minimum and maximum amount of time a person could be incarcerated considering;

(1) the application of credit time under IC 35-50-6;

(2) the possibility of supervision after incarceration; and

(3) credit for time the person has already served in jail;

(2) each offense the person is convicted of;

(3) the sentence including whether the sentence includes a suspended

**sentence, probation, or direct commitment to community corrections; and
(4) if probation, parole or a community corrections placement has been
revoked, the reasons for the revocation.**

SECTION 17. IC 35-38-2-3, AS AMENDED BY P.L.106-2010, SECTION 11, IS
AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The court may
revoke a person's probation if:

- (1) the person has violated a condition of probation during the probationary
period; and
- (2) the petition to revoke probation is filed during the probationary period or
before the earlier of the following:
 - (A) One (1) year after the termination of probation.
 - (B) Forty-five (45) days after the state receives notice of the violation.

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

- (1) order a summons to be issued to the person to appear; or
- (2) order a warrant for the person's arrest if there is a risk of the person's fleeing
the jurisdiction or causing harm to others.

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

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

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

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

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

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

- (1) Continue the person on probation, with or without modifying or enlarging the
conditions.
- (2) Extend the person's probationary period for not more than one (1) year beyond
the original probationary period.
- (3) Order execution of all or part of the sentence that was suspended at the time of
initial sentencing.

~~(h)~~ (i) If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

- (1) order one (1) or more sanctions as set forth in subsection ~~(g)~~; (h); and
- (2) provide credit for time served as set forth under IC 35-38-2.5-5.

~~(i)~~ (j) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

- (1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or
- (2) order execution of all or part of the sentence that was suspended at the time of the initial sentencing.

~~(j)~~ (k) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

- (1) order a sanction as set forth in subsection ~~(i)~~; (j); and
- (2) provide credit for time served as set forth under IC 35-38-2.5-5.

~~(k)~~ (l) A judgment revoking probation is a final appealable order.

~~(l)~~ (m) Failure to pay fines or costs (including fees) required as a condition of probation may not be the sole basis for commitment to the department of correction.

~~(m)~~ (n) Failure to pay fees or costs assessed against a person under IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for revocation of probation.

SECTION 18. IC 35-38-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Except as provided by subsection (b), a person convicted of a misdemeanor may not be committed to the department of correction.

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

- (1) if placement in the county jail:
 - (A) places the inmate in danger of serious bodily injury or death; or
 - (B) represents a substantial threat to the safety of others;
- (2) for other good cause shown; or
- (3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of consecutive misdemeanor sentences.

(c) A person convicted of a Class D felony may not be committed to the department of correction unless, as of the date of sentencing and assuming the application of Class I credit time to the person's entire period of incarceration, the offender will serve at least six (6) months in the department.

SECTION 19. IC 35-50-6-3.3, AS AMENDED BY P.L.228-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

- (1) is in credit Class I;

- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:
 - (A) A general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person has not previously obtained a high school diploma.
 - (B) Except as provided in subsection (n), a high school diploma, if the person has not previously obtained a general educational development (GED) diploma.
 - (C) An associate's degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)).
 - (D) A bachelor's degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)).

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

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:
 - (A) A certificate of completion of a career and technical education program approved by the department of correction.
 - (B) A certificate of completion of a substance abuse program approved by the department of correction.
 - (C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.
 - (D) A certificate of completion of a reformatory program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

- (1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18.
- (2) One (1) year for graduation from high school.
- (3) One (1) year for completion of an associate's degree.
- (4) Two (2) years for completion of a bachelor's degree.
- (5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more career and technical education programs approved by the department of correction.
- (6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.
- (7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.
- (8) Not more than a total of six (6) months credit time, as determined by the

department of correction, for completion of one (1) or more reformatory programs approved by the department of correction. However, a person who is serving a sentence for an offense listed under IC 11-8-8-4.5 may not earn credit time under this subdivision.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more career and technical education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more career and technical education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) four (4) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(j) **The amount of Credit time earned under this section is by an offender serving a sentence for a felony against a person under IC 35-42 or for a crime listed in IC 11-8-8-5 shall be reduced to the extent that application of the credit time would otherwise result in:**

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program;

in less than forty-five (45) days after the person earns the credit time.

(k) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

(l) A person may not earn credit time:

(1) for a general educational development (GED) diploma if the person has previously earned a high school diploma; or

(2) for a high school diploma if the person has previously earned a general educational development (GED) diploma.

(m) A person may not earn credit time under this section if the person:

(1) commits an offense listed in IC 11-8-8-4.5 while the person is required to register as a sex or violent offender under IC 11-8-8-7; and

(2) is committed to the department of correction after being convicted of the offense listed in IC 11-8-8-4.5.

(n) For a person to earn credit time under subsection (a)(3)(B) for successfully completing the requirements for a high school diploma through correspondence courses, each correspondence course must be approved by the department before the person begins the correspondence course. The department may approve a correspondence course only if the entity administering the course is recognized and accredited by the department of education in the state where the entity is located.

SECTION 20. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 21. County Offender Fund

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

(1) programs that defray the expense of housing an offender in jail;

(2) probation programs;

(3) work release programs;

(4) community corrections programs;

(5) problem solving courts; and

(6) substance abuse treatment programs.

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

SECTION 21. An emergency is declared for this act.

**PRELIMINARY DRAFT
No. 3255**

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

DIGEST

Citations Affected: Numerous citations throughout the Indiana Code.

Synopsis: Title 35 definitions. Organizes definitions in Title 35.
Makes technical corrections.

Effective: July 1, 2012.

20121024

PD 3255/DI 107

2012

**Exhibit F
Criminal Code Evaluation
Commission
Meeting #8 November 2, 2011**



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 1-1-4-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2012]: Sec. 5. The following definitions apply
3 to the construction of all Indiana statutes, unless the construction is
4 plainly repugnant to the intent of the general assembly or of the context
5 of the statute:

6 (1) "Adult", "of full age", and "person in his majority" mean a
7 person at least eighteen (18) years of age.

8 (2) "Attorney" includes a counselor or other person authorized to
9 appear and represent a party in an action or special proceeding.

10 (3) "Autism" means a neurological condition as described in the
11 most recent edition of the Diagnostic and Statistical Manual of
12 Mental Disorders of the American Psychiatric Association.

13 (4) "Bond" does not necessarily imply a seal.

14 (5) "Clerk" means the clerk of the court or a person authorized to
15 perform the clerk's duties.

16 (6) "Health record", "hospital record", or "medical record" means
17 written or printed information possessed by a provider (as defined
18 in IC 16-18-2-295) concerning any diagnosis, treatment, or
19 prognosis of the patient, unless otherwise defined. Except as
20 otherwise provided, the terms include mental health records and
21 drug and alcohol abuse records.

22 (7) "Highway" includes county bridges and state and county
23 roads, unless otherwise expressly provided.

24 (8) "Infant" or "minor" means a person less than eighteen (18)
25 years of age.

26 (9) "Inhabitant" may be construed to mean a resident in any place.

27 (10) "Judgment" means all final orders, decrees, and
28 determinations in an action and all orders upon which executions
29 may issue.

30 (11) "Land", "real estate", and "real property" include lands,
31 tenements, and hereditaments.



- 1 (12) "Mentally incompetent" means of unsound mind.
 2 (13) "Money demands on contract", when used in reference to an
 3 action, means an action arising out of contract when the relief
 4 demanded is a recovery of money.
 5 (14) "Month" means a calendar month, unless otherwise
 6 expressed.
 7 (15) "Noncode statute" means a statute that is not codified as part
 8 of the Indiana Code.
 9 (16) "Oath" includes "affirmation", and "to swear" includes to
 10 affirm.
 11 (17) "Person" extends to bodies politic and corporate.
 12 (18) "Personal property" includes goods, chattels, evidences of
 13 debt, and things in action.
 14 (19) "Population" has the meaning set forth in IC 1-1-3.5-3.
 15 (20) "Preceding" and "following", referring to sections in statutes,
 16 mean the sections next preceding or next following that in which
 17 the words occur, unless some other section is designated.
 18 (21) "Property" includes personal and real property.
 19 (22) "Sheriff" means the sheriff of the county or another person
 20 authorized to perform sheriff's duties.
 21 (23) "State", applied to any one of the United States, includes the
 22 District of Columbia and the commonwealths, possessions, states
 23 in free association with the United States, and the territories.
 24 "United States" includes the District of Columbia and the
 25 commonwealths, possessions, states in free association with the
 26 United States, and the territories.
 27 (24) "Under legal disabilities" includes persons less than eighteen
 28 (18) years of age, mentally incompetent, or out of the United
 29 States.
 30 (25) "Verified", when applied to pleadings, means supported by
 31 oath or affirmation in writing.
 32 (26) "Will" includes a testament and codicil.
 33 (27) "Without relief" in any judgment, contract, execution, or
 34 other instrument of writing or record, means without the benefit
 35 of valuation laws.
 36 (28) "Written" and "in writing" include printing, lithographing, or
 37 other mode of representing words and letters. If the written
 38 signature of a person is required, the terms mean the proper
 39 handwriting of the person or the person's mark.
 40 (29) "Year" means a calendar year, unless otherwise expressed.
 41 (30) The definitions in ~~IC 35-41-1~~ **IC 35-31.5** apply to all statutes
 42 relating to penal offenses.

43 SECTION 2. IC 3-5-2-15 IS AMENDED TO READ AS FOLLOWS
 44 [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) "Contribution" means a
 45 donation (whether characterized as an advance, a deposit, a gift, a loan,
 46 a subscription, or a contract or promise to make a donation) of property



1 (as defined in ~~IC 35-41-1~~) **IC 35-31.5-2-254**) that satisfies both of the
2 following:

3 (1) The donation is made for the purpose of influencing any of the
4 following:

- 5 (A) The nomination or election to office of a candidate.
- 6 (B) The election of delegates to a state constitutional
- 7 convention.
- 8 (C) The outcome of a public question.

9 (2) The donation is accepted by any of the following:

- 10 (A) A candidate.
- 11 (B) A candidate's committee.
- 12 (C) A regular party committee.
- 13 (D) A political action committee.
- 14 (E) A legislative caucus committee.

15 (b) Whenever funds are transferred from one (1) committee to
16 another, the accepting committee is considered to be receiving a
17 contribution in the amount of the funds transferred.

18 (c) Whenever a candidate or a committee accepts the personal
19 services of a person whose compensation is being paid by a third
20 person, the candidate or committee is considered to be receiving a
21 contribution from the third person in the amount of the compensation
22 paid.

23 (d) Notwithstanding subsection (a), whenever a candidate or a
24 committee accepts the personal services of a volunteer who is not being
25 compensated, the candidate or committee is not considered to be
26 receiving a contribution.

27 (e) Notwithstanding subsection (a), whenever a political action
28 committee accepts a donation of:

- 29 (1) rent;
- 30 (2) office expenses;
- 31 (3) management fees;
- 32 (4) costs of solicitations of contributions; or
- 33 (5) other administrative costs;

34 the committee is not considered to be receiving a contribution.

35 SECTION 3. IC 3-5-2-23 IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2012]: Sec. 23. (a) "Expenditure" means a
37 disbursement (whether characterized as an advance, a deposit, a
38 distribution, a gift, a loan, a payment, a purchase, or a contract or
39 promise to make a disbursement) of property (as defined in ~~IC 35-41-1~~)
40 **IC 35-31.5-2-254**) that:

- 41 (1) is made for the purpose of influencing:
 - 42 (A) the nomination or election to office of a candidate;
 - 43 (B) the election of delegates to a state constitutional
 - 44 convention; or
 - 45 (C) the outcome of a public question; and
- 46 (2) is made by:



- 1 (A) an individual, except that a contribution made by an
 2 individual is not considered to be an expenditure;
 3 (B) a candidate's committee;
 4 (C) a regular party committee; or
 5 (D) a political action committee.

6 (b) Whenever funds are transferred from one (1) committee to
 7 another, the disbursing committee is considered to be making an
 8 expenditure in the amount of the funds transferred.

9 SECTION 4. IC 3-5-2-26.8 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26.8. "Lawful
 11 detention" has the meaning set forth in ~~IC 35-41-1-18.~~
 12 **IC 35-31.5-2-187.**

13 SECTION 5. IC 3-6-6-35 IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2012]: Sec. 35. (a) Each election sheriff shall
 15 do the following:

- 16 (1) Except as provided in subsection (b), attend the polls in the
 17 appointed precinct from the opening of the polls to the conclusion
 18 of the count.
 19 (2) Preserve order at the polls.
 20 (3) Enforce the election laws under the direction of the precinct
 21 election board.
 22 (4) Upon direction from a member of the precinct election board,
 23 request assistance from a law enforcement officer (as defined in
 24 ~~IC 35-41-1-17~~) **IC 35-31.5-2-186**) if a violation of law within the
 25 polls, or within fifty (50) feet of the polls, has occurred or appears
 26 imminent.

27 (b) The sheriff may leave the polls for the purpose of obtaining
 28 assistance from a law enforcement officer under subsection (a)(4).

29 SECTION 6. IC 3-14-3-18, AS AMENDED BY P.L.103-2005,
 30 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2012]: Sec. 18. (a) As used in this section, "candidate"
 32 includes an individual whom the person knows is considering
 33 becoming a candidate.

34 (b) A person who, for the purpose of influencing a voter or
 35 candidate, does any of the following commits a Class D felony:

- 36 (1) Seeks to enforce the payment of a debt by force or threat of
 37 force.
 38 (2) Ejects or threatens to eject the voter or candidate from a house
 39 the voter or candidate occupies.
 40 (3) Begins a criminal prosecution.
 41 (4) Damages the business or trade of the voter or candidate.
 42 (5) Communicates a threat to commit a forcible felony (as defined
 43 in ~~IC 35-41-1-11~~) **IC 35-31.5-2-138**) against a voter or candidate
 44 with the intent that the voter or candidate:

- 45 (A) engage in conduct against the voter's or candidate's will;
 46 or



1 (B) be placed in fear of retaliation for a prior lawful act as a
2 voter or candidate.

3 SECTION 7. IC 4-2-6-1, AS AMENDED BY P.L.2-2007,
4 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 1. (a) As used in this chapter, and unless the
6 context clearly denotes otherwise:

7 (1) "Advisory body" means an authority, a board, a commission,
8 a committee, a task force, or other body designated by any name
9 of the executive department that is authorized only to make
10 nonbinding recommendations.

11 (2) "Agency" means an authority, a board, a branch, a bureau, a
12 commission, a committee, a council, a department, a division, an
13 office, a service, or other instrumentality of the executive,
14 including the administrative, department of state government. The
15 term includes a body corporate and politic set up as an
16 instrumentality of the state and a private, nonprofit, government
17 related corporation. The term does not include any of the
18 following:

19 (A) The judicial department of state government.

20 (B) The legislative department of state government.

21 (C) A state educational institution.

22 (D) A political subdivision.

23 (3) "Appointing authority" means the chief administrative officer
24 of an agency. The term does not include a state officer.

25 (4) "Assist" means to:

26 (A) help;

27 (B) aid;

28 (C) advise; or

29 (D) furnish information to;

30 a person. The term includes an offer to do any of the actions in
31 clauses (A) through (D).

32 (5) "Business relationship" includes the following:

33 (A) Dealings of a person with an agency seeking, obtaining,
34 establishing, maintaining, or implementing:

35 (i) a pecuniary interest in a contract or purchase with the
36 agency; or

37 (ii) a license or permit requiring the exercise of judgment or
38 discretion by the agency.

39 (B) The relationship a lobbyist has with an agency.

40 (C) The relationship an unregistered lobbyist has with an
41 agency.

42 (6) "Commission" refers to the state ethics commission created
43 under section 2 of this chapter.

44 (7) "Compensation" means any money, thing of value, or financial
45 benefit conferred on, or received by, any person in return for
46 services rendered, or for services to be rendered, whether by that



- 1 person or another.
- 2 (8) "Employee" means an individual, other than a state officer,
3 who is employed by an agency on a full-time, a part-time, a
4 temporary, an intermittent, or an hourly basis. The term includes
5 an individual who contracts with an agency for personal services.
- 6 (9) "Employer" means any person from whom a state officer or
7 employee or the officer's or employee's spouse received
8 compensation. For purposes of this chapter, a customer or client
9 of a self-employed individual in a sole proprietorship or a
10 professional practice is not considered to be an employer.
- 11 (10) "Financial interest" means an interest:
12 (A) in a purchase, sale, lease, contract, option, or other
13 transaction between an agency and any person; or
14 (B) involving property or services.
15 The term includes an interest arising from employment or
16 prospective employment for which negotiations have begun. The
17 term does not include an interest of a state officer or employee in
18 the common stock of a corporation unless the combined holdings
19 in the corporation of the state officer or the employee, that
20 individual's spouse, and that individual's unemancipated children
21 are more than one percent (1%) of the outstanding shares of the
22 common stock of the corporation. The term does not include an
23 interest that is not greater than the interest of the general public
24 or any state officer or any state employee.
- 25 (11) "Information of a confidential nature" means information:
26 (A) obtained by reason of the position or office held; and
27 (B) which:
28 (i) a public agency is prohibited from disclosing under
29 IC 5-14-3-4(a);
30 (ii) a public agency has the discretion not to disclose under
31 IC 5-14-3-4(b) and that the agency has not disclosed; or
32 (iii) is not in a public record, but if it were, would be
33 confidential.
- 34 (12) "Person" means any individual, proprietorship, partnership,
35 unincorporated association, trust, business trust, group, limited
36 liability company, or corporation, whether or not operated for
37 profit, or a governmental agency or political subdivision.
- 38 (13) "Political subdivision" means a county, city, town, township,
39 school district, municipal corporation, special taxing district, or
40 other local instrumentality. The term includes an officer of a
41 political subdivision.
- 42 (14) "Property" has the meaning set forth in ~~IC 35-41-1-23.~~
43 **IC 35-31.5-2-254.**
- 44 (15) "Represent" means to do any of the following on behalf of a
45 person:
46 (A) Attend an agency proceeding.



- 1 (B) Write a letter.
 2 (C) Communicate with an employee of an agency.
 3 (16) "Special state appointee" means a person who is:
 4 (A) not a state officer or employee; and
 5 (B) elected or appointed to an authority, a board, a
 6 commission, a committee, a council, a task force, or other
 7 body designated by any name that:
 8 (i) is authorized by statute or executive order; and
 9 (ii) functions in a policy or an advisory role in the executive
 10 (including the administrative) department of state
 11 government, including a separate body corporate and politic.
 12 (17) "State officer" means any of the following:
 13 (A) The governor.
 14 (B) The lieutenant governor.
 15 (C) The secretary of state.
 16 (D) The auditor of state.
 17 (E) The treasurer of state.
 18 (F) The attorney general.
 19 (G) The superintendent of public instruction.
 20 (18) The masculine gender includes the masculine and feminine.
 21 (19) The singular form of any noun includes the plural wherever
 22 appropriate.
 23 (b) The definitions in IC 4-2-7 apply throughout this chapter.
 24 SECTION 8. IC 4-31-13-9 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The definitions
 26 in IC 3-5-2 apply to this section to the extent they do not conflict with
 27 the definitions in this article.
 28 (b) This section applies only to property given after June 30, 1996.
 29 (c) As used in this section, "officer" refers only to either of the
 30 following:
 31 (1) An individual listed as an officer of a corporation in the
 32 corporation's most recent annual report.
 33 (2) An individual who is a successor to an individual described in
 34 subdivision (1).
 35 (d) For purposes of this section, a person is considered to have an
 36 interest in a permit holder if the person satisfies any of the following:
 37 (1) The person holds at least a one percent (1%) interest in the
 38 permit holder.
 39 (2) The person is an officer of the permit holder.
 40 (3) The person is an officer of a person that holds at least a one
 41 percent (1%) interest in the permit holder.
 42 (4) The person is a political action committee of the permit
 43 holder.
 44 (e) A permit holder or a person with an interest in a permit holder
 45 may not give any property (as defined in ~~IC 35-41-1-23~~
 46 **IC 35-31.5-2-254**) to a member of a precinct committee to induce the



1 member of the precinct committee to do any act or refrain from doing
 2 any act with respect to the approval of a local public question under
 3 IC 4-31-4.

4 (f) A person who knowingly or intentionally violates this section
 5 commits a Class D felony.

6 SECTION 9. IC 4-33-10-2.5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.5. (a) This section
 8 applies only to property given after June 30, 1996.

9 (b) The definitions in IC 3-5-2 apply to this section to the extent
 10 they do not conflict with the definitions in this article.

11 (c) As used in this section, "license" means:

- 12 (1) an owner's license issued under this article;
- 13 (2) a supplier's license issued under this article to a supplier of
 14 gaming supplies or equipment, including electronic gaming
 15 equipment; or
- 16 (3) an operating agent contract entered into under this article.

17 (d) As used in this section, "licensee" means a person who holds a
 18 license. The term includes an operating agent.

19 (e) As used in this section, "officer" refers only to either of the
 20 following:

- 21 (1) An individual listed as an officer of a corporation in the
 22 corporation's most recent annual report.
- 23 (2) An individual who is a successor to an individual described in
 24 subdivision (1).

25 (f) For purposes of this section, a person is considered to have an
 26 interest in a licensee if the person satisfies any of the following:

- 27 (1) The person holds at least a one percent (1%) interest in the
 28 licensee.
- 29 (2) The person is an officer of the licensee.
- 30 (3) The person is an officer of a person that holds at least a one
 31 percent (1%) interest in the licensee.
- 32 (4) The person is a political action committee of the licensee.

33 (g) A licensee or a person with an interest in a licensee may not give
 34 any property (as defined in ~~IC 35-41-1-23~~) **IC 35-31.5-2-254**) to a
 35 member of a precinct committee to induce the member of the precinct
 36 committee to do any act or refrain from doing any act with respect to
 37 the approval of a local public question under IC 4-33-6-19.

38 (h) A person who knowingly or intentionally violates this section
 39 commits a Class D felony.

40 SECTION 10. IC 4-33-20-9, AS ADDED BY P.L.227-2007,
 41 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2012]: Sec. 9. A gaming control officer:

- 43 (1) is a law enforcement officer under IC 9-13-2-92 and
 44 ~~IC 35-41-1-17~~ **IC 35-31.5-2-186** and has the power to enforce
 45 Indiana laws and without warrant to arrest for the violation of any
 46 of those laws when committed in the officer's presence;



1 (2) is a police officer under IC 9-13-2-127;

2 (3) has the power of law enforcement officers to arrest under
3 IC 35-33-1-1; and

4 (4) has the power to enforce Indiana laws and may exercise all
5 powers granted by law to state police officers, sheriffs, and
6 members of police departments.

7 SECTION 11. IC 5-2-6.1-13, AS AMENDED BY P.L.121-2006,
8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2012]: Sec. 13. (a) Subject to subsection (b) and except as
10 provided in subsection (c), benefits may not be awarded:

11 (1) if the victim sustained the injury as a result of participating or
12 assisting in, or attempting to commit or committing a criminal act;

13 (2) if the injury occurred while the victim was a resident in a
14 county, city, or federal jail or prison or in an institution operated
15 by the department of correction;

16 (3) if the victim profited or would have profited from the criminal
17 act; or

18 (4) if, at the time the injury occurred, the victim was intoxicated
19 and contributed to the commission of an unrelated felony.

20 (b) If the victim is a dependent child or dependent parent of the
21 person who commits a violent crime, compensation may be awarded
22 where justice requires.

23 (c) Benefits may be awarded to a person described in subsection
24 (a)(4) who is the victim of a sex crime under IC 35-42-4, a crime of
25 family violence (as defined in ~~IC 35-41-1-6.5~~; **IC 35-31.5-2-76**), or a
26 crime of domestic violence (as defined in ~~IC 35-41-1-6.3~~):
27 **IC 35-31.5-2-78**).

28 SECTION 12. IC 5-2-8-1, AS AMENDED BY P.L.34-2010,
29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2012]: Sec. 1. (a) The following definitions apply in this
31 section:

32 (1) "Abuse" means:

33 (A) conduct that causes bodily injury (as defined in
34 ~~IC 35-41-1-4~~) **IC 35-31.5-2-29**) or damage to property; or

35 (B) a threat of conduct that would cause bodily injury (as
36 defined in ~~IC 35-41-1-4~~) **IC 35-31.5-2-29**) or damage to
37 property.

38 (2) "County law enforcement agency" includes:

39 (A) postsecondary educational institution police officers
40 appointed under IC 21-17-5 or IC 21-39-4; and

41 (B) school corporation police officers appointed under
42 IC 20-26-16.

43 (b) There is established in each county a county law enforcement
44 continuing education program. The program is funded by amounts
45 appropriated under IC 33-37-8-4 or IC 33-37-8-6.

46 (c) A county law enforcement agency receiving amounts based upon



1 claims for law enforcement continuing education funds under
2 IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the
3 county law enforcement continuing education fund.

4 (d) Distribution of money in the county law enforcement continuing
5 education fund shall be made to a county law enforcement agency
6 without the necessity of first obtaining an appropriation from the
7 county fiscal body.

8 (e) Money in excess of one hundred dollars (\$100) that is
9 unencumbered and remains in a county law enforcement continuing
10 education fund for at least one (1) entire calendar year from the date of
11 its deposit shall, at the end of a county's fiscal year, be deposited by the
12 county auditor in the law enforcement training fund established under
13 IC 5-2-1-13(b).

14 (f) To make a claim under IC 33-37-8-6, a law enforcement agency
15 shall submit to the fiscal body a verified statement of cause numbers
16 for fees collected that are attributable to the law enforcement efforts of
17 that agency.

18 (g) A law enforcement agency shall submit a claim for fees under
19 this section in the same county fiscal year in which the fees are
20 collected under IC 33-37-4.

21 (h) A county law enforcement agency program shall provide to each
22 law enforcement officer employed by the county and may provide to
23 each law enforcement officer employed by a city or town law
24 enforcement agency within the county continuing education concerning
25 the following:

26 (1) Duties of a law enforcement officer in enforcing restraining
27 orders, protective orders, temporary injunctions, and permanent
28 injunctions involving abuse.

29 (2) Guidelines for making felony and misdemeanor arrests in
30 cases involving abuse.

31 (3) Techniques for handling incidents of abuse that:

32 (A) minimize the likelihood of injury to the law enforcement
33 officer; and

34 (B) promote the safety of a victim.

35 (4) Information about the nature and extent of abuse.

36 (5) Information about the legal rights of and remedies available
37 to victims of abuse.

38 (6) How to document and collect evidence in an abuse case.

39 (7) The legal consequences of abuse.

40 (8) The impact on children of law enforcement intervention in
41 abuse cases.

42 (9) Services and facilities available to victims of abuse and
43 abusers.

44 (10) Verification of restraining orders, protective orders,
45 temporary injunctions, and permanent injunctions.

46 (11) Policies concerning arrest or release of suspects in abuse



- 1 cases.
- 2 (12) Emergency assistance to victims of abuse and criminal
- 3 justice options for victims of abuse.
- 4 (13) Landlord-tenant concerns in abuse cases.
- 5 (14) The taking of an abused child into protective custody.
- 6 (15) Assessment of a situation in which a child may be seriously
- 7 endangered if the child is left in the child's home.
- 8 (16) Assessment of a situation involving an endangered adult (as
- 9 defined in IC 12-10-3-2).
- 10 (17) Response to a sudden, unexpected infant death.
- 11 (18) Performing cardiopulmonary resuscitation and the Heimlich
- 12 maneuver.

13 (i) A county law enforcement agency may enter into an agreement

14 with other law enforcement agencies to provide the continuing

15 education required by this section and section 2(f) of this chapter.

16 SECTION 13. IC 5-10-10-1.5, AS AMENDED BY P.L.8-2006,

17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

18 JULY 1, 2012]: Sec. 1.5. As used in this chapter, "correctional officer"

19 includes:

- 20 (1) a county jail officer under IC 11-12-4-4;
- 21 (2) a person who has received a correctional officer training
- 22 certificate under IC 11-8-2-8;
- 23 (3) a prison matron or an assistant prison matron under
- 24 IC 36-8-10-5;
- 25 (4) any other person whose duties include the daily or ongoing
- 26 supervision and care of persons who are lawfully detained (as
- 27 defined in ~~IC 35-41-1-18~~ **IC 35-31.5-2-187**) in a facility operated
- 28 by the state or a political subdivision of the state; and
- 29 (5) a hazardous duty employee of the department of correction
- 30 who:
- 31 (A) works within a prison or juvenile facility; or
- 32 (B) performs parole or emergency response operations and
- 33 functions.

34 SECTION 14. IC 5-13-4-21.3, AS ADDED BY P.L.107-2011,

35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

36 JULY 1, 2012]: Sec. 21.3. "Public servant" has the meaning set forth

37 in ~~IC 35-41-1-24~~ **IC 35-31.5-2-262**.

38 SECTION 15. IC 7.1-6-1-2 IS AMENDED TO READ AS

39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. "Person" has the

40 meaning set forth in ~~IC 35-41-1-22~~ **IC 35-31.5-2-235**.

41 SECTION 16. IC 8-15-3-34, AS ADDED BY P.L.47-2006,

42 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

43 JULY 1, 2012]: Sec. 34. The department may arrange for the use and

44 employment of police officers to police a tollway. The police officers

45 employed under this section are vested with all necessary police

46 powers to enforce state laws. A police officer employed under this



1 section has the same powers within the property limits of a tollway as
 2 a law enforcement officer (as defined in ~~IC 35-41-1-17~~)
 3 **IC 35-31.5-2-186**) within the law enforcement officer's jurisdiction. A
 4 warrant of arrest issued by the proper authority of the state may be
 5 executed within the property limits of the tollway by a police officer
 6 employed by the department or an operator.

7 SECTION 17. IC 8-15.7-2-7, AS ADDED BY P.L.47-2006,
 8 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2012]: Sec. 7. "Law enforcement officer" has the meaning set
 10 forth in ~~IC 35-41-1-17~~. **IC 35-31.5-2-186**.

11 SECTION 18. IC 9-13-2-92, AS AMENDED BY P.L.94-2006,
 12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 92. (a) "Law enforcement officer", except as
 14 provided in subsection (b), includes the following:

- 15 (1) A state police officer.
- 16 (2) A city, town, or county police officer.
- 17 (3) A sheriff.
- 18 (4) A county coroner.
- 19 (5) A conservation officer.
- 20 (6) An individual assigned as a motor carrier inspector under
- 21 IC 10-11-2-26(a).
- 22 (7) A member of a consolidated law enforcement department
- 23 established under IC 36-3-1-5.1.
- 24 (8) An excise police officer of the alcohol and tobacco
- 25 commission.

26 (b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6,
 27 IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in
 28 ~~IC 35-41-1~~. **IC 35-31.5-2-186**.

29 SECTION 19. IC 9-13-2-165 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 165. "Serious bodily
 31 injury" has the meaning set forth in ~~IC 35-41-1~~. **IC 35-31.5-2-293**.

32 SECTION 20. IC 9-24-19-3 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A person who
 34 operates a motor vehicle upon a highway when the person knows that
 35 the person's driving privilege, license, or permit is suspended or
 36 revoked, when the person's suspension or revocation was a result of the
 37 person's conviction of an offense (as defined in ~~IC 35-41-1-19~~)
 38 **IC 35-31.5-2-216**) commits a Class A misdemeanor.

39 SECTION 21. IC 10-14-3-33.5, AS AMENDED BY P.L.17-2011,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2012]: Sec. 33.5. (a) Except as provided in subsection (b), the
 42 state, a political subdivision, or any other person may not prohibit or
 43 restrict the lawful possession, transfer, sale, transportation, storage,
 44 display, or use of firearms or ammunition during:

- 45 (1) a disaster emergency;
- 46 (2) an energy emergency; or



- 1 (3) a local disaster emergency;
 2 declared under this chapter.
- 3 (b) Subsection (a) does not authorize the possession, transfer, sale,
 4 transportation, storage, display, or use of firearms or ammunition
 5 during an emergency described in subsection (a):
- 6 (1) in or on school property, in or on property that is being used
 7 by a school for a school function, or on a school bus in violation
 8 of IC 20-33-8-16 or IC 35-47-9-2;
- 9 (2) on the property of:
- 10 (A) a child caring institution;
- 11 (B) an emergency shelter care child caring institution;
- 12 (C) a private secure facility;
- 13 (D) a group home; or
- 14 (E) an emergency shelter care group home;
- 15 in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465
 16 IAC 2-11-80, 465 IAC 2-12-78, or 465 IAC 2-13-77;
- 17 (3) on the property of a penal facility (as defined in
 18 ~~IC 35-41-1-21~~; **IC 35-31.5-2-233**);
- 19 (4) in violation of federal law;
- 20 (5) in or on property belonging to an approved postsecondary
 21 educational institution (as defined in IC 21-7-13-6(b));
- 22 (6) on the property of a domestic violence shelter; or
- 23 (7) on property owned, operated, controlled, or used by an entity
 24 that:
- 25 (A) is required to:
- 26 (i) conduct a vulnerability assessment; and
- 27 (ii) develop and implement a site security plan;
- 28 under the United States Department of Homeland Security's
 29 Chemical Facility Anti-Terrorism Standards issued April 9,
 30 2007; or
- 31 (B) is required to have a security plan under the Maritime
 32 Transportation Security Act of 2002, Public Law 107-295.
- 33 SECTION 22. IC 10-16-19-1, AS ADDED BY P.L.10-2007,
 34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2012]: Sec. 1. (a) This section does not apply to an employee
 36 of the state subject to IC 4-15-10-8.
- 37 (b) This section applies to an employee of a political subdivision
 38 who:
- 39 (1) is a member of the civil air patrol; and
- 40 (2) has notified the employee's employer in writing that the
 41 employee is a member of the civil air patrol.
- 42 (c) A political subdivision employer may not discipline an
 43 employee:
- 44 (1) for being absent from employment by reason of engaging in an
 45 emergency service operation that began before the time that the
 46 employee was to report to employment; or



1 (2) for leaving the employee's duty station to engage in an
 2 emergency service operation if the emergency service operation
 3 began after the employee had reported for work and the employee
 4 secured authorization from the employee's supervisor to leave the
 5 employee's duty station before leaving to engage in the emergency
 6 service operation.

7 (d) A political subdivision employer may require an employee who
 8 has been absent from employment as set forth in subsection (c)(1) or
 9 (c)(2) to present a written statement from the commander or other
 10 officer in charge of the civil air patrol at the time of the absence
 11 indicating that the employee was engaged in an emergency service
 12 operation at the time of the absence.

13 (e) An employee who is disciplined by the employee's employer in
 14 violation of subsection (c) may bring a civil action against the employer
 15 in the county of employment. In the action, the employee may seek the
 16 following:

- 17 (1) Payment of back wages.
- 18 (2) Reinstatement to the employee's former position.
- 19 (3) Fringe benefits wrongly denied or withdrawn.
- 20 (4) Seniority rights wrongly denied or withdrawn.

21 An action brought under this subsection must be filed within one (1)
 22 year after the date of the disciplinary action.

23 (f) A public servant (as defined in ~~IC 35-41-1-24~~)
 24 **IC 35-31.5-2-262**) who permits or authorizes an employee of a political
 25 subdivision under the supervision of the public servant to be absent
 26 from employment as set forth in subsection (c) is not considered to
 27 have committed a violation of IC 35-44-2-4(b).

28 SECTION 23. IC 11-8-8-7, AS AMENDED BY P.L.119-2008,
 29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2012]: Sec. 7. (a) Subject to section 19 of this chapter, the
 31 following persons must register under this chapter:

32 (1) A sex or violent offender who resides in Indiana. A sex or
 33 violent offender resides in Indiana if either of the following
 34 applies:

35 (A) The sex or violent offender spends or intends to spend at
 36 least seven (7) days (including part of a day) in Indiana during
 37 a one hundred eighty (180) day period.

38 (B) The sex or violent offender owns real property in Indiana
 39 and returns to Indiana at any time.

40 (2) A sex or violent offender who works or carries on a vocation
 41 or intends to work or carry on a vocation full-time or part-time for
 42 a period:

43 (A) exceeding seven (7) consecutive days; or

44 (B) for a total period exceeding fourteen (14) days;

45 during any calendar year in Indiana regardless of whether the sex
 46 or violent offender is financially compensated, volunteered, or is



1 acting for the purpose of government or educational benefit.

2 (3) A sex or violent offender who is enrolled or intends to be

3 enrolled on a full-time or part-time basis in any public or private

4 educational institution, including any secondary school, trade, or

5 professional institution, or postsecondary educational institution.

6 (b) Except as provided in subsection (e), a sex or violent offender

7 who resides in Indiana shall register with the local law enforcement

8 authority in the county where the sex or violent offender resides. If a

9 sex or violent offender resides in more than one (1) county, the sex or

10 violent offender shall register with the local law enforcement authority

11 in each county in which the sex or violent offender resides. If the sex

12 or violent offender is also required to register under subsection (a)(2)

13 or (a)(3), the sex or violent offender shall also register with the local

14 law enforcement authority in the county in which the offender is

15 required to register under subsection (c) or (d).

16 (c) A sex or violent offender described in subsection (a)(2) shall

17 register with the local law enforcement authority in the county where

18 the sex or violent offender is or intends to be employed or carry on a

19 vocation. If a sex or violent offender is or intends to be employed or

20 carry on a vocation in more than one (1) county, the sex or violent

21 offender shall register with the local law enforcement authority in each

22 county. If the sex or violent offender is also required to register under

23 subsection (a)(1) or (a)(3), the sex or violent offender shall also register

24 with the local law enforcement authority in the county in which the

25 offender is required to register under subsection (b) or (d).

26 (d) A sex or violent offender described in subsection (a)(3) shall

27 register with the local law enforcement authority in the county where

28 the sex or violent offender is enrolled or intends to be enrolled as a

29 student. If the sex or violent offender is also required to register under

30 subsection (a)(1) or (a)(2), the sex or violent offender shall also register

31 with the local law enforcement authority in the county in which the

32 offender is required to register under subsection (b) or (c).

33 (e) A sex or violent offender described in subsection (a)(1)(B) shall

34 register with the local law enforcement authority in the county in which

35 the real property is located. If the sex or violent offender is also

36 required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex

37 or violent offender shall also register with the local law enforcement

38 authority in the county in which the offender is required to register

39 under subsection (b), (c), or (d).

40 (f) A sex or violent offender committed to the department shall

41 register with the department before the sex or violent offender is

42 released from incarceration. The department shall forward the sex or

43 violent offender's registration information to the local law enforcement

44 authority of every county in which the sex or violent offender is

45 required to register.

46 (g) This subsection does not apply to a sex or violent offender who



1 is a sexually violent predator. A sex or violent offender not committed
 2 to the department shall register not more than seven (7) days after the
 3 sex or violent offender:

4 (1) is released from a penal facility (as defined in ~~IC 35-41-1-21~~;
 5 **IC 35-31.5-2-233**);

6 (2) is released from a secure private facility (as defined in
 7 IC 31-9-2-115);

8 (3) is released from a juvenile detention facility;

9 (4) is transferred to a community transition program;

10 (5) is placed on parole;

11 (6) is placed on probation;

12 (7) is placed on home detention; or

13 (8) arrives at the place where the sex or violent offender is
 14 required to register under subsection (b), (c), or (d);

15 whichever occurs first. A sex or violent offender required to register in
 16 more than one (1) county under subsection (b), (c), (d), or (e) shall
 17 register in each appropriate county not more than seventy-two (72)
 18 hours after the sex or violent offender's arrival in that county or
 19 acquisition of real estate in that county.

20 (h) This subsection applies to a sex or violent offender who is a
 21 sexually violent predator. A sex or violent offender who is a sexually
 22 violent predator shall register not more than seventy-two (72) hours
 23 after the sex or violent offender:

24 (1) is released from a penal facility (as defined in ~~IC 35-41-1-21~~;
 25 **IC 35-31.5-2-233**);

26 (2) is released from a secure private facility (as defined in
 27 IC 31-9-2-115);

28 (3) is released from a juvenile detention facility;

29 (4) is transferred to a community transition program;

30 (5) is placed on parole;

31 (6) is placed on probation;

32 (7) is placed on home detention; or

33 (8) arrives at the place where the sexually violent predator is
 34 required to register under subsection (b), (c), or (d);

35 whichever occurs first. A sex or violent offender who is a sexually
 36 violent predator required to register in more than one (1) county under
 37 subsection (b), (c), (d), or (e) shall register in each appropriate county
 38 not more than seventy-two (72) hours after the offender's arrival in that
 39 county or acquisition of real estate in that county.

40 (i) The local law enforcement authority with whom a sex or violent
 41 offender registers under this section shall make and publish a
 42 photograph of the sex or violent offender on the Indiana sex and violent
 43 offender registry web site established under IC 36-2-13-5.5. The local
 44 law enforcement authority shall make a photograph of the sex or
 45 violent offender that complies with the requirements of IC 36-2-13-5.5
 46 at least once per year. The sheriff of a county containing a consolidated



1 city shall provide the police chief of the consolidated city with all
 2 photographic and computer equipment necessary to enable the police
 3 chief of the consolidated city to transmit sex or violent offender
 4 photographs (and other identifying information required by
 5 IC 36-2-13-5.5) to the Indiana sex and violent offender registry web
 6 site established under IC 36-2-13-5.5. In addition, the sheriff of a
 7 county containing a consolidated city shall provide all funding for the
 8 county's financial obligation for the establishment and maintenance of
 9 the Indiana sex and violent offender registry web site established under
 10 IC 36-2-13-5.5.

11 (j) When a sex or violent offender registers, the local law
 12 enforcement authority shall:

- 13 (1) immediately update the Indiana sex and violent offender
 14 registry web site established under IC 36-2-13-5.5;
- 15 (2) notify every law enforcement agency having jurisdiction in the
 16 county where the sex or violent offender resides; and
- 17 (3) update the National Crime Information Center National Sex
 18 Offender Registry data base via the Indiana data and
 19 communications system (IDACS).

20 When a sex or violent offender from a jurisdiction outside Indiana
 21 registers a change of address, electronic mail address, instant
 22 messaging username, electronic chat room username, social networking
 23 web site username, employment, vocation, or enrollment in Indiana, the
 24 local law enforcement authority shall provide the department with the
 25 information provided by the sex or violent offender during registration.

26 SECTION 24. IC 11-8-8-13, AS AMENDED BY P.L.216-2007,
 27 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 13. (a) To verify a sex or violent offender's current
 29 residence, the local law enforcement authority having jurisdiction over
 30 the area of the sex or violent offender's current principal address or
 31 location shall do the following:

- 32 (1) Mail a form that is approved or prescribed by the department
 33 to each sex or violent offender in the county at the sex or violent
 34 offender's listed address at least one (1) time per year, beginning
 35 seven (7) days after the local law enforcement authority receives
 36 a notice under section 11 or 20 of this chapter or the date the sex
 37 or violent offender is:

- 38 (A) released from a penal facility (as defined in
 39 ~~IC 35-41-1-21~~), **IC 35-31.5-2-233**), a secure private facility
 40 (as defined in IC 31-9-2-115), or a juvenile detention facility;
- 41 (B) placed in a community transition program;
- 42 (C) placed in a community corrections program;
- 43 (D) placed on parole; or
- 44 (E) placed on probation;

45 whichever occurs first.

- 46 (2) Mail a form that is approved or prescribed by the department



1 to each sex or violent offender who is designated a sexually
 2 violent predator under IC 35-38-1-7.5 at least once every ninety
 3 (90) days, beginning seven (7) days after the local law
 4 enforcement authority receives a notice under section 11 or 20 of
 5 this chapter or the date the sex or violent offender is:

- 6 (A) released from a penal facility (as defined in
- 7 ~~IC 35-41-1-21~~; **IC 35-31.5-2-233**), a secure private facility
- 8 (as defined in IC 31-9-2-115), or a juvenile detention facility;
- 9 (B) placed in a community transition program;
- 10 (C) placed in a community corrections program;
- 11 (D) placed on parole; or
- 12 (E) placed on probation;

13 whichever occurs first.

14 (3) Personally visit each sex or violent offender in the county at
 15 the sex or violent offender's listed address at least one (1) time per
 16 year, beginning seven (7) days after the local law enforcement
 17 authority receives a notice under section 7 of this chapter or the
 18 date the sex or violent offender is:

- 19 (A) released from a penal facility (as defined in
- 20 ~~IC 35-41-1-21~~; **IC 35-31.5-2-233**), a secure private facility
- 21 (as defined in IC 31-9-2-115), or a juvenile detention facility;
- 22 (B) placed in a community transition program;
- 23 (C) placed in a community corrections program;
- 24 (D) placed on parole; or
- 25 (E) placed on probation;

26 whichever occurs first.

27 (4) Personally visit each sex or violent offender who is designated
 28 a sexually violent predator under IC 35-38-1-7.5 at least once
 29 every ninety (90) days, beginning seven (7) days after the local
 30 law enforcement authority receives a notice under section 7 of
 31 this chapter or the date the sex or violent offender is:

- 32 (A) released from a penal facility (as defined in
- 33 ~~IC 35-41-1-21~~; **IC 35-31.5-2-233**), a secure private facility
- 34 (as defined in IC 31-9-2-115), or a juvenile detention facility;
- 35 (B) placed in a community transition program;
- 36 (C) placed in a community corrections program;
- 37 (D) placed on parole; or
- 38 (E) placed on probation;

39 whichever occurs first.

40 (b) If a sex or violent offender fails to return a signed form either by
 41 mail or in person, not later than fourteen (14) days after mailing, or
 42 appears not to reside at the listed address, the local law enforcement
 43 authority shall immediately notify the department and the prosecuting
 44 attorney.

45 SECTION 25. IC 11-8-8-19, AS AMENDED BY P.L.119-2008,
 46 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2012]: Sec. 19. (a) Except as provided in subsections (b)
 2 through (e), a sex or violent offender is required to register under this
 3 chapter until the expiration of ten (10) years after the date the sex or
 4 violent offender:

- 5 (1) is released from a penal facility (as defined in ~~IC 35-41-1-21~~)
 6 **IC 35-31.5-2-233**) or a secure juvenile detention facility of a state
 7 or another jurisdiction;
 8 (2) is placed in a community transition program;
 9 (3) is placed in a community corrections program;
 10 (4) is placed on parole; or
 11 (5) is placed on probation;

12 for the sex or violent offense requiring registration, whichever occurs
 13 last. The registration period is tolled during any period that the sex or
 14 violent offender is incarcerated. The registration period does not restart
 15 if the offender is convicted of a subsequent offense; however, if the
 16 subsequent offense is a sex or violent offense, a new registration period
 17 may be imposed in accordance with this chapter. The department shall
 18 ensure that an offender who is no longer required to register as a sex or
 19 violent offender is notified that the obligation to register has expired.

20 (b) A sex or violent offender who is a sexually violent predator is
 21 required to register for life.

22 (c) A sex or violent offender who is convicted of at least one (1)
 23 offense under section 5(a) of this chapter that the sex or violent
 24 offender committed:

- 25 (1) when the person was at least eighteen (18) years of age; and
 26 (2) against a victim who was less than twelve (12) years of age at
 27 the time of the crime;

28 is required to register for life.

29 (d) A sex or violent offender who is convicted of at least one (1)
 30 offense under section 5(a) of this chapter in which the sex offender:

- 31 (1) proximately caused serious bodily injury or death to the
 32 victim;
 33 (2) used force or the threat of force against the victim or a
 34 member of the victim's family, unless the offense is sexual battery
 35 as a Class D felony; or
 36 (3) rendered the victim unconscious or otherwise incapable of
 37 giving voluntary consent;

38 is required to register for life.

39 (e) A sex or violent offender who is convicted of at least two (2)
 40 unrelated offenses under section 5(a) of this chapter is required to
 41 register for life.

42 (f) A person who is required to register as a sex or violent offender
 43 in any jurisdiction shall register for the period required by the other
 44 jurisdiction or the period described in this section, whichever is longer.

45 SECTION 26. IC 11-13-3-4, AS AMENDED BY P.L.229-2011,
 46 SECTION 104, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A condition to remaining on
2 parole is that the parolee not commit a crime during the period of
3 parole.

4 (b) The parole board may also adopt, under IC 4-22-2, additional
5 conditions to remaining on parole and require a parolee to satisfy one
6 (1) or more of these conditions. These conditions must be reasonably
7 related to the parolee's successful reintegration into the community and
8 not unduly restrictive of a fundamental right.

9 (c) If a person is released on parole, the parolee shall be given a
10 written statement of the conditions of parole. Signed copies of this
11 statement shall be:

12 (1) retained by the parolee;

13 (2) forwarded to any person charged with the parolee's
14 supervision; and

15 (3) placed in the parolee's master file.

16 (d) The parole board may modify parole conditions if the parolee
17 receives notice of that action and had ten (10) days after receipt of the
18 notice to express the parolee's views on the proposed modification.
19 This subsection does not apply to modification of parole conditions
20 after a revocation proceeding under section 10 of this chapter.

21 (e) As a condition of parole, the parole board may require the
22 parolee to reside in a particular parole area. In determining a parolee's
23 residence requirement, the parole board shall:

24 (1) consider:

25 (A) the residence of the parolee prior to the parolee's
26 incarceration; and

27 (B) the parolee's place of employment; and

28 (2) assign the parolee to reside in the county where the parolee
29 resided prior to the parolee's incarceration unless assignment on
30 this basis would be detrimental to the parolee's successful
31 reintegration into the community.

32 (f) As a condition of parole, the parole board may require the
33 parolee to:

34 (1) periodically undergo a laboratory chemical test (as defined in
35 IC 14-15-8-1) or series of tests to detect and confirm the presence
36 of a controlled substance (as defined in IC 35-48-1-9); and

37 (2) have the results of any test under this subsection reported to
38 the parole board by the laboratory.

39 The parolee is responsible for any charges resulting from a test
40 required under this subsection. However, a person's parole may not be
41 revoked on the basis of the person's inability to pay for a test under this
42 subsection.

43 (g) As a condition of parole, the parole board:

44 (1) may require a parolee who is a sex offender (as defined in
45 IC 11-8-8-4.5) to:

46 (A) participate in a treatment program for sex offenders



- 1 approved by the parole board; and
 2 (B) avoid contact with any person who is less than sixteen (16)
 3 years of age unless the parolee:
 4 (i) receives the parole board's approval; or
 5 (ii) successfully completes the treatment program referred to
 6 in clause (A); and
 7 (2) shall:
 8 (A) require a parolee who is a sex or violent offender (as
 9 defined in IC 11-8-8-5) to register with a local law
 10 enforcement authority under IC 11-8-8;
 11 (B) prohibit a parolee who is a sex offender from residing
 12 within one thousand (1,000) feet of school property (as defined
 13 in ~~IC 35-41-1-24.7~~ **IC 35-31.5-2-286**) for the period of
 14 parole, unless the sex offender obtains written approval from
 15 the parole board;
 16 (C) prohibit a parolee who is a sex offender convicted of a sex
 17 offense (as defined in IC 35-38-2-2.5) from residing within
 18 one (1) mile of the victim of the sex offender's sex offense
 19 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
 20 (D) prohibit a parolee who is a sex offender from owning,
 21 operating, managing, being employed by, or volunteering at
 22 any attraction designed to be primarily enjoyed by children
 23 less than sixteen (16) years of age;
 24 (E) require a parolee who is a sex offender to consent:
 25 (i) to the search of the sex offender's personal computer at
 26 any time; and
 27 (ii) to the installation on the sex offender's personal
 28 computer or device with Internet capability, at the sex
 29 offender's expense, of one (1) or more hardware or software
 30 systems to monitor Internet usage; and
 31 (F) prohibit the sex offender from:
 32 (i) accessing or using certain web sites, chat rooms, or
 33 instant messaging programs frequented by children; and
 34 (ii) deleting, erasing, or tampering with information on the
 35 sex offender's personal computer with intent to conceal an
 36 activity prohibited by item (i).
 37 The parole board may not grant a sexually violent predator (as defined
 38 in IC 35-38-1-7.5) or a sex offender who is an offender against children
 39 under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the
 40 parole board allows the sex offender to reside within one thousand
 41 (1,000) feet of school property under subdivision (2)(B), the parole
 42 board shall notify each school within one thousand (1,000) feet of the
 43 sex offender's residence of the order.
 44 (h) The address of the victim of a parolee who is a sex offender
 45 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
 46 confidential, even if the sex offender obtains a waiver under



1 IC 35-38-2-2.5.

2 (i) As a condition of parole, the parole board may require a parolee
3 to participate in a reentry court program.

4 (j) As a condition of parole, the parole board:

5 (1) shall require a parolee who is a sexually violent predator
6 under IC 35-38-1-7.5; and

7 (2) may require a parolee who is a sex or violent offender (as
8 defined in IC 11-8-8-5);

9 to wear a monitoring device (as described in IC 35-38-2.5-3) that can
10 transmit information twenty-four (24) hours each day regarding a
11 person's precise location, subject to the amount appropriated to the
12 department for a monitoring program as a condition of parole.

13 (k) As a condition of parole, the parole board may prohibit, in
14 accordance with IC 35-38-2-2.6, a parolee who has been convicted of
15 stalking from residing within one thousand (1,000) feet of the residence
16 of the victim of the stalking for a period that does not exceed five (5)
17 years.

18 (l) As a condition of parole, the parole board may prohibit a parolee
19 convicted of an offense under IC 35-46-3 from owning, harboring, or
20 training an animal, and, if the parole board prohibits a parolee
21 convicted of an offense under IC 35-46-3 from having direct or indirect
22 contact with an individual, the parole board may also prohibit the
23 parolee from having direct or indirect contact with any animal
24 belonging to the individual.

25 (m) A parolee may be responsible for the reasonable expenses, as
26 determined by the department, of the parolee's participation in a
27 treatment or other program required as a condition of parole under this
28 section. However, a person's parole may not be revoked solely on the
29 basis of the person's inability to pay for a program required as a
30 condition of parole under this section.

31 SECTION 27. IC 11-13-3-7 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) An employee of
33 the department assigned to supervise and assist parolees may:

34 (1) execute warrants issued by the parole board;

35 (2) serve orders, subpoenas, and notices issued by the parole
36 board;

37 (3) conduct investigations necessary to the performance of ~~his~~ **the**
38 **employee's** duties;

39 (4) visit and confer with any person under ~~his~~ **the employee's**
40 supervision, even when that person is in custody;

41 (5) act as a probation officer if requested by the appropriate court
42 and if that request is approved by the department;

43 (6) search a parolee's person or property if ~~he~~ **the employee** has
44 reasonable cause to believe that the parolee is violating or is in
45 imminent danger of violating a condition to remaining on parole;

46 (7) arrest a parolee without a warrant if ~~he~~ **the employee** has



1 reasonable cause to believe that the parolee has violated or is
 2 about to violate a condition to remaining on parole and that an
 3 emergency situation exists, so that awaiting action by the parole
 4 board under section 8 of this chapter would create an undue risk
 5 to the public or to the parolee; and

6 (8) exercise any other power reasonably necessary in discharging
 7 **his the employee's** duties and powers.

8 (b) An employee of the department assigned to supervise and assist
 9 parolees is not considered a law enforcement officer under IC 5-2-1 or
 10 ~~IC 35-41-1~~. **IC 35-31.5-2-186.**

11 SECTION 28. IC 11-13-6-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) An employee of
 13 the department assigned to supervise and assist parolees may:

14 (1) execute warrants issued by the department;

15 (2) serve orders, subpoenas, and notices issued by the department;

16 (3) conduct investigations necessary to the performance of **his the**
 17 **employee's** duties;

18 (4) visit and confer with any person under **his the employee's**
 19 supervision, even when that person is in custody;

20 (5) act as a probation officer if requested by the appropriate court
 21 and if that request is approved by the department;

22 (6) search a parolee's person or property if **he the employee** has
 23 reasonable cause to believe that the parolee is violating or is in
 24 imminent danger of violating a condition of parole;

25 (7) arrest a parolee without a warrant if **he the employee** has
 26 reasonable cause to believe that the parolee has violated or is
 27 about to violate a condition of **his the parolee's** parole and that an
 28 emergency situation exists, so that awaiting action under section
 29 7 of this chapter would create an undue risk to the public or to the
 30 parolee; and

31 (8) exercise any other power reasonably necessary in discharging
 32 **his the employee's** duties and powers.

33 (b) An employee of the department assigned to supervise and assist
 34 parolees is not considered a law enforcement officer under IC 5-2-1 or
 35 ~~IC 35-41-1~~. **IC 35-31.5-2-186.**

36 SECTION 29. IC 12-7-2-88 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 88. "Forcible felony",
 38 for purposes of IC 12-23, has the meaning set forth in ~~IC 35-41-1~~.
 39 **IC 35-31.5-2-138.**

40 SECTION 30. IC 12-7-2-147 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 147. "Property", for
 42 purposes of IC 12-12-1, has the meaning set forth in ~~IC 35-41-1-23~~.
 43 **IC 35-31.5-2-254.**

44 SECTION 31. IC 12-23-5-7 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. Prosecution may be
 46 deferred under sections 2 through 5 of this chapter if a defendant has



1 been charged with a misdemeanor or infraction in which the use of
 2 alcohol or drugs was a contributing factor or material element of the
 3 offense or the defendant's mental illness was a contributing factor,
 4 unless at least one (1) of the following exists:

- 5 (1) The offense involves death or serious bodily injury.
- 6 (2) The defendant has a record of at least two (2) prior
 7 convictions of forcible felonies (as defined in ~~IC 35-41-1~~;
 8 **IC 35-31.5-2-138**).
- 9 (3) Other criminal proceedings, not arising out of the same
 10 incident, alleging commission of a felony are pending against the
 11 defendant.
- 12 (4) The defendant is on probation or parole and the appropriate
 13 parole or probation authority does not consent to the defendant's
 14 participation.
- 15 (5) The defendant fails to meet additional eligibility requirements
 16 imposed by the court.

17 SECTION 32. IC 12-24-12-10, AS AMENDED BY P.L.141-2006,
 18 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2012]: Sec. 10. (a) Upon admission to a state institution
 20 administered by the division of mental health and addiction, the
 21 gatekeeper is one (1) of the following:

- 22 (1) For an individual with a psychiatric disorder, the community
 23 mental health center that submitted the report to the committing
 24 court under IC 12-26.
- 25 (2) For an individual with a developmental disability, a division
 26 of disability and rehabilitative services service coordinator under
 27 IC 12-11-2.1.
- 28 (3) For an individual entering an addictions program, an
 29 addictions treatment provider that is certified by the division of
 30 mental health and addiction.
- 31 (b) The division is the gatekeeper for the following:
 - 32 (1) An individual who is found to have insufficient
 33 comprehension to stand trial under IC 35-36-3.
 - 34 (2) An individual who is found to be not guilty by reason of
 35 insanity under IC 35-36-2-4 and is subject to a civil commitment
 36 under IC 12-26.
 - 37 (3) An individual who is immediately subject to a civil
 38 commitment upon the individual's release from incarceration in
 39 a facility administered by the department of correction or the
 40 Federal Bureau of Prisons, or upon being charged with or
 41 convicted of a forcible felony under ~~IC 35-41-1~~;
 42 **IC 35-31.5-2-138**.
 - 43 (4) An individual placed under the supervision of the division for
 44 addictions treatment under IC 12-23-7 and IC 12-23-8.
 - 45 (5) An individual transferred from the department of correction
 46 under IC 11-10-4.



1 SECTION 33. IC 13-11-2-158, AS AMENDED BY P.L.189-2011,
 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 158. (a) "Person", for purposes of:

- 4 (1) IC 13-21;
 5 (2) air pollution control laws;
 6 (3) water pollution control laws; and
 7 (4) environmental management laws, except as provided in
 8 subsections (c), (d), (e), and (h);

9 means an individual, a partnership, a copartnership, a firm, a company,
 10 a corporation, an association, a joint stock company, a trust, an estate,
 11 a municipal corporation, a city, a school city, a town, a school town, a
 12 school district, a school corporation, a county, any consolidated unit of
 13 government, political subdivision, state agency, a contractor, or any
 14 other legal entity.

15 (b) "Person", for purposes of:

- 16 (1) IC 13-18-10;
 17 (2) IC 13-18-10.5;
 18 (3) IC 13-20-10.5; and
 19 (4) IC 13-20-17;

20 means an individual, a partnership, a copartnership, a firm, a company,
 21 a corporation, an association, a joint stock company, a trust, an estate,
 22 a political subdivision, a state agency, or other legal entity, or their
 23 legal representative, agent, or assigns.

24 (c) "Person", for purposes of:

- 25 (1) IC 13-20-13;
 26 (2) IC 13-20-14;
 27 (3) IC 13-20-16; and
 28 (4) IC 13-25-6;

29 means an individual, a corporation, a limited liability company, a
 30 partnership, or an unincorporated association.

31 (d) "Person", for purposes of IC 13-23, has the meaning set forth in
 32 subsection (a). The term includes a consortium, a joint venture, a
 33 commercial entity, and the United States government.

34 (e) "Person", for purposes of IC 13-20-17.5 and IC 13-25-3, means
 35 an individual, a corporation, a limited liability company, a partnership,
 36 a trust, an estate, or an unincorporated association.

37 (f) "Person", for purposes of IC 13-26, means an individual, a firm,
 38 a partnership, an association, a limited liability company, or a
 39 corporation other than an eligible entity.

40 (g) "Person", for purposes of IC 13-29-1, means any individual,
 41 corporation, business enterprise, or other legal entity either public or
 42 private and any legal successor, representative, agent, or agency of that
 43 individual, corporation, business enterprise, or legal entity.

44 (h) "Person", for purposes of IC 13-30-8-1, has the meaning set forth
 45 in ~~IC 35-41-1~~. **IC 35-31.5-2-235.**

46 SECTION 34. IC 14-9-8-17 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. A conservation
2 officer:

- 3 (1) is a law enforcement officer under IC 9-13-2-92 and
4 ~~IC 35-41-1-17~~ **IC 35-31.5-2-186** and has the power to enforce
5 Indiana laws and without warrant to arrest for the violation of any
6 of those laws when committed in the officer's presence;
7 (2) is a police officer under IC 9-13-2-127;
8 (3) has the power of law enforcement officers to arrest under
9 IC 35-33-1-1; and
10 (4) has the power to enforce Indiana laws and may exercise all
11 powers granted by law to state police officers, sheriffs, and
12 members of police departments.

13 SECTION 35. IC 14-15-8-4 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. As used in this
15 chapter, "law enforcement officer" has the meaning set forth in
16 ~~IC 35-41-1-17~~ **IC 35-31.5-2-186**. The term includes conservation officers
17 employed by the department.

18 SECTION 36. IC 14-15-8-7 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. As used in this
20 chapter, "serious bodily injury" has the meaning set forth in ~~IC 35-41-1-17~~
21 **IC 35-31.5-2-293**.

22 SECTION 37. IC 14-15-11-11 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) Except as
24 provided in subsection (b), a person who operates a motorboat upon
25 public waters while the person's Indiana driver's license is suspended
26 or revoked commits a Class A infraction. However, if:

- 27 (1) a person knowingly or intentionally violates this subsection;
28 and
29 (2) less than ten (10) years have elapsed between the date a
30 judgment was entered against the person for a prior unrelated
31 violation of this subsection, IC 9-1-4-52 (repealed July 1, 1991),
32 IC 9-24-18-5 (repealed July 1, 2000), or IC 9-24-19 and the date
33 the violation described in subdivision (1) was committed;

34 the person commits a Class A misdemeanor.

35 (b) If:

- 36 (1) a person operates a motorboat upon public waters while the
37 person's Indiana driver's license is suspended or revoked; and
38 (2) the person's suspension or revocation was a result of the
39 person's conviction of an offense (as defined in ~~IC 35-41-1-19~~);
40 **IC 35-31.5-2-216**);

41 the person commits a Class A misdemeanor. However, notwithstanding
42 IC 35-50-3-2, a person who violates this subsection shall be imprisoned
43 for a fixed term of not less than sixty (60) days and not more than one
44 (1) year. Notwithstanding IC 35-50-3-1, the court may not suspend any
45 part of the sentence except that part of the sentence exceeding sixty
46 (60) days.



1 (c) In addition to any other penalty imposed for a conviction under
 2 this section, the court shall recommend that the person's privileges to
 3 operate a motorboat upon public waters be suspended for a fixed period
 4 of not less than ninety (90) days and not more than two (2) years.

5 (d) The bureau, upon receiving a record of conviction of a person on
 6 a charge of operating a motorboat while the person's driver's license
 7 was suspended, shall extend the period of suspension for a fixed period
 8 of not less than ninety (90) days and not more than two (2) years. The
 9 bureau shall fix this period in accordance with the recommendation of
 10 the court that entered the conviction.

11 (e) In a prosecution under this section, the burden is on the
 12 defendant to prove by a preponderance of the evidence that, at the time
 13 of the alleged offense, the defendant held a valid Indiana driver's
 14 license.

15 SECTION 38. IC 14-22-40-5, AS AMENDED BY P.L.26-2008,
 16 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2012]: Sec. 5. As used in this chapter, "law enforcement
 18 officer" has the meaning set forth in ~~IC 35-41-1-17~~. **IC 35-31.5-2-186**.
 19 The term includes a conservation officer.

20 SECTION 39. IC 15-13-1-16, AS ADDED BY P.L.2-2008,
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2012]: Sec. 16. "Property" has the meaning set forth in
 23 ~~IC 35-41-1-23~~. **IC 35-31.5-2-254**.

24 SECTION 40. IC 16-18-2-7 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) "Advanced life
 26 support", for purposes of IC 16-31, means care that is given:

27 (1) at the scene of:

28 (A) an accident;

29 (B) an act of terrorism (as defined in ~~IC 35-41-1-26.5~~);
 30 **IC 35-31.5-2-329**) if the governor has declared a disaster
 31 emergency under IC 10-14-3-12 in response to the act of
 32 terrorism; or

33 (C) an illness;

34 (2) during transport; or

35 (3) at a hospital;

36 by a paramedic or an emergency medical technician-intermediate and
 37 that is more advanced than the care usually provided by an emergency
 38 medical technician or an emergency medical technician-basic
 39 advanced.

40 (b) The term may include any of the following:

41 (1) Defibrillation.

42 (2) Endotracheal intubation.

43 (3) Parenteral injections of appropriate medications.

44 (4) Electrocardiogram interpretation.

45 (5) Emergency management of trauma and illness.

46 SECTION 41. IC 16-31-6-4 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) This section does
 2 not apply to an act or omission that was a result of gross negligence or
 3 willful or intentional misconduct.

4 (b) An act or omission of a paramedic, an emergency medical
 5 technician-intermediate, an emergency medical technician-basic
 6 advanced, an emergency medical technician, or a person with
 7 equivalent certification from another state that is performed or made
 8 while providing advanced life support or basic life support to a patient
 9 or trauma victim does not impose liability upon the paramedic, the
 10 emergency medical technician-intermediate, the emergency medical
 11 technician-basic advanced, an emergency medical technician, the
 12 person with equivalent certification from another state, a hospital, a
 13 provider organization, a governmental entity, or an employee or other
 14 staff of a hospital, provider organization, or governmental entity if the
 15 advanced life support or basic life support is provided in good faith:

16 (1) in connection with a disaster emergency declared by the
 17 governor under IC 10-14-3-12 in response to an act that the
 18 governor in good faith believes to be an act of terrorism (as
 19 defined in ~~IC 35-41-1-26.5~~; **IC 35-31.5-2-329**); and

20 (2) in accordance with the rules adopted by the Indiana
 21 emergency medical services commission or the disaster
 22 emergency declaration of the governor.

23 SECTION 42. IC 16-41-8-1, AS AMENDED BY P.L.125-2009,
 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2012]: Sec. 1. (a) As used in this chapter, "potentially disease
 26 transmitting offense" means any of the following:

27 (1) Battery by body waste (IC 35-42-2-6).

28 (2) An offense relating to a criminal sexual act (as defined in
 29 ~~IC 35-41-1-19.3~~; **IC 35-31.5-2-218**), if sexual intercourse or
 30 deviate sexual conduct occurred.

31 The term includes an attempt to commit an offense, if sexual
 32 intercourse or deviate sexual conduct occurred, and a delinquent act
 33 that would be a crime if committed by an adult.

34 (b) Except as provided in this chapter, a person may not disclose or
 35 be compelled to disclose medical or epidemiological information
 36 involving a communicable disease or other disease that is a danger to
 37 health (as defined under rules adopted under IC 16-41-2-1). This
 38 information may not be released or made public upon subpoena or
 39 otherwise, except under the following circumstances:

40 (1) Release may be made of medical or epidemiologic information
 41 for statistical purposes if done in a manner that does not identify
 42 an individual.

43 (2) Release may be made of medical or epidemiologic information
 44 with the written consent of all individuals identified in the
 45 information released.

46 (3) Release may be made of medical or epidemiologic information



1 to the extent necessary to enforce public health laws, laws
 2 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9
 3 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,
 4 IC 35-38-1-7.1, and IC 35-42-1-7, or to protect the health or life
 5 of a named party.

6 (4) Release may be made of the medical information of a person
 7 in accordance with this chapter.

8 (c) Except as provided in this chapter, a person responsible for
 9 recording, reporting, or maintaining information required to be reported
 10 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses
 11 or fails to protect medical or epidemiologic information classified as
 12 confidential under this section commits a Class A misdemeanor.

13 (d) In addition to subsection (c), a public employee who violates this
 14 section is subject to discharge or other disciplinary action under the
 15 personnel rules of the agency that employs the employee.

16 (e) Release shall be made of the medical records concerning an
 17 individual to:

18 (1) the individual;

19 (2) a person authorized in writing by the individual to receive the
 20 medical records; or

21 (3) a coroner under IC 36-2-14-21.

22 (f) An individual may voluntarily disclose information about the
 23 individual's communicable disease.

24 (g) The provisions of this section regarding confidentiality apply to
 25 information obtained under IC 16-41-1 through IC 16-41-16.

26 SECTION 43. IC 20-33-8-16, AS ADDED BY P.L.1-2005,
 27 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 16. (a) As used in this section, "firearm" has the
 29 meaning set forth in IC 35-47-1-5.

30 (b) As used in this section, "deadly weapon" has the meaning set
 31 forth in ~~IC 35-41-1-8~~ **IC 35-31.5-2-86**. The term does not include a
 32 firearm or destructive device.

33 (c) As used in this section, "destructive device" has the meaning set
 34 forth in IC 35-47.5-2-4.

35 (d) Notwithstanding section 20 of this chapter, a student who is:

36 (1) identified as bringing a firearm or destructive device to school
 37 or on school property; or

38 (2) in possession of a firearm or destructive device on school
 39 property;

40 must be expelled for at least one (1) calendar year, with the return of
 41 the student to be at the beginning of the first school semester after the
 42 end of the one (1) year period.

43 (e) The superintendent may, on a case by case basis, modify the
 44 period of expulsion under subsection (d) for a student who is expelled
 45 under this section.

46 (f) Notwithstanding section 20 of this chapter, a student who is:



- 1 (1) identified as bringing a deadly weapon to school or on school
 2 property; or
 3 (2) in possession of a deadly weapon on school property;
 4 may be expelled for not more than one (1) calendar year.

5 (g) A superintendent or the superintendent's designee shall
 6 immediately notify the appropriate law enforcement agency having
 7 jurisdiction over the property where the school is located if a student
 8 engages in a behavior described in subsection (d). The superintendent
 9 may give similar notice if the student engages in a behavior described
 10 in subsection (f). Upon receiving notification under this subsection, the
 11 law enforcement agency shall begin an investigation and take
 12 appropriate action.

13 (h) A student with disabilities (as defined in IC 20-35-7-7) who
 14 possesses a firearm on school property is subject to procedural
 15 safeguards under 20 U.S.C. 1415.

16 SECTION 44. IC 21-12-3-13, AS AMENDED BY P.L.229-2011,
 17 SECTION 223, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2012]: Sec. 13. The commission may not
 19 provide assistance under this chapter to a higher education award
 20 applicant or recipient who is:

- 21 (1) convicted of a felony;
 22 (2) sentenced to a term of imprisonment for that felony; and
 23 (3) confined for that felony at a penal facility (as defined in
 24 ~~IC 35-41-1-21~~; **IC 35-31.5-2-233**).

25 SECTION 45. IC 22-11-17-4 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. An owner of a public
 27 building commits a Class D felony if:

- 28 (1) ~~he~~ **the owner** knowingly or intentionally violates section 2 of
 29 this chapter; and
 30 (2) bodily injury (as defined by ~~IC 35-41-1-1~~ **IC 35-31.5-2-29**) or
 31 a loss of life occurs to a person lawfully in the public building as
 32 a result of a fire in the building.

33 SECTION 46. IC 22-11-18-1, AS AMENDED BY P.L.17-2008,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2012]: Sec. 1. As used in this chapter:

36 "Bodily injury" has the meaning set forth in ~~IC 35-41-1-4~~.
 37 **IC 35-31.5-2-29**.

38 "Dwelling" means a residence with at least one (1) dwelling unit as
 39 set forth in IC 22-12-1-4(a)(1)(B) and IC 22-12-1-5(a)(1).

40 "Hotels and motels" means buildings or structures kept, maintained,
 41 used, advertised, or held out to the public as inns or places where
 42 sleeping accommodations are furnished for hire for transient guests.

43 "Landlord" has the meaning set forth in IC 32-31-3-3.

44 "Owner" means a person having control or custody of any building
 45 covered by this chapter.

46 "Person" means an individual, corporation, partnership, association,



1 or other legal entity.

2 "Rental premises" has the meaning set forth in IC 32-31-7-3.

3 "Rental unit" has the meaning set forth in IC 32-31-3-8.

4 "Smoke detector" means a device which senses visible or invisible
5 particles of combustion and conforms to the minimum standards for
6 type, components, and maintenance prescribed by the National Fire
7 Protection Association.

8 "Seasonally occupied dwellings" means hotels and motels open to
9 the public for occupancy by guests only during any period of time
10 between April 15 and October 15 each year.

11 "Single level dwellings" means all single level (no more than one
12 (1) level above ground) hotels and motels that have no interior
13 corridors, and whose individual rooms have exterior exits.

14 "Tenant" has the meaning set forth in IC 32-31-3-10.

15 SECTION 47. IC 23-1-55-2, AS ADDED BY P.L.92-2008,
16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2012]: Sec. 2. A person (as defined in ~~IC 35-41-1-22~~
18 **IC 35-31.5-2-235**) that intends to offer for sale or sell sexually explicit
19 materials shall register with the secretary of state the intent to offer for
20 sale or sell sexually explicit materials and provide a statement detailing
21 the types of materials that the person intends to offer for sale or sell.

22 SECTION 48. IC 24-3-4-5 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. As used in this
24 chapter, "law enforcement officer" has the meaning set forth in
25 ~~IC 35-41-1-17~~. **IC 35-31.5-2-186**.

26 SECTION 49. IC 24-4-16.4-1, AS ADDED BY P.L.92-2008,
27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2012]: Sec. 1. As used in this chapter, "person" has the
29 meaning set forth in ~~IC 35-41-1-22~~. **IC 35-31.5-2-235**.

30 SECTION 50. IC 24-8-2-6 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. "Property" has the
32 meaning set forth in ~~IC 35-41-1-23~~. **IC 35-31.5-2-254**.

33 SECTION 51. IC 25-1-9-3.5 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.5. As used in this
35 chapter, "sexual contact" means:

36 (1) sexual intercourse (as defined in ~~IC 35-41-1-26~~);
37 **IC 35-31.5-2-302**);

38 (2) deviate sexual conduct (as defined in ~~IC 35-41-1-9~~);
39 **IC 35-31.5-2-94**); or

40 (3) any fondling or touching intended to arouse or satisfy the
41 sexual desires of either the individual performing the fondling or
42 touching or the individual being fondled or touched.

43 SECTION 52. IC 25-22.5-1-2, AS AMENDED BY P.L.177-2009,
44 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2012]: Sec. 2. (a) This article, as it relates to the unlawful or
46 unauthorized practice of medicine or osteopathic medicine, does not



1 apply to any of the following:

- 2 (1) A student in training in a medical school approved by the
 3 board, or while performing duties as an intern or a resident in a
 4 hospital under the supervision of the hospital's staff or in a
 5 program approved by the medical school.
- 6 (2) A person who renders service in case of emergency where no
 7 fee or other consideration is contemplated, charged, or received.
- 8 (3) A paramedic (as defined in IC 16-18-2-266), an emergency
 9 medical technician-basic advanced (as defined in
 10 IC 16-18-2-112.5), an emergency medical technician-intermediate
 11 (as defined in IC 16-18-2-112.7), an emergency medical
 12 technician (as defined in IC 16-18-2-112), or a person with
 13 equivalent certification from another state who renders advanced
 14 life support (as defined in IC 16-18-2-7) or basic life support (as
 15 defined in IC 16-18-2-33.5):
- 16 (A) during a disaster emergency declared by the governor
 17 under IC 10-14-3-12 in response to an act that the governor in
 18 good faith believes to be an act of terrorism (as defined in
 19 ~~IC 35-41-1-26.5~~; **IC 35-31.5-2-329**); and
- 20 (B) in accordance with the rules adopted by the Indiana
 21 emergency medical services commission or the disaster
 22 emergency declaration of the governor.
- 23 (4) Commissioned medical officers or medical service officers of
 24 the armed forces of the United States, the United States Public
 25 Health Service, and medical officers of the United States
 26 Department of Veterans Affairs in the discharge of their official
 27 duties in Indiana.
- 28 (5) An individual who is not a licensee who resides in another
 29 state or country and is authorized to practice medicine or
 30 osteopathic medicine there, who is called in for consultation by an
 31 individual licensed to practice medicine or osteopathic medicine
 32 in Indiana.
- 33 (6) A person administering a domestic or family remedy to a
 34 member of the person's family.
- 35 (7) A member of a church practicing the religious tenets of the
 36 church if the member does not make a medical diagnosis,
 37 prescribe or administer drugs or medicines, perform surgical or
 38 physical operations, or assume the title of or profess to be a
 39 physician.
- 40 (8) A school corporation and a school employee who acts under
 41 IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- 42 (9) A chiropractor practicing the chiropractor's profession under
 43 IC 25-10 or to an employee of a chiropractor acting under the
 44 direction and supervision of the chiropractor under IC 25-10-1-13.
- 45 (10) A dental hygienist practicing the dental hygienist's profession
 46 under IC 25-13.



- 1 (11) A dentist practicing the dentist's profession under IC 25-14.
2 (12) A hearing aid dealer practicing the hearing aid dealer's
3 profession under IC 25-20.
4 (13) A nurse practicing the nurse's profession under IC 25-23.
5 However, a certified registered nurse anesthetist (as defined in
6 IC 25-23-1-1.4) may administer anesthesia if the certified
7 registered nurse anesthetist acts under the direction of and in the
8 immediate presence of a physician.
9 (14) An optometrist practicing the optometrist's profession under
10 IC 25-24.
11 (15) A pharmacist practicing the pharmacist's profession under
12 IC 25-26.
13 (16) A physical therapist practicing the physical therapist's
14 profession under IC 25-27.
15 (17) A podiatrist practicing the podiatrist's profession under
16 IC 25-29.
17 (18) A psychologist practicing the psychologist's profession under
18 IC 25-33.
19 (19) A speech-language pathologist or audiologist practicing the
20 pathologist's or audiologist's profession under IC 25-35.6.
21 (20) An employee of a physician or group of physicians who
22 performs an act, a duty, or a function that is customarily within
23 the specific area of practice of the employing physician or group
24 of physicians, if the act, duty, or function is performed under the
25 direction and supervision of the employing physician or a
26 physician of the employing group within whose area of practice
27 the act, duty, or function falls. An employee may not make a
28 diagnosis or prescribe a treatment and must report the results of
29 an examination of a patient conducted by the employee to the
30 employing physician or the physician of the employing group
31 under whose supervision the employee is working. An employee
32 may not administer medication without the specific order of the
33 employing physician or a physician of the employing group.
34 Unless an employee is licensed or registered to independently
35 practice in a profession described in subdivisions (9) through
36 (18), nothing in this subsection grants the employee independent
37 practitioner status or the authority to perform patient services in
38 an independent practice in a profession.
39 (21) A hospital licensed under IC 16-21 or IC 12-25.
40 (22) A health care organization whose members, shareholders, or
41 partners are individuals, partnerships, corporations, facilities, or
42 institutions licensed or legally authorized by this state to provide
43 health care or professional services as:
44 (A) a physician;
45 (B) a psychiatric hospital;
46 (C) a hospital;



- 1 (D) a health maintenance organization or limited service
 2 health maintenance organization;
 3 (E) a health facility;
 4 (F) a dentist;
 5 (G) a registered or licensed practical nurse;
 6 (H) a midwife;
 7 (I) an optometrist;
 8 (J) a podiatrist;
 9 (K) a chiropractor;
 10 (L) a physical therapist; or
 11 (M) a psychologist.
- 12 (23) A physician assistant practicing the physician assistant
 13 profession under IC 25-27.5.
- 14 (24) A physician providing medical treatment under
 15 IC 25-22.5-1-2.1.
- 16 (25) An attendant who provides attendant care services (as
 17 defined in IC 16-18-2-28.5).
- 18 (26) A personal services attendant providing authorized attendant
 19 care services under IC 12-10-17.1.
- 20 (b) A person described in subsection (a)(9) through (a)(18) is not
 21 excluded from the application of this article if:
- 22 (1) the person performs an act that an Indiana statute does not
 23 authorize the person to perform; and
 24 (2) the act qualifies in whole or in part as the practice of medicine
 25 or osteopathic medicine.
- 26 (c) An employment or other contractual relationship between an
 27 entity described in subsection (a)(21) through (a)(22) and a licensed
 28 physician does not constitute the unlawful practice of medicine under
 29 this article if the entity does not direct or control independent medical
 30 acts, decisions, or judgment of the licensed physician. However, if the
 31 direction or control is done by the entity under IC 34-30-15 (or
 32 IC 34-4-12.6 before its repeal), the entity is excluded from the
 33 application of this article as it relates to the unlawful practice of
 34 medicine or osteopathic medicine.
- 35 (d) This subsection does not apply to a prescription or drug order for
 36 a legend drug that is filled or refilled in a pharmacy owned or operated
 37 by a hospital licensed under IC 16-21. A physician licensed in Indiana
 38 who permits or authorizes a person to fill or refill a prescription or drug
 39 order for a legend drug except as authorized in IC 16-42-19-11 through
 40 IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A
 41 person who violates this subsection commits the unlawful practice of
 42 medicine under this chapter.
- 43 (e) A person described in subsection (a)(8) shall not be authorized
 44 to dispense contraceptives or birth control devices.
- 45 SECTION 53. IC 31-37-19-12, AS AMENDED BY P.L.125-2007,
 46 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2012]: Sec. 12. (a) This section applies if a child is a
 2 delinquent child under IC 31-37-1 due to the commission of a
 3 delinquent act that, if committed by an adult, would be:

4 (1) an offense relating to a criminal sexual act (as defined in
 5 ~~IC 35-41-1-19.3~~ **IC 35-31.5-2-218**) and the offense created an
 6 epidemiologically demonstrated risk of transmission of the human
 7 immunodeficiency virus (HIV); or

8 (2) an offense relating to controlled substances (as defined in
 9 ~~IC 35-41-1-19.4~~ **IC 35-31.5-2-217**) if the offense involved:

10 (A) the delivery by a person to another person; or

11 (B) the use by a person on another person;

12 of a contaminated sharp (as defined in IC 16-41-16-2) or other
 13 paraphernalia that creates an epidemiologically demonstrated risk
 14 of transmission of HIV by involving percutaneous contact.

15 (b) The juvenile court shall, in addition to any other order or decree
 16 the court makes under this chapter, order the child to undergo a
 17 screening test for the human immunodeficiency virus (HIV).

18 (c) If the screening test indicates the presence of antibodies to HIV,
 19 the court shall order the child to undergo a confirmatory test.

20 (d) If the confirmatory test confirms the presence of the HIV
 21 antibodies, the court shall report the results to the state department of
 22 health.

23 (e) The state department of health shall do the following:

24 (1) Notify potentially affected victims of the offense relating to a
 25 criminal sexual act (as defined in ~~IC 35-41-1-19.3~~
 26 **IC 35-31.5-2-218**) or offense relating to controlled substances (as
 27 defined in ~~IC 35-41-1-19.4~~ **IC 35-31.5-2-217**) of the HIV
 28 screening results.

29 (2) Provide counseling regarding HIV and a referral for
 30 appropriate health care to the victims.

31 SECTION 54. IC 31-37-19-17.4, AS AMENDED BY P.L.146-2008,
 32 SECTION 653, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2012]: Sec. 17.4. (a) This section applies if a
 34 child is a delinquent child under IC 31-37-1 due to the commission of
 35 a delinquent act that, if committed by an adult, would be an offense
 36 relating to a criminal sexual act (as defined in ~~IC 35-41-1-19.3~~).
 37 **IC 35-1.5-2-218**).

38 (b) The juvenile court may, in addition to any other order or decree
 39 the court makes under this chapter, order:

40 (1) the child; and

41 (2) the child's parent or guardian;

42 to receive psychological counseling as directed by the court, subject to
 43 the applicable provisions of IC 31-37-17-1.4 and IC 31-37-18-9.

44 SECTION 55. IC 32-30-7-1 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this
 46 chapter, "indecent nuisance" means a:



- 1 (1) place in or upon which prostitution (as described in
 2 IC 35-45-4);
 3 (2) public place in or upon which deviate sexual conduct (as
 4 defined in ~~IC 35-41-1-9~~) **IC 35-31.5-2-94**) or sexual intercourse
 5 (as defined in ~~IC 35-41-1-26~~); **IC 35-31.5-2-302**); or
 6 (3) public place in or upon which the fondling of the genitals of
 7 a person;

8 is conducted, permitted, continued, or exists, and the personal property
 9 and contents used in conducting and maintaining the place for such a
 10 purpose.

11 SECTION 56. IC 32-30-7-2 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. As used in this
 13 chapter, "person" has the meaning set forth in ~~IC 35-41-1-22~~.
 14 **IC 35-31.5-2-235.**

15 SECTION 57. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2012]: Sec. 3. As used in this chapter, "applicable offense"
 18 refers to any of the following:

- 19 (1) A crime involving domestic or family violence (as defined in
 20 ~~IC 35-41-1-6.5~~): **IC 35-31.5-2-76**);
 21 (2) A sex offense under IC 35-42-4.
 22 (3) Stalking under IC 35-45-10.

23 SECTION 58. IC 32-34-9-8 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. A brand adopted in
 25 accordance with this chapter is the exclusive trademark of the person
 26 adopting the brand, and the brand constitutes property under
 27 ~~IC 35-41-1-23~~. **IC 35-31.5-2-254.**

28 SECTION 59. IC 33-39-1-6, AS AMENDED BY P.L.119-2007,
 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2012]: Sec. 6. (a) Special prosecutors may be appointed under
 31 this section or in accordance with IC 4-2-7-7.

- 32 (b) A circuit or superior court judge:
 33 (1) shall appoint a special prosecutor if:
 34 (A) any person other than the prosecuting attorney or the
 35 prosecuting attorney's deputy files a verified petition
 36 requesting the appointment of a special prosecutor; and
 37 (B) the prosecuting attorney agrees that a special prosecutor is
 38 needed;
 39 (2) may appoint a special prosecutor if:
 40 (A) a person files a verified petition requesting the
 41 appointment of a special prosecutor; and
 42 (B) the court, after:
 43 (i) notice is given to the prosecuting attorney; and
 44 (ii) an evidentiary hearing is conducted at which the
 45 prosecuting attorney is given an opportunity to be heard;
 46 finds by clear and convincing evidence that the appointment



- 1 is necessary to avoid an actual conflict of interest or there is
 2 probable cause to believe that the prosecutor has committed a
 3 crime;
- 4 (3) may appoint a special prosecutor if:
 5 (A) the prosecuting attorney files a petition requesting the
 6 court to appoint a special prosecutor; and
 7 (B) the court finds that the appointment is necessary to avoid
 8 the appearance of impropriety;
- 9 (4) may appoint a special prosecutor if:
 10 (A) an elected public official, who is a defendant in a criminal
 11 proceeding, files a verified petition requesting a special
 12 prosecutor within ten (10) days after the date of the initial
 13 hearing; and
 14 (B) the court finds that the appointment of a special prosecutor
 15 is in the best interests of justice; and
- 16 (5) shall appoint a special prosecutor if:
 17 (A) a previously appointed special prosecutor:
 18 (i) files a motion to withdraw as special prosecutor; or
 19 (ii) has become incapable of continuing to represent the
 20 interests of the state; and
 21 (B) the court finds that the facts that established the basis for
 22 the initial appointment of a special prosecutor still exist.
- 23 The elected prosecuting attorney of the appointing jurisdiction
 24 shall receive notice of all pleadings filed and orders issued under
 25 this subdivision.
- 26 (c) Each person appointed to serve as a special prosecutor:
 27 (1) must consent to the appointment; and
 28 (2) must be:
 29 (A) the prosecuting attorney or a deputy prosecuting attorney
 30 in a county other than the county in which the person is to
 31 serve as special prosecutor; or
 32 (B) except as provided in subsection (d), a senior prosecuting
 33 attorney.
- 34 (d) A senior prosecuting attorney may be appointed in the county in
 35 which the senior prosecuting attorney previously served if the court
 36 finds that an appointment under this subsection would not create the
 37 appearance of impropriety.
- 38 (e) A person appointed to serve as a special prosecutor has the same
 39 powers as the prosecuting attorney of the county. However, the
 40 appointing judge shall limit scope of the special prosecutor's duties to
 41 include only the investigation or prosecution of a particular case or
 42 particular grand jury investigation.
- 43 (f) The court shall establish the length of the special prosecutor's
 44 term. If the target of an investigation by the special prosecutor is a
 45 public servant (as defined in ~~IC 35-41-1-24~~; **IC 35-31.5-2-262**), the
 46 court shall order the special prosecutor to file a report of the



1 investigation with the court at the conclusion of the investigation. The
2 report is a public record.

3 (g) If the special prosecutor is not regularly employed as a full-time
4 prosecuting attorney or full-time deputy prosecuting attorney, the
5 compensation for the special prosecutor's services:

6 (1) shall be paid to the special prosecutor from the unappropriated
7 funds of the appointing county; and

8 (2) may not exceed:

9 (A) an hourly rate based upon the regular salary of a full-time
10 prosecuting attorney of the appointing circuit;

11 (B) travel expenses and reasonable accommodation expenses
12 actually incurred; and

13 (C) other reasonable expenses actually incurred, including the
14 costs of investigation, discovery, and secretarial work, if:

15 (i) before incurring the other reasonable expenses described
16 in this clause, the special prosecutor submits an application
17 to the court to receive the other reasonable expenses; and

18 (ii) the court approves the expenses.

19 The amount of compensation a special prosecutor receives for services
20 performed during a calendar day under subdivision (2)(A) may not
21 exceed the amount of compensation a full-time prosecuting attorney
22 would receive in salary for the calendar day.

23 (h) If the special prosecutor is regularly employed as a full-time
24 prosecuting attorney or deputy prosecuting attorney, the compensation
25 for the special prosecutor's services:

26 (1) shall be paid out of the appointing county's unappropriated
27 funds to the treasurer of the county in which the special
28 prosecutor regularly serves; and

29 (2) must include a per diem equal to the regular salary of a
30 full-time prosecuting attorney of the appointing circuit, travel
31 expenses, and reasonable accommodation expenses actually
32 incurred.

33 (i) The combination of:

34 (1) the compensation paid to a senior prosecuting attorney under
35 this chapter; and

36 (2) retirement benefits that the person appointed as a senior
37 prosecuting attorney is receiving or entitled to receive;

38 may not exceed the minimum compensation to which a full-time
39 prosecuting attorney is entitled under IC 33-39-6-5.

40 (j) A senior prosecuting attorney appointed under this chapter may
41 not be compensated as senior prosecuting attorney for more than one
42 hundred (100) calendar days in total during a calendar year if the senior
43 prosecuting attorney receives retirement benefits during the calendar
44 year. However, if the senior prosecuting attorney does not receive
45 retirement benefits during a calendar year, the senior prosecuting
46 attorney may be compensated as a senior prosecuting attorney for not



1 more than two hundred (200) calendar days in total during the calendar
2 year.

3 SECTION 60. IC 34-6-2-73.3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 73.3. "Law
5 enforcement officer", for purposes of IC 34-26-5, has the meaning set
6 forth in ~~IC 35-41-1-17~~. **IC 35-31.5-2-186.**

7 SECTION 61. IC 34-6-2-103, AS AMENDED BY P.L.154-2011,
8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2012]: Sec. 103. (a) "Person", for purposes of IC 34-14, has
10 the meaning set forth in IC 34-14-1-13.

11 (b) "Person", for purposes of IC 34-11-2-11.5 and IC 34-24-4,
12 means:

- 13 (1) an individual;
- 14 (2) a governmental entity;
- 15 (3) a corporation;
- 16 (4) a firm;
- 17 (5) a trust;
- 18 (6) a partnership; or
- 19 (7) an incorporated or unincorporated association that exists
20 under or is authorized by the laws of this state, another state, or a
21 foreign country.

22 (c) "Person", for purposes of section 44.8 of this chapter, means an
23 adult or a minor.

24 (d) "Person", for purposes of IC 34-26-4, has the meaning set forth
25 in ~~IC 35-41-1-22~~. **IC 35-31.5-2-235.**

26 (e) "Person", for purposes of IC 34-30-5, means any of the
27 following:

- 28 (1) An individual.
- 29 (2) A corporation.
- 30 (3) A partnership.
- 31 (4) An unincorporated association.
- 32 (5) The state (as defined in IC 34-6-2-140).
- 33 (6) A political subdivision (as defined in IC 34-6-2-110).
- 34 (7) Any other entity recognized by law.

35 (f) "Person", for purposes of IC 34-30-6, means an individual, a
36 corporation, a limited liability company, a partnership, an
37 unincorporated association, or a governmental entity that:

- 38 (1) has qualifications or experience in:
 - 39 (A) storing, transporting, or handling a hazardous substance or
40 compressed gas;
 - 41 (B) fighting fires;
 - 42 (C) emergency rescue; or
 - 43 (D) first aid care; or
- 44 (2) is otherwise qualified to provide assistance appropriate to
45 remedy or contribute to the remedy of the emergency.

46 (g) "Person", for purposes of IC 34-30-18, includes:



- 1 (1) an individual;
 2 (2) an incorporated or unincorporated organization or association;
 3 (3) the state of Indiana;
 4 (4) a political subdivision (as defined in IC 36-1-2-13);
 5 (5) an agency of the state or a political subdivision; or
 6 (6) a group of such persons acting in concert.
- 7 (h) "Person", for purposes of sections 42, 43, 69, and 95 of this
 8 chapter, means an individual, an incorporated or unincorporated
 9 organization or association, or a group of such persons acting in
 10 concert.
- 11 (i) "Person", for purposes of IC 34-30-10.5, means the following:
 12 (1) A political subdivision (as defined in IC 36-1-2-13).
 13 (2) A volunteer fire department (as defined in IC 36-8-12-2).
 14 (3) An employee of an entity described in subdivision (1) or (2)
 15 who acts within the scope of the employee's responsibilities.
 16 (4) A volunteer firefighter (as defined in IC 36-8-12-2) who is
 17 acting for a volunteer fire department.
 18 (5) A corporation, a limited liability company, a partnership, an
 19 unincorporated association, or any other entity recognized by law.
- 20 (j) "Person", for purposes of IC 34-28-7, means:
 21 (1) an individual;
 22 (2) a governmental entity;
 23 (3) a corporation;
 24 (4) a firm;
 25 (5) a trust;
 26 (6) a partnership; or
 27 (7) an incorporated or unincorporated association that exists
 28 under or is authorized by the laws of this state, another state, or a
 29 foreign country.
- 30 SECTION 62. IC 34-6-2-120 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 120. (a) "Property", for
 32 purposes of IC 34-24-2, has the meaning set forth in ~~IC 35-41-1-23~~.
 33 **IC 35-31.5-2-254.**
- 34 (b) "Property", for purposes of IC 34-30-9, includes the following:
 35 (1) Real property.
 36 (2) Private ways.
 37 (3) Waters.
 38 (4) A structure located on property listed in subdivisions (1)
 39 through (3).
- 40 SECTION 63. IC 34-6-2-148 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 148. "Vehicle", for
 42 purposes of IC 34-24-3, has the meaning set forth in ~~IC 35-41-1-28~~.
 43 **IC 35-31.5-2-346.**
- 44 SECTION 64. IC 34-12-3-2 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. As used in this
 46 chapter, "person" has the meaning set forth in ~~IC 35-41-1-22~~.



IC 35-31.5-2-235.

SECTION 65. IC 34-24-1-1, AS AMENDED BY P.L.182-2011, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by ~~IC 35-41-1~~), **IC 35-31.5-2-346**), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

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

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

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

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

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

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

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

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

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

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

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

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

(D) A bomb (as defined in ~~IC 35-41-1-4.3~~) **IC 35-31.5-2-31**) or weapon of mass destruction (as defined in ~~IC 35-41-1-29.4~~) **IC 35-31.5-2-354**) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by ~~IC 35-41-1-26.5~~): **IC 35-31.5-2-329**).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or



- 1 (C) traceable as proceeds of the violation of a criminal statute.
 2 (3) Any portion of real or personal property purchased with
 3 money that is traceable as a proceed of a violation of a criminal
 4 statute.
 5 (4) A vehicle that is used by a person to:
 6 (A) commit, attempt to commit, or conspire to commit;
 7 (B) facilitate the commission of; or
 8 (C) escape from the commission of;
 9 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 10 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 11 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 12 under IC 35-47 as part of or in furtherance of an act of terrorism.
 13 (5) Real property owned by a person who uses it to commit any of
 14 the following as a Class A felony, a Class B felony, or a Class C
 15 felony:
 16 (A) Dealing in or manufacturing cocaine or a narcotic drug
 17 (IC 35-48-4-1).
 18 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
 19 (C) Dealing in a schedule I, II, or III controlled substance
 20 (IC 35-48-4-2).
 21 (D) Dealing in a schedule IV controlled substance
 22 (IC 35-48-4-3).
 23 (E) Dealing in marijuana, hash oil, hashish, salvia, or a
 24 synthetic cannabinoid (IC 35-48-4-10).
 25 (6) Equipment and recordings used by a person to commit fraud
 26 under IC 35-43-5-4(10).
 27 (7) Recordings sold, rented, transported, or possessed by a person
 28 in violation of IC 24-4-10.
 29 (8) Property (as defined by ~~IC 35-41-1-23~~ **IC 35-31.5-2-254**) or
 30 an enterprise (as defined by IC 35-45-6-1) that is the object of a
 31 corrupt business influence violation (IC 35-45-6-2).
 32 (9) Unlawful telecommunications devices (as defined in
 33 IC 35-45-13-6) and plans, instructions, or publications used to
 34 commit an offense under IC 35-45-13.
 35 (10) Any equipment, including computer equipment and cellular
 36 telephones, used for or intended for use in preparing,
 37 photographing, recording, videotaping, digitizing, printing,
 38 copying, or disseminating matter in violation of IC 35-42-4.
 39 (11) Destructive devices used, possessed, transported, or sold in
 40 violation of IC 35-47.5.
 41 (12) Tobacco products that are sold in violation of IC 24-3-5,
 42 tobacco products that a person attempts to sell in violation of
 43 IC 24-3-5, and other personal property owned and used by a
 44 person to facilitate a violation of IC 24-3-5.
 45 (13) Property used by a person to commit counterfeiting or
 46 forgery in violation of IC 35-43-5-2.



1 (14) After December 31, 2005, if a person is convicted of an
 2 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 3 following real or personal property:

4 (A) Property used or intended to be used to commit, facilitate,
 5 or promote the commission of the offense.

6 (B) Property constituting, derived from, or traceable to the
 7 gross proceeds that the person obtained directly or indirectly
 8 as a result of the offense.

9 (15) Except as provided in subsection (e), a motor vehicle used by
 10 a person who operates the motor vehicle:

11 (A) while intoxicated, in violation of IC 9-30-5-1 through
 12 IC 9-30-5-5, if in the previous five (5) years the person has two

13 (2) or more prior unrelated convictions:

14 (i) for operating a motor vehicle while intoxicated in
 15 violation of IC 9-30-5-1 through IC 9-30-5-5; or

16 (ii) for an offense that is substantially similar to IC 9-30-5-1
 17 through IC 9-30-5-5 in another jurisdiction; or

18 (B) on a highway while the person's driver's license is
 19 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,
 20 if in the previous five (5) years the person has two (2) or more
 21 prior unrelated convictions:

22 (i) for operating a motor vehicle while intoxicated in
 23 violation of IC 9-30-5-1 through IC 9-30-5-5; or

24 (ii) for an offense that is substantially similar to IC 9-30-5-1
 25 through IC 9-30-5-5 in another jurisdiction.

26 If a court orders the seizure of a motor vehicle under this
 27 subdivision, the court shall transmit an order to the bureau of
 28 motor vehicles recommending that the bureau not permit a motor
 29 vehicle to be registered in the name of the person whose motor
 30 vehicle was seized until the person possesses a current driving
 31 license (as defined in IC 9-13-2-41).

32 (16) The following real or personal property:

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

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

41 (b) A vehicle used by any person as a common or contract carrier in
 42 the transaction of business as a common or contract carrier is not
 43 subject to seizure under this section, unless it can be proven by a
 44 preponderance of the evidence that the owner of the vehicle knowingly
 45 permitted the vehicle to be used to engage in conduct that subjects it to
 46 seizure under subsection (a).



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

5 (d) Money, negotiable instruments, securities, weapons,
 6 communications devices, or any property commonly used as
 7 consideration for a violation of IC 35-48-4 found near or on a person
 8 who is committing, attempting to commit, or conspiring to commit any
 9 of the following offenses shall be admitted into evidence in an action
 10 under this chapter as prima facie evidence that the money, negotiable
 11 instrument, security, or other thing of value is property that has been
 12 used or was to have been used to facilitate the violation of a criminal
 13 statute or is the proceeds of the violation of a criminal statute:

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

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

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

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

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

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

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

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

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

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

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

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

35 SECTION 66. IC 34-28-5-1, AS AMENDED BY P.L.101-2009,
 36 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2012]: Sec. I. (a) As used in this section, "probationary
 38 license" refers to a license described in IC 9-24-11-3(b) or
 39 IC 9-24-11-3.3(b).

40 (b) An action to enforce a statute defining an infraction shall be
 41 brought in the name of the state of Indiana by the prosecuting attorney
 42 for the judicial circuit in which the infraction allegedly took place.
 43 However, if the infraction allegedly took place on a public highway (as
 44 defined in IC 9-25-2-4) that runs on and along a common boundary
 45 shared by two (2) or more judicial circuits, a prosecuting attorney for
 46 any judicial circuit sharing the common boundary may bring the action.



1 (c) An action to enforce an ordinance shall be brought in the name
 2 of the municipal corporation. The municipal corporation need not
 3 prove that it or the ordinance is valid unless validity is controverted by
 4 affidavit.

5 (d) Actions under this chapter (or IC 34-4-32 before its repeal):

6 (1) shall be conducted in accordance with the Indiana Rules of
 7 Trial Procedure; and

8 (2) must be brought within two (2) years after the alleged conduct
 9 or violation occurred.

10 (e) The plaintiff in an action under this chapter must prove the
 11 commission of an infraction or ordinance violation by a preponderance
 12 of the evidence.

13 (f) The complaint and summons described in IC 9-30-3-6 may be
 14 used for any infraction or ordinance violation.

15 (g) Subsection (h) does not apply to an individual holding a
 16 probationary license who is alleged to have committed an infraction
 17 under any of the following when the individual was less than eighteen
 18 (18) years of age at the time of the alleged offense:

19 IC 9-19

20 IC 9-21

21 IC 9-24

22 IC 9-25

23 IC 9-26

24 IC 9-30-5

25 IC 9-30-10

26 IC 9-30-15.

27 (h) This subsection does not apply to an offense or violation under
 28 IC 9-24-6 involving the operation of a commercial motor vehicle. The
 29 prosecuting attorney or the attorney for a municipal corporation may
 30 establish a deferral program for deferring actions brought under this
 31 section. Actions may be deferred under this section if:

32 (1) the defendant in the action agrees to conditions of a deferral
 33 program offered by the prosecuting attorney or the attorney for a
 34 municipal corporation;

35 (2) the defendant in the action agrees to pay to the clerk of the
 36 court an initial user's fee and monthly user's fee set by the
 37 prosecuting attorney or the attorney for the municipal corporation
 38 in accordance with IC 33-37-4-2(e);

39 (3) the terms of the agreement are recorded in an instrument
 40 signed by the defendant and the prosecuting attorney or the
 41 attorney for the municipal corporation;

42 (4) the defendant in the action agrees to pay a fee of seventy
 43 dollars (\$70) to the clerk of court if the action involves a moving
 44 traffic offense (as defined in IC 9-13-2-110);

45 (5) the agreement is filed in the court in which the action is
 46 brought; and



1 (6) if the deferral program is offered by the prosecuting attorney,
 2 the prosecuting attorney electronically transmits information
 3 required by the prosecuting attorneys council concerning the
 4 withheld prosecution to the prosecuting attorneys council, in a
 5 manner and format designated by the prosecuting attorneys
 6 council.

7 When a defendant complies with the terms of an agreement filed under
 8 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
 9 attorney or the attorney for the municipal corporation shall request the
 10 court to dismiss the action. Upon receipt of a request to dismiss an
 11 action under this subsection, the court shall dismiss the action. An
 12 action dismissed under this subsection (or IC 34-4-32-1(f) before its
 13 repeal) may not be refiled.

14 (i) If a judgment is entered against a defendant in an action to
 15 enforce an ordinance, the defendant may perform community
 16 restitution or service (as defined in ~~IC 35-41-1-4.6~~ **IC 35-31.5-2-50**)
 17 instead of paying a monetary judgment for the ordinance violation as
 18 described in section 4(e) of this chapter if:

19 (1) the:

20 (A) defendant; and

21 (B) attorney for the municipal corporation;

22 agree to the defendant's performance of community restitution or
 23 service instead of the payment of a monetary judgment;

24 (2) the terms of the agreement described in subdivision (1):

25 (A) include the amount of the judgment the municipal
 26 corporation requests that the defendant pay under section 4(e)
 27 of this chapter for the ordinance violation if the defendant fails
 28 to perform the community restitution or service provided for
 29 in the agreement as approved by the court; and

30 (B) are recorded in a written instrument signed by the
 31 defendant and the attorney for the municipal corporation;

32 (3) the agreement is filed in the court where the judgment was
 33 entered; and

34 (4) the court approves the agreement.

35 If a defendant fails to comply with an agreement approved by a court
 36 under this subsection, the court shall require the defendant to pay up to
 37 the amount of the judgment requested in the action under section 4(e)
 38 of this chapter as if the defendant had not entered into an agreement
 39 under this subsection.

40 SECTION 67. IC 34-28-7-2, AS ADDED BY P.L.90-2010,
 41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2012]: Sec. 2. (a) Notwithstanding any other law and except
 43 as provided in subsection (b), a person may not adopt or enforce an
 44 ordinance, a resolution, a policy, or a rule that:

45 (1) prohibits; or

46 (2) has the effect of prohibiting;



1 an employee of the person, including a contract employee, from
 2 possessing a firearm or ammunition that is locked in the trunk of the
 3 employee's vehicle, kept in the glove compartment of the employee's
 4 locked vehicle, or stored out of plain sight in the employee's locked
 5 vehicle.

6 (b) Subsection (a) does not prohibit the adoption or enforcement of
 7 an ordinance, a resolution, a policy, or a rule that prohibits or has the
 8 effect of prohibiting an employee of the person, including a contract
 9 employee, from possessing a firearm or ammunition:

10 (1) in or on school property, in or on property that is being used
 11 by a school for a school function, or on a school bus in violation
 12 of IC 20-33-8-16 or IC 35-47-9-2;

13 (2) on the property of:

14 (A) a child caring institution;

15 (B) an emergency shelter care child caring institution;

16 (C) a private secure facility;

17 (D) a group home;

18 (E) an emergency shelter care group home; or

19 (F) a child care center;

20 in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465
 21 IAC 2-11-80, 465 IAC 2-12-78, 465 IAC 2-13-77, or 470
 22 IAC 3-4.7-19;

23 (3) on the property of a penal facility (as defined in
 24 ~~IC 35-41-1-21~~; **IC 35-31.5-2-233**);

25 (4) in violation of federal law;

26 (5) in or on property belonging to an approved postsecondary
 27 educational institution (as defined in IC 21-7-13-6(b));

28 (6) on the property of a domestic violence shelter;

29 (7) at a person's residence;

30 (8) on the property of a person that is:

31 (A) subject to the United States Department of Homeland
 32 Security's Chemical Facility Anti-Terrorism Standards issued
 33 April 9, 2007; and

34 (B) licensed by the United States Nuclear Regulatory
 35 Commission under Title 10 of the Code of Federal
 36 Regulations;

37 (9) on property owned by:

38 (A) a public utility (as defined in IC 8-1-2-1) that generates
 39 and transmits electric power; or

40 (B) a department of public utilities created under IC 8-1-11.1;

41 or

42 (10) in the employee's personal vehicle if the employee, including
 43 a contract employee, is a direct support professional who:

44 (A) works directly with individuals with developmental
 45 disabilities to assist the individuals to become integrated into
 46 the individuals' community or least restrictive environment;



1 and
 2 (B) uses the employee's personal vehicle while transporting an
 3 individual with developmental disabilities.

4 SECTION 68. IC 35-31.5 IS ADDED TO THE INDIANA CODE
 5 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 6 I, 2012]:

7 **ARTICLE 31.5. DEFINITIONS**

8 **Chapter 1. General Definitions**

9 **Sec. 1.** Except as otherwise provided, the definitions in this
 10 article apply throughout this title and to all other statutes relating
 11 to penal offenses.

12 **Chapter 2. Definitions**

13 **Sec. 1.** "Abandon", for purposes of IC 35-46-3, has the meaning
 14 set forth in IC 35-46-3-0.5(1).

15 **Sec. 2.** "Access", for purposes of IC 35-43-2-3, has the meaning
 16 set forth in IC 35-43-2-3(a).

17 **Sec. 3.** "Accused", for purposes of IC 35-40, has the meaning set
 18 forth in IC 35-40-4-2.

19 **Sec. 4.** "Administer", for purposes of IC 35-48, has the meaning
 20 set forth in IC 35-48-1-3.

21 **Sec. 5.** "Adoption services", for purposes of IC 35-46-1-22, has
 22 the meaning set forth in IC 35-46-1-22(a).

23 **Sec. 6.** "Adoptive grandparent", for purposes of IC 35-42-4-7,
 24 has the meaning set forth in IC 35-42-4-7(b).

25 **Sec. 7.** "Adoptive parent", for purposes of IC 35-42-4-7, has the
 26 meaning set forth in IC 35-42-4-7(a).

27 **Sec. 8.** "Adult", for purposes of IC 35-47-10, has the meaning
 28 set forth in IC 35-47-10-2.

29 **Sec. 9.** "Adult employee" means an employee who is eighteen
 30 (18) years of age or older.

31 **Sec. 10. (a)** "Advisory sentence", for purposes of IC 35-35-3,
 32 means the nonbinding guideline sentence defined in IC 35-50-2-1.3.

33 **(b)** "Advisory sentence", for purposes of IC 35-50-2-3 through
 34 IC 35-50-2-7, has the meaning set forth in IC 35-50-2-1.3.

35 **Sec. 11. (a)** "Agency" means any authority, board, bureau,
 36 commission, committee, department, division, hospital, military
 37 body, or other instrumentality of:

38 (1) the state, a county, a township, a city, a town, a separate
 39 municipal corporation, a special taxing district, or a public
 40 corporation; or

41 (2) a state-assisted college or state-assisted university.

42 **(b)** The term does not include any part of the legislative
 43 department or the judicial department of state government.

44 **Sec. 12. (a)** Except as provided in subsection (b); "agent" means
 45 an operator, a manager, an adult employee, or a security agent
 46 employed by a store.



1 (b) "Agent", for purposes of IC 35-48, has the meaning set forth
2 in IC 35-48-1-5.

3 Sec. 13. "Agent contract", for purposes of IC 35-46-4 has the
4 meaning set forth in IC 35-46-4-1.

5 Sec. 14. "Alcohol abuser", for purposes of IC 35-47, has the
6 meaning set forth in IC 35-47-1-2.

7 Sec. 15. "Alien", for purposes of IC 35-44-5, has the meaning set
8 forth in IC 35-44-5-2.

9 Sec. 16. "Ammunition", for purposes of IC 35-47, has the
10 meaning set forth in IC 35-47-1-2.5.

11 Sec. 17. "Animal", for purposes of IC 35-46-3-15, has the
12 meaning set forth in IC 35-46-3-15(b).

13 Sec. 18. "Animal fighting contest", for purposes of IC 35-46-3
14 has the meaning set forth in IC 35-46-3-4.

15 Sec. 19. "Animal fighting paraphernalia", for purposes of
16 IC 35-46-3 has the meaning set forth in IC 35-46-3-4.3.

17 Sec. 20. "Apartment complex" means real property consisting
18 of at least five (5) units that are regularly used to rent or otherwise
19 furnish residential accommodations for periods of at least thirty
20 (30) days.

21 Sec. 21. "Armor-piercing handgun ammunition", for purposes
22 of IC 35-47-5-11, has the meaning set forth in IC 35-47-5-11(a).

23 Sec. 22. "Attorney", for purposes of IC 35-45-14 has the
24 meaning set forth in IC 35-45-14-1.

25 Sec. 23. "Audiovisual recording device", for purposes of
26 IC 35-46-8, has the meaning set forth in IC 35-46-8-2.

27 Sec. 24. "Authorized operator", for purposes of IC 35-43-4-2.7,
28 has the meaning set forth in IC 35-43-4-2.7(b).

29 Sec. 25. "Bail bond" means a bond executed by a person who
30 has been arrested for the commission of an offense, for the purpose
31 of ensuring:

- 32 (1) the person's appearance at the appropriate legal
33 proceeding;
34 (2) another person's physical safety; or
35 (3) the safety of the community.

36 Sec. 26. "Beat", for purposes of IC 35-46-3, has the meaning set
37 forth in IC 35-46-3-0.5(2).

38 Sec. 27. "Benefit identification card", for purposes of
39 IC 35-43-4-6, has the meaning set forth in IC 35-43-4-6(a).

40 Sec. 28. "Body armor", for purposes of IC 35-47-5-13, has the
41 meaning set forth in IC 35-47-5-13(a).

42 Sec. 29. "Bodily injury" means any impairment of physical
43 condition, including physical pain.

44 Sec. 30. "Body piercing", for purposes of IC 35-42-2-7, has the
45 meaning set forth in IC 35-42-2-7(b).

46 Sec. 31. (a) "Bomb" means an explosive or incendiary device



1 designed to release:

2 (1) destructive materials or force; or

3 (2) dangerous gases;

4 that is detonated by impact, proximity to an object, a timing
5 mechanism, a chemical reaction, ignition, or other predetermined
6 means.

7 (b) The term does not include the following:

8 (1) A firearm (as defined in IC 35-47-1-5) or the ammunition
9 or components for handloading ammunition for a firearm.

10 (2) Fireworks regulated under IC 22-11-14.

11 (3) Boating, railroad, and other safety flares.

12 (4) Propellants used in model rockets or similar hobby
13 activities.

14 (5) Commercially manufactured black powder in quantities
15 not to exceed fifty (50) pounds, percussion caps, safety and
16 pyrotechnic fuses, quills, quick and slow matches, and friction
17 primers intended to be used solely for sporting, recreational,
18 or cultural purposes in antique firearms or antique devices.

19 Sec. 32. "Booby trap", for purposes of IC 35-47.5, has the
20 meaning set forth in IC 35-47.5-2-2.

21 Sec. 33. "Camera", for purposes of IC 35-45-4-5 has the
22 meaning set forth in IC 35-45-4-5(a)(1).

23 Sec. 34. "Card skimming device", for purposes of
24 IC 35-43-5-4.3, has the meaning set forth in IC 35-43-5-4.3(a).

25 Sec. 35. "Cave", for purposes of IC 35-43-1-3, has the meaning
26 set forth in IC 35-43-1-3(a).

27 Sec. 36. "Certified copy of a certificate of title", for purposes of
28 IC 35-37-4-9, has the meaning set forth in IC 35-37-4-9(a).

29 Sec. 37. "Charter school", for purposes of IC 35-42-4-7, has the
30 meaning set forth in IC 35-42-4-7(c).

31 Sec. 38. "Child", for purposes of IC 35-47-10, has the meaning
32 set forth in IC 35-47-10-3.

33 Sec. 39. "Child care provider", for purposes of IC 35-42-1-4, has
34 the meaning set forth in IC 35-42-1-4(a).

35 Sec. 40. "Child care worker", for purposes of IC 35-42-4-7, has
36 the meaning set forth in IC 35-42-4-7(d).

37 Sec. 41. "Chinese throwing star", for purposes of IC 35-47-5-12,
38 has the meaning set forth in IC 35-47-5-12(b).

39 Sec. 42. "Claim statement", for purposes of IC 35-43-5, has the
40 meaning set forth in IC 35-43-5-1(b).

41 Sec. 43. "Class D felony conviction", for purposes of IC 35-50-2,
42 has the meaning set forth in IC 35-50-2-1(a).

43 Sec. 44. "Cloning", for purposes of IC 35-46-5-2, has the
44 meaning set forth in IC 35-46-5-2(b).

45 Sec. 45. "Code grabbing device", for purposes of IC 35-45-12
46 has the meaning set forth in IC 35-45-12-1.



1 Sec. 46. "Coin machine", for purposes of IC 35-43-5 and
2 IC 35-46-1-11.5, has the meaning set forth in IC 35-43-5-1(c).

3 Sec. 47. "Combative fighting", for purposes of IC 35-45-18 has
4 the meaning set forth in IC 35-45-18-1(a).

5 Sec. 48. "Community corrections program", for purposes of
6 IC 35-38-2.6, has the meaning set forth in IC 35-38-2.6-2.

7 Sec. 49. "Community policing volunteer" means a person who
8 is:

9 (1) not a law enforcement officer; and

10 (2) actively participating in a plan, system, or strategy:

11 (A) established by and conducted under the authority of a
12 law enforcement agency; and

13 (B) in which citizens:

14 (i) participate with and are guided by the law
15 enforcement agency; and

16 (ii) work with members of the law enforcement agency to
17 reduce or prevent crime within a defined geographic
18 area.

19 Sec. 50. "Community restitution or service" means performance
20 of services directly for a:

21 (1) victim;

22 (2) nonprofit entity; or

23 (3) governmental entity;

24 without compensation, including graffiti abatement, park
25 maintenance, and other community service activities. The term
26 does not include the reimbursement under IC 35-50-5-3 or another
27 law of damages or expenses incurred by a victim or another person
28 as the result of a violation of law

29 Sec. 51. "Community transition program" has the meaning set
30 forth in IC 11-8-1-5.5.

31 Sec. 52. "Component", for purposes of IC 35-42-1-7, has the
32 meaning set forth in IC 35-42-1-7(a).

33 Sec. 53. (a) "Computer network", for purposes of IC 35-43-1-4,
34 has the meaning set forth in IC 35-43-1-4(a).

35 (b) "Computer network", for purposes of IC 35-43-2-3, has the
36 meaning set forth in IC 35-43-2-3(a).

37 Sec. 54. "Computer program", for purposes of IC 35-43-1-4, has
38 the meaning set forth in IC 35-43-1-4(a).

39 Sec. 55. (a) "Computer system", for purposes of IC 35-43-1-4,
40 has the meaning set forth in IC 35-43-1-4(a).

41 (b) "Computer system", for purposes of IC 35-43-2-3, has the
42 meaning set forth in IC 35-43-2-3(a).

43 Sec. 56. "Confidential communication", for purposes of
44 IC 35-37-6, has the meaning set forth in IC 35-37-6-1(a).

45 Sec. 57. "Confine", for purposes of IC 35-42-3, has the meaning
46 set forth in IC 35-42-3-1.



1 Sec. 58. "Constant supervision", for purposes of IC 35-38-2.5,
2 has the meaning set forth in IC 35-38-2.5-2.3.

3 Sec. 59. "Consumer, " for purposes of IC 35-43-6, has the
4 meaning set forth in IC 35-43-6-2.

5 Sec. 60. (a) "Consumer product", for purposes of IC 35-44-2-2,
6 has the meaning set forth in IC 35-44-2-2(a).

7 (b) "Consumer product", for purposes of IC 35-45-8 has the
8 meaning set forth in IC 35-45-8-1.

9 Sec. 61. "Constant video monitoring", for purposes of
10 IC 35-48-4-14.7, has the meaning set forth in IC 35-48-4-14.7(b)(1).

11 Sec. 62. "Contraband", for purposes of IC 35-44-3-9.3, has the
12 meaning set forth in IC 35-44-3-9.3(a).

13 Sec. 63. "Contract agency", for purposes of IC 35-38-2.5, has
14 the meaning set forth in IC 35-38-2.5-2.5.

15 Sec. 64. "Controlled substance", for purposes of IC 35-48, has
16 the meaning set forth in IC 35-48-1-9.

17 Sec. 65. "Controlled substance analog", for purposes of
18 IC 35-48, has the meaning set forth in IC 35-48-1-9.3.

19 Sec. 66. "Convenience package", for purposes of
20 IC 35-48-4-14.7, has the meaning set forth in IC 35-48-4-14.7(b)(2).

21 Sec. 67. "Correctional professional", for purposes of
22 IC 35-42-2-1, has the meaning set forth in IC 35-42-2-1(b).

23 Sec. 68. "Counterfeit substance", for purposes of IC 35-48, has
24 the meaning set forth in IC 35-48-1-10.

25 Sec. 69. "Credit card", for purposes of IC 35-43-5, has the
26 meaning set forth in IC 35-43-5-1(d).

27 Sec. 70. "Credit card holder", for purposes of IC 35-43-5, has
28 the meaning set forth in IC 35-43-5-1(e).

29 Sec. 71. "Credit institution" means a bank, insurance company,
30 credit union, savings association, investment trust, industrial loan
31 and investment company, or other organization held out to the
32 public as a place of deposit of funds or a medium of savings or
33 collective investment.

34 Sec. 72. "Credit restricted felon" means a person who has been
35 convicted of at least one (1) of the following offenses:

36 (1) Child molesting involving sexual intercourse or deviate
37 sexual conduct (IC 35-42-4-3(a)), if:

38 (A) the offense is committed by a person at least
39 twenty-one (21) years of age; and

40 (B) the victim is less than twelve (12) years of age.

41 (2) Child molesting (IC 35-42-4-3) resulting in serious bodily
42 injury or death.

43 (3) Murder (IC 35-42-1-1), if:

44 (A) the person killed the victim while committing or
45 attempting to commit child molesting (IC 35-42-4-3);

46 (B) the victim was the victim of a sex crime under



1 IC 35-42-4 for which the person was convicted; or
 2 (C) the victim of the murder was listed by the state or
 3 known by the person to be a witness against the person in
 4 a prosecution for a sex crime under IC 35-42-4 and the
 5 person committed the murder with the intent to prevent
 6 the person from testifying.

7 Sec. 73. "Criminal activity", for purposes of IC 35-45-15 has the
 8 meaning set forth in IC 35-45-15-1.

9 Sec. 74. (a) "Criminal gang", for purposes of IC 35-45-9 has the
 10 meaning set forth in IC 35-45-9-1.

11 (b) "Criminal gang", for purposes of IC 35-50-2-15, has the
 12 meaning set forth in IC 35-50-2-1.4.

13 Sec. 75. (a) Except as provided in subsection (b), "crime" means
 14 a felony or a misdemeanor.

15 (b) "Crime", for purposes of IC 35-40, has the meaning set forth
 16 in IC 35-40-4-3.

17 Sec. 76. "Crime involving domestic or family violence" means
 18 a crime that occurs when a family or household member commits,
 19 attempts to commit, or conspires to commit any of the following
 20 against another family or household member:

- 21 (1) A homicide offense under IC 35-42-1.
- 22 (2) A battery offense under IC 35-42-2.
- 23 (3) Kidnapping or confinement under IC 35-42-3.
- 24 (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- 25 (5) A sex offense under IC 35-42-4.
- 26 (6) Robbery under IC 35-42-5.
- 27 (7) Arson or mischief under IC 35-43-1.
- 28 (8) Burglary or trespass under IC 35-43-2.
- 29 (9) Disorderly conduct under IC 35-45-1.
- 30 (10) Intimidation or harassment under IC 35-45-2.
- 31 (11) Voyeurism under IC 35-45-4.
- 32 (12) Stalking under IC 35-45-10.
- 33 (13) An offense against family under IC 35-46-1-2 through
- 34 IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- 35 (14) A crime involving animal cruelty and a family or
- 36 household member under IC 35-46-3-12(b)(2) or
- 37 IC 35-46-3-12.5.

38 Sec. 77. "Crime of deception", for purposes of IC 35-38-1, has
 39 the meaning set forth in IC 35-38-1-2.5(a).

40 Sec. 78. "Crime of domestic violence", for purposes of
 41 IC 5-2-6.1 and IC 35-47-4-7, means an offense or the attempt to
 42 commit an offense that:

- 43 (1) has as an element the:
 - 44 (A) use of physical force; or
 - 45 (B) threatened use of a deadly weapon; and
- 46 (2) is committed against a:



- 1 (A) current or former spouse, parent, or guardian of the
2 defendant;
- 3 (B) person with whom the defendant shared a child in
4 common;
- 5 (C) person who was cohabiting with or had cohabited with
6 the defendant as a spouse, parent, or guardian; or
7 (D) person who was or had been similarly situated to a
8 spouse, parent, or guardian of the defendant.
- 9 Sec. 79. "Crime of violence", for purposes of IC 35-50-1-2 has
10 the meaning set forth in IC 35-50-1-2(a).
- 11 Sec. 80. "Custodian", for purposes of IC 35-42-4-7, has the
12 meaning set forth in IC 35-42-4-7(e).
- 13 Sec. 81. "Customer", for purposes of IC 35-43-5, has the
14 meaning set forth in IC 35-43-5-1(f).
- 15 Sec. 82. "Dangerous device", for purposes of IC 35-47-6-1.1, has
16 the meaning set forth in IC 35-47-6-1.1(a).
- 17 Sec. 83. "Dangerous gas", for purposes of IC 35-41-1-4.3, means
18 a toxic chemical or its precursors that through chemical action or
19 properties on life processes cause death or permanent injury to
20 human beings. The term does not include the following:
- 21 (1) Riot control agents, smoke, and obscuration materials or
22 medical products that are manufactured, possessed,
23 transported, or used in accordance with the laws of the United
24 States and of this state.
- 25 (2) Tear gas devices designed to be carried on or about the
26 person that contain not more than one-half (1/2) ounce of the
27 chemical.
- 28 Sec. 84. "Data", for purposes of IC 35-43-1-4, has the meaning
29 set forth in IC 35-43-1-4(a).
- 30 Sec. 85. "Deadly force" means force that creates a substantial
31 risk of serious bodily injury.
- 32 Sec. 86. (a) Except as provided in subsection (b), "deadly
33 weapon" means the following:
- 34 (1) A loaded or unloaded firearm.
- 35 (2) A destructive device, weapon, device, taser (as defined in
36 IC 35-47-8-3) or electronic stun weapon (as defined in
37 IC 35-47-8-1), equipment, chemical substance, or other
38 material that in the manner it is used, or could ordinarily be
39 used, or is intended to be used, is readily capable of causing
40 serious bodily injury.
- 41 (3) An animal (as defined in IC 35-46-3-3) that is:
- 42 (A) readily capable of causing serious bodily injury; and
43 (B) used in the commission or attempted commission of a
44 crime.
- 45 (4) A biological disease, virus, or organism that is capable of
46 causing serious bodily injury.



1 (b) The term does not include:

- 2 (1) a taser (as defined in IC 35-47-8-3);
 3 (2) an electronic stun weapon (as defined in IC 35-47-8-1);
 4 (3) a chemical designed to temporarily incapacitate a person;
 5 or
 6 (4) another device designed to temporarily incapacitate a
 7 person;

8 if the device described in subdivisions (1) through (4) is used by a
 9 law enforcement officer who has been trained in the use of the
 10 device and who uses the device in accordance with the law
 11 enforcement officer's training and while lawfully engaged in the
 12 execution of official duties.

13 Sec. 87. (a) "Dealer", for purposes of IC 35-43-4-2.3, has the
 14 meaning set forth in IC 35-43-4-2.3(a).

15 (b) "Dealer", for purposes of IC 35-47, has the meaning set
 16 forth in IC 35-47-1-3.

17 Sec. 88. "Delinquent act", for purposes of IC 35-40, has the
 18 meaning set forth in IC 35-40-4-4.

19 Sec. 89. "Delivery", for purposes of IC 35-48, has the meaning
 20 set forth in IC 35-48-1-11.

21 Sec. 90. (a) "Dependent", for purposes of IC 35-44-1-3, has the
 22 meaning set forth in IC 35-44-1-3(a)(1).

23 (b) "Dependent", for purposes of IC 35-46-1 has the meaning set
 24 forth in IC 35-46-1-1.

25 Sec. 91. "Designated offense", for purposes of IC 35-33.5, means
 26 the following:

- 27 (1) A Class A, Class B, or Class C felony that is a controlled
 28 substance offense (IC 35-48-4).
 29 (2) Murder (IC 35-42-1-1).
 30 (3) Kidnapping (IC 35-42-3-2).
 31 (4) Criminal confinement (IC 35-42-3-3).
 32 (5) Robbery (IC 35-42-5-1).
 33 (6) Arson (IC 35-43-1-1).
 34 (7) Child solicitation (IC 35-42-4-6).
 35 (8) Human and sexual trafficking crimes under IC 35-42-3.5.
 36 (9) Escape as a Class B felony or Class C felony
 37 (IC 35-44-3-5).
 38 (10) An offense that relates to a weapon of mass destruction
 39 (as defined in IC 35-41-1-29.4).
 40 (11) An attempt or conspiracy to commit an offense described
 41 in subdivisions (1) through (10).
 42 (12) An offense under the law of the United States or in
 43 another state or country that is substantially similar to an
 44 offense described in subdivisions (1) through (11).

45 Sec. 92. "Destructive device" has the meaning set forth in
 46 IC 35-47.5-2-4.



1 Sec. 93. "Detonator", for purposes of IC 35-47.5, has the
2 meaning set forth in IC 35-47.5-2-5.

3 Sec. 94. "Deviate sexual conduct" means an act involving:

4 (1) a sex organ of one (1) person and the mouth or anus of
5 another person; or

6 (2) the penetration of the sex organ or anus of a person by an
7 object.

8 Sec. 95. "Dispatched firefighter", for purposes of IC 35-44-4,
9 has the meaning set forth in IC 35-44-4-1.

10 Sec. 96. (a) Except as provided in subsection (b), "dispense", for
11 purposes of IC 35-48, has the meaning set forth in IC 35-48-1-12.

12 (b) "Dispense", for purposes of IC 35-48-7, has the meaning set
13 forth in IC 35-48-7-2.9(a).

14 Sec. 97. "Dispenser", for purposes of IC 35-48, has the meaning
15 set forth in IC 35-48-1-13.

16 Sec. 98. "Disseminate", for purposes of IC 35-42-4-4, has the
17 meaning set forth in IC 35-42-4-4(a).

18 Sec. 99. "Dissolvable tobacco product", for purposes of
19 IC 35-46-1 has the meaning set forth in IC 35-46-1-1.3.

20 Sec. 100. (a) "Distribute", for purposes of IC 35-46-1-10 has the
21 meaning set forth in IC 35-46-1-10(e).

22 (b) "Distribute", for purposes of IC 35-46-1-10.2 has the
23 meaning set forth in IC 35-46-1-10.2(e).

24 (c) "Distribute", for purposes of IC 35-47.5, has the meaning set
25 forth in IC 35-47.5-2-6.

26 (d) "Distribute", for purposes of IC 35-48, has the meaning set
27 forth in IC 35-48-1-14.

28 (e) "Distribute", for purposes of IC 35-49, has the meaning set
29 forth in IC 35-49-1-2.

30 Sec. 101. "Distributor", for purposes of IC 35-48, has the
31 meaning set forth in IC 35-48-1-15.

32 Sec. 102. "Documentary material", for purposes of IC 35-45-6
33 has the meaning set forth in IC 35-45-6-1(b).

34 Sec. 103. "Domestic animal", for purposes of IC 35-46-3-12(d)
35 has the meaning set forth in IC 35-46-3-12(d).

36 Sec. 104. (a) "Drug", for purposes of IC 35-48, has the meaning
37 set forth in IC 35-48-1-16.

38 (b) "Drug", for purposes of IC 35-50-2-10, has the meaning set
39 forth in IC 35-50-2-10(a)(1).

40 Sec. 105. "Drug abuser", for purposes of IC 35-47, has the
41 meaning set forth in IC 35-47-1-4.

42 Sec. 106. "Drug or alcohol screening test", for purposes of
43 IC 35-43-5, has the meaning set forth in IC 35-43-5-1(g).

44 Sec. 107. "Dwelling" means a building, structure, or other
45 enclosed space, permanent or temporary, movable or fixed, that is
46 a person's home or place of lodging.



1 Sec. 108. "Earliest possible release date", for purposes of
2 IC 35-38-3, has the meaning set forth in IC 35-38-3-1.

3 Sec. 109. "The effects of battery" refers to a psychological
4 condition of an individual who has suffered repeated physical or
5 sexual abuse inflicted by another individual who is the:

6 (1) victim of an alleged crime for which the abused individual
7 is charged in a pending prosecution; and

8 (2) abused individual's:

9 (A) spouse or former spouse;

10 (B) parent;

11 (C) guardian or former guardian;

12 (D) custodian or former custodian; or

13 (E) cohabitant or former cohabitant.

14 Sec. 110. "Electronic communication", for purposes of
15 IC 35-33.5, means any transfer of signs, signals, writing, images,
16 sounds, data, oral communication, digital information, or
17 intelligence of any nature transmitted in whole or in part by a wire,
18 a radio, or an electromagnetic, a photoelectronic, or a
19 photo-optical system.

20 Sec. 111. "Electronic gaming device", for purposes of IC 35-45-5
21 has the meaning set forth in IC 35-45-5-1(b).

22 Sec. 112. "Electronic stun weapon", for purposes of IC 35-47-8,
23 has the meaning set forth in IC 35-47-8-1.

24 Sec. 113. "Emergency call", for purposes of IC 35-45-2-3, has
25 the meaning set forth in IC 35-45-2-3(c).

26 Sec. 114. "Emergency incident area", for purposes of
27 IC 35-44-4, has the meaning set forth in IC 35-44-4-2.

28 Sec. 115. "Emergency medical person", for purposes of
29 IC 35-44-3-8.5, has the meaning set forth in IC 35-44-3-8.5(b).

30 Sec. 116. "Endangered adult", for purposes of IC 35-46-1 has
31 the meaning set forth in IC 35-46-1-1.

32 Sec. 117. "Endorsement contract", for purposes of IC 35-46-4
33 has the meaning set forth in IC 35-46-4-1.5.

34 Sec. 118. "Enterprise", for purposes of IC 35-45-6 has the
35 meaning set forth in IC 35-45-6-1(c).

36 Sec. 119. "Entrusted", for purposes of IC 35-43-5, has the
37 meaning set forth in IC 35-43-5-1(h).

38 Sec. 120. "Ephedrine", for purposes of IC 35-48-4-14.7, has the
39 meaning set forth in IC 35-48-4-14.7(b)(3).

40 Sec. 121. "Episode of criminal conduct", for purposes of
41 IC 35-50-1-2, has the meaning set forth in IC 35-50-1-2(b).

42 Sec. 122. "Evidence of a previous battery", for purposes of
43 IC 35-37-4-14, has the meaning set forth in IC 35-37-4-14(b).

44 Sec. 123. "Exception report", for purposes of IC 35-48-7, has
45 the meaning set forth in IC 35-48-7-4.

46 Sec. 124. "Exert control over property", for purposes of



1 IC 35-43-4, has the meaning set forth in IC 35-43-4-1(a).

2 Sec. 125. "Explosives", for purposes of IC 35-47.5, has the
3 meaning set forth in IC 35-47.5-2-7.

4 Sec. 126. "Extension", for purposes of IC 35-33.5, means an
5 extension of the duration for which a warrant remains effective
6 under IC 35-33.5.

7 Sec. 127. "Family housing complex" means a building or series
8 of buildings:

9 (1) that contains at least twelve (12) dwelling units:

10 (A) where children are domiciled or are likely to be
11 domiciled; and

12 (B) that are owned by a governmental unit or political
13 subdivision;

14 (2) that is operated as a hotel or motel (as described in
15 IC 22-11-18-1);

16 (3) that is operated as an apartment complex; or

17 (4) that contains subsidized housing.

18 Sec. 128. (a) An individual is a "family or household member"
19 of another person if the individual:

20 (1) is a current or former spouse of the other person;

21 (2) is dating or has dated the other person;

22 (3) is or was engaged in a sexual relationship with the other
23 person;

24 (4) is related by blood or adoption to the other person;

25 (5) is or was related by marriage to the other person;

26 (6) has or previously had an established legal relationship:

27 (A) as a guardian of the other person;

28 (B) as a ward of the other person;

29 (C) as a custodian of the other person;

30 (D) as a foster parent of the other person; or

31 (E) in a capacity with respect to the other person similar to
32 those listed in clauses (A) through (D); or

33 (7) has a child in common with the other person.

34 (b) An individual is a "family or household member" of both
35 persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5),
36 (a)(6), or (a)(7) applies if the individual is a minor child of one (1)
37 of the persons.

38 Sec. 129. "Federal enforcement officer" means any of the
39 following:

40 (1) A Federal Bureau of Investigation special agent.

41 (2) A United States Marshals Service marshal or deputy.

42 (3) A United States Secret Service special agent.

43 (4) A United States Fish and Wildlife Service special agent.

44 (5) A United States Drug Enforcement Agency agent.

45 (6) A Bureau of Alcohol, Tobacco, Firearms and Explosives
46 agent.



- 1 (7) A United States Forest Service law enforcement officer.
 2 (8) A United States Department of Defense police officer or
 3 criminal investigator.
 4 (9) A United States Customs Service agent.
 5 (10) A United States Postal Service investigator.
 6 (11) A National Park Service law enforcement commissioned
 7 ranger.
 8 (12) United States Department of Agriculture, Office of
 9 Inspector General special agent.
 10 (13) A United States Citizenship and Immigration Services
 11 special agent.
 12 (14) An individual who is:
 13 (A) an employee of a federal agency; and
 14 (B) authorized to make arrests and carry a firearm in the
 15 performance of the individual's official duties.
- 16 Sec. 130. "Felony conviction", for purposes of IC 35-50-2, has
 17 the meaning set forth in IC 35-50-2-1(b).
- 18 Sec. 131. "Fetal tissue", for purposes of IC 35-46-5-1, has the
 19 meaning set forth in IC 35-46-5-1(a).
- 20 Sec. 132. "Fetus", for purposes of IC 35-42-1-4, has the meaning
 21 set forth in IC 35-42-1-4(b).
- 22 Sec. 133. (a) Except as provided in subsection (b), "firearm", for
 23 purposes of IC 35-47, has the meaning set forth in IC 35-47-1-5.
 24 (b) "Firearm", for purposes of IC 35-47-15, has the meaning set
 25 forth in IC 35-47-15-1.
 26 (c) "Firearm, for purposes of IC 35-50-2-11, has the meaning set
 27 forth in IC 35-50-2-11(a).
- 28 Sec. 134. "Firearm accessory", for purposes of IC 35-47, has the
 29 meaning set forth in IC 35-47-1-5.1.
- 30 Sec. 135. (a) "Firefighter", for purposes of IC 35-42-2-6, has the
 31 meaning set forth in IC 35-42-2-6(b).
 32 (b) "Firefighter", for purposes of IC 35-44-4, has the meaning
 33 set forth in IC 35-44-4-3.
- 34 Sec. 136. "First responder", for purposes of IC 35-42-2-6, has
 35 the meaning set forth in IC 35-42-2-6(c).
- 36 Sec. 137. "Food processing facility" means a facility used to
 37 prepare or process animal, plant, or other food ingredients into
 38 food products intended for sale or distribution to the general public
 39 for human consumption.
- 40 Sec. 138. "Forcible felony" means a felony that involves the use
 41 or threat of force against a human being, or in which there is
 42 imminent danger of bodily injury to a human being.
- 43 Sec. 139. "Forensic DNA analysis", for purposes of
 44 IC 35-37-4-13, has the meaning set forth in IC 35-37-4-13(a).
- 45 Sec. 140. "Gain", for purposes of IC 35-45-5 has the meaning set
 46 forth in IC 35-45-5-1(c).



1 Sec. 141. "Gambling", for purposes of IC 35-45-5 has the
2 meaning set forth in IC 35-45-5-1(d).

3 Sec. 142. "Gambling device", for purposes of IC 35-45-5 has the
4 meaning set forth in IC 35-45-5-1(e).

5 Sec. 143. "Gambling information", for purposes of IC 35-45-5
6 has the meaning set forth in IC 35-45-5-1(f).

7 Sec. 144. "Governmental entity" means:

8 (1) the United States or any state, county, township, city,
9 town, separate municipal corporation, special taxing district,
10 or public school corporation;

11 (2) any authority, board, bureau, commission, committee,
12 department, division, hospital, military body, or other
13 instrumentality of any of those entities; or

14 (3) a state-assisted college or state-assisted university.

15 Sec. 145. "Governmental entity served by the public servant",
16 for purposes of IC 35-44-1-3, has the meaning set forth in
17 IC 35-44-1-3(a)(2).

18 Sec. 146. "Graffiti" means any unauthorized inscription, work,
19 figure, or design that is marked, etched, scratched, drawn, or
20 painted on a component of any building, structure, or other
21 facility.

22 Sec. 147. "Gun show", for purposes of IC 35-47, has the
23 meaning set forth in IC 35-47-1-5.5.

24 Sec. 148. "Handgun", for purposes of IC 35-47, has the meaning
25 set forth in IC 35-47-1-6.

26 Sec. 149. "Harm" means loss, disadvantage, or injury or
27 anything so regarded by the person affected, including loss,
28 disadvantage, or injury to any other person in whose welfare the
29 person is interested.

30 Sec. 150. "Harassment", for purposes of IC 35-45-10 has the
31 meaning set forth in IC 35-45-10-2.

32 Sec. 151. "Hazing", for purposes of IC 35-42-2-2, has the
33 meaning set forth in IC 35-42-2-2(a).

34 Sec. 152. "Health care provider", for purposes of IC 35-46-7,
35 has the meaning set forth in IC 35-46-7-1.

36 Sec. 153. "Hoarding program", for purposes of IC 35-43-2-3,
37 has the meaning set forth in IC 35-43-2-3(a).

38 Sec. 154. "Hoax device", for purposes of IC 35-47.5, has the
39 meaning set forth in IC 35-47.5-2-8.

40 Sec. 155. (a) "Home", for purposes of IC 35-38-2.5, has the
41 meaning set forth in IC 35-38-2.5-2.

42 (b) "Home", for purposes of IC 35-38-2.6-6, has the meaning set
43 forth in IC 35-38-2.6-6(a).

44 Sec. 156. "Home improvement", for purposes of IC 35-43-6, has
45 the meaning set forth in IC 35-43-6-3.

46 Sec. 157. "Home improvement contract", for purposes of



- 1 IC 35-43-6, has the meaning set forth in IC 35-43-6-4.
 2 Sec. 158. "Home improvement contract price", for purposes of
 3 IC 35-43-6, has the meaning set forth in IC 35-43-6-5.
 4 Sec. 159. "Home improvement supplier", for purposes of
 5 IC 35-43-6, has the meaning set forth in IC 35-43-6-6.
 6 Sec. 160. "Human being" means an individual who has been
 7 born and is alive.
 8 Sec. 161. "Human organ", for purposes of IC 35-46-5-1, has the
 9 meaning set forth in IC 35-46-5-1(b).
 10 Sec. 162. "Identification number", for purposes of IC 35-43-7,
 11 has the meaning set forth in IC 35-43-7-2.
 12 Sec. 163. "Identify theft", for the purposes of IC 35-40-14, has
 13 the meaning set forth in IC 35-40-14-1.
 14 Sec. 164. "Identifying information", for purposes of IC 35-43-5,
 15 has the meaning set forth in IC 35-43-5-1(i).
 16 Sec. 165. "Individual with mental retardation", for purposes of
 17 IC 35-50-2, has the meaning set forth in IC 35-50-2-1.5.
 18 Sec. 166. "Immediate precursor", for purposes of IC 35-48, has
 19 the meaning set forth in IC 35-48-1-17.
 20 Sec. 167. "Imprison" means to:
 21 (1) confine in a penal facility;
 22 (2) commit to the department of correction; or
 23 (3) assign to a community transition program under
 24 IC 11-10-11.5.
 25 Sec. 168. "Incendiary", for purposes of IC 35-47.5, has the
 26 meaning set forth in IC 35-47.5-2-9.
 27 Sec. 169. "Included offense" means an offense that:
 28 (1) is established by proof of the same material elements or
 29 less than all the material elements required to establish the
 30 commission of the offense charged;
 31 (2) consists of an attempt to commit the offense charged or an
 32 offense otherwise included therein; or
 33 (3) differs from the offense charged only in the respect that a
 34 less serious harm or risk of harm to the same person,
 35 property, or public interest, or a lesser kind of culpability, is
 36 required to establish its commission.
 37 Sec. 170. (a) "Individual with mental retardation", for purposes
 38 of IC 35-36-2-5(e), has the meaning set forth in IC 35-36-2-5(e).
 39 (b) "Individual with mental retardation", for purposes of
 40 IC 35-36-9, means an individual who, before becoming twenty-two
 41 (22) years of age, manifests:
 42 (1) significantly subaverage intellectual functioning; and
 43 (2) substantial impairment of adaptive behavior;
 44 that is documented in a court ordered evaluative report.
 45 Sec. 171. "Inmate", for purposes of IC 35-43-5-20, has the
 46 meaning set forth in IC 35-43-5-20(a).



1 Sec. 172. "Inmate outside a facility", for purposes of
2 IC 35-44-3-9.3 has the meaning set forth in IC 35-44-3-9.3(b).

3 Sec. 173. "INSPECT", for purposes of IC 35-48-7, has the
4 meaning set forth in IC 35-48-7-5.2.

5 Sec. 174. "Instant messaging or chat room program", for
6 purposes of IC 35-42-4-12, has the meaning set forth in
7 IC 35-42-4-12(c).

8 Sec. 175. "Insurer", for purposes of IC 35-43-5, has the meaning
9 set forth in IC 35-43-5-1(k).

10 Sec. 176. "Interactive computer service", for purposes of
11 IC 35-45-5 has the meaning set forth in IC 35-45-5-1(g).

12 Sec. 177. "Interception", for purposes of IC 35-33.5, means the
13 intentional recording or acquisition of the contents of an electronic
14 communication by a person other than a sender or receiver of that
15 communication, without the consent of the sender or receiver, by
16 means of any instrument, device, or equipment under this article.
17 This term includes the intentional recording or acquisition of
18 communication through the use of a computer or a FAX (facsimile
19 transmission) machine. The term does not include recording or
20 acquiring the contents of a radio transmission that is not:

- 21 (1) scrambled or encrypted;
- 22 (2) transmitted using modulation techniques whose essential
23 parameters have been withheld from the public with the
24 intention of preserving the privacy of the communication;
- 25 (3) carried on a subcarrier or other signal subsidiary to a
26 radio transmission;
- 27 (4) transmitted over a communication system provided by a
28 common carrier, unless the communication is a tone only
29 paging system communication; or
- 30 (5) transmitted on frequencies allocated under part 25,
31 subpart D, E, or F of part 74, or part 94 of the Rules of the
32 Federal Communications Commission, unless, in the case of
33 a communication transmitted on a frequency allocated under
34 part 74 that is not exclusively allocated to broadcast auxiliary
35 services, the communication is a two-way voice
36 communication by radio.

37 Sec. 178. "Item of value", for purposes of IC 35-46-5-1, has the
38 meaning set forth in IC 35-46-5-1(c).

39 Sec. 179. "Juvenile facility", for purposes of IC 35-44-3-9, has
40 the meaning set forth in IC 35-44-3-9(a).

41 Sec. 180. "Key facility" means any of the following:

- 42 (1) A chemical manufacturing facility.
- 43 (2) A refinery.
- 44 (3) An electric utility facility, including:
 - 45 (A) a power plant;
 - 46 (B) a power generation facility peaker;



- 1 (C) an electric transmission facility;
 2 (D) an electric station or substation; or
 3 (E) any other facility used to support the generation,
 4 transmission, or distribution of electricity.

5 However, the term does not include electric transmission land
 6 or right-of-way that is not completely enclosed, posted, and
 7 maintained by the electric utility.

8 (4) A water intake structure or water treatment facility.

9 (5) A natural gas utility facility, including:

- 10 (A) an age station;
 11 (B) a compressor station;
 12 (C) an odorization facility;
 13 (D) a main line valve;
 14 (E) a natural gas storage facility; or
 15 (F) any other facility used to support the acquisition,
 16 transmission, distribution, or storage of natural gas.

17 However, the term does not include gas transmission
 18 pipeline property that is not completely enclosed, posted,
 19 and maintained by the natural gas utility.

20 (6) A gasoline, propane, liquid natural gas (LNG), or other
 21 fuel terminal or storage facility.

22 (7) A transportation facility, including, but not limited to, a
 23 port, railroad switching yard, or trucking terminal. However,
 24 the term does not include a railroad track that is not part of
 25 a railroad switching yard.

26 (8) A pulp or paper manufacturing facility.

27 (9) A pharmaceutical manufacturing facility.

28 (10) A hazardous waste storage, treatment, or disposal
 29 facility.

30 (11) A telecommunications facility, including a central office
 31 or cellular telephone tower site.

32 (12) A facility:

33 (A) that is substantially similar to a facility, structure, or
 34 station listed in this section; or

35 (B) whose owner or operator is required to submit a risk
 36 management plan under the federal Chemical Safety
 37 Information, Site Security and Fuels Regulatory Relief Act
 38 (42 U.S.C. 7412(r)).

39 Sec. 181. "Knife", for purposes of IC 35-47-5-2.5, has the
 40 meaning set forth in IC 35-47-5-2.5(a).

41 Sec. 182. "Labeling", for purposes of IC 35-45-8, has the
 42 meaning set forth in IC 35-45-8-2.

43 Sec. 183. "Laser pointer", for purposes of IC 35-47-4.5, has the
 44 meaning set forth in IC 35-47-4.5-2.

45 Sec. 184. "Law enforcement agency", for purposes of
 46 IC 35-47-15, has the meaning set forth in IC 35-47-15-2.



1 **Sec. 185. "Law enforcement animal", for purposes of IC 35-46-3**
 2 **has the meaning set forth in IC 35-46-3-4.5.**

3 **Sec. 186. "Law enforcement officer" means:**

4 (1) a police officer (including a correctional police officer),
 5 sheriff, constable, marshal, prosecuting attorney, special
 6 prosecuting attorney, special deputy prosecuting attorney, the
 7 securities commissioner, or the inspector general;

8 (2) a deputy of any of those persons;

9 (3) an investigator for a prosecuting attorney or for the
 10 inspector general;

11 (4) a conservation officer;

12 (5) an enforcement officer of the alcohol and tobacco
 13 commission; or

14 (6) an enforcement officer of the securities division of the
 15 office of the secretary of state.

16 **Sec. 187. (a) "Lawful detention" means:**

17 (1) arrest;

18 (2) custody following surrender in lieu of arrest;

19 (3) detention in a penal facility;

20 (4) detention in a facility for custody of persons alleged or
 21 found to be delinquent children;

22 (5) detention under a law authorizing civil commitment in lieu
 23 of criminal proceedings or authorizing such detention while
 24 criminal proceedings are held in abeyance;

25 (6) detention for extradition or deportation;

26 (7) placement in a community corrections program's
 27 residential facility;

28 (8) electronic monitoring;

29 (9) custody for purposes incident to any of the above including
 30 transportation, medical diagnosis or treatment, court
 31 appearances, work, or recreation; or

32 (10) any other detention for law enforcement purposes.

33 (b) Except as provided in subsection (a)(7) and (a)(8), the term
 34 does not include supervision of a person on probation or parole or
 35 constraint incidental to release with or without bail.

36 **Sec. 188. "Licensed health professional", for purposes of**
 37 **IC 35-42-2-8, has the meaning set forth in IC 35-42-2-8(a)(2).**

38 **Sec. 189. "Loaded", for purposes of IC 35-47-10, has the**
 39 **meaning set forth in IC 35-47-10-4.**

40 **Sec. 190. "Loan", for purposes of IC 35-45-7 has the meaning**
 41 **set forth in IC 35-45-7-1.**

42 **Sec. 191. "Machine gun" means a weapon that:**

43 (1) shoots; or

44 (2) can be readily restored to shoot;

45 automatically more than one (1) shot, without manual reloading,
 46 by a single function of the trigger.



- 1 Sec. 192. "Make", for purposes of IC 35-43-5, has the meaning
2 set forth in IC 35-43-5-1(m).
- 3 Sec. 193. "Manufacture", for purposes of IC 35-48, has the
4 meaning set forth in IC 35-48-1-18.
- 5 Sec. 194. "Manufacture of an unlawful telecommunications
6 device", for purposes of IC 35-45-13 has the meaning set forth in
7 IC 35-45-13-1.
- 8 Sec. 195. "Manufacturer", for purposes of IC 35-43-5, has the
9 meaning set forth in IC 35-43-5-1(l).
- 10 Sec. 196. "Marijuana", for purposes of IC 35-48, has the
11 meaning set forth in IC 35-48-1-19.
- 12 Sec. 197. (a) "Matter ", for purposes of IC 35-42-4-4, has the
13 meaning set forth in IC 35-42-4-4(a).
- 14 (b) "Matter", for purposes of IC 35-49, has the meaning set
15 forth in IC 35-49-1-3.
- 16 Sec. 198. "Mental disease or defect", for purposes of
17 IC 35-41-3-6, has the meaning set forth in IC 35-41-3-6(b).
- 18 Sec. 199. "Mentally ill", for purposes of IC 35-36, has the
19 meaning set forth in IC 35-36-1-1.
- 20 Sec. 200. "Metering device", for purposes of IC 35-43-5, has the
21 meaning set forth in IC 35-43-5-1(n).
- 22 Sec. 201. "Military recruiter", for purposes of IC 35-42-4-7, has
23 the meaning set forth in IC 35-42-4-7(f).
- 24 Sec. 202. "Minimum sentence", for purposes of IC 35-50-2, has
25 the meaning set forth in IC 35-50-2-1(c).
- 26 Sec. 203. "Minor", for purposes of IC 35-49, has the meaning set
27 forth in IC 35-49-1-4.
- 28 Sec. 204. "Misconduct", for purposes of IC 35-44-2-2, has the
29 meaning set forth in IC 35-44-2-2(b).
- 30 Sec. 205. "Model glue", for purposes of IC 35-46-6, has the
31 meaning set forth in IC 35-46-6-1.
- 32 Sec. 206. "Monitoring device", for purposes of IC 35-38-2.5, has
33 the meaning set forth in IC 35-38-2.5-3.
- 34 Sec. 207. "Motion picture exhibition facility" has the meaning
35 set forth in IC 35-46-8-3.
- 36 Sec. 208. "Motor vehicle" has the meaning set forth in
37 IC 9-13-2-105(a).
- 38 Sec. 209. "Mutilate", for purposes of IC 35-46-3, has the
39 meaning set forth in IC 35-46-3-0.5(3).
- 40 Sec. 210. "Narcotic drug", for purposes of IC 35-48, has the
41 meaning set forth in IC 35-48-1-20.
- 42 Sec. 211. "Neglect", for purposes of IC 35-46-3, has the meaning
43 set forth in IC 35-46-3-0.5(4).
- 44 Sec. 212. "Nonpublic school", for purposes of IC 35-42-4-7, has
45 the meaning set forth in IC 35-42-4-7(g).
- 46 Sec. 213. (a) "Nudity", for purposes of IC 35-45-4-1 and



1 IC 35-45-4-1.5, has the meaning set forth in IC 35-45-4-1(d).

2 (b) "Nudity", for purposes of IC 35-49, has the meaning set
3 forth in IC 35-49-1-5.

4 Sec. 214. (a) "Offender", for purposes of IC 35-38-2-2.5, has the
5 meaning set forth in IC 35-38-2-2.5(a).

6 (b) "Offender", for purposes of IC 35-38-2.5, has the meaning
7 set forth in IC 35-38-2.5-4.

8 Sec. 215. (a) "Offender against children", for purposes of
9 IC 35-42-4-10, has the meaning set forth in IC 35-42-4-10(a).

10 (b) "Offender against children", for purposes of IC 35-42-4-11,
11 has the meaning set forth in IC 35-42-4-11(a).

12 Sec. 216. (a) Except as provided in subsections (b) and (c),
13 "offense" means a crime. The term does not include an infraction.

14 (b) "Offense", for purposes of IC 35-38-7, has the meaning set
15 forth in IC 35-38-7-3.

16 (c) "Offense", for purposes of IC 35-50-2-11, has the meaning
17 set forth in IC 35-50-2-11(b).

18 Sec. 217. "Offense relating to controlled substances" means the
19 following:

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

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

23 (3) Dealing in a schedule I, II, or III controlled substance
24 (IC 35-48-4-2).

25 (4) Dealing in a schedule IV controlled substance
26 (IC 35-48-4-3).

27 (5) Dealing in a schedule V controlled substance
28 (IC 35-48-4-4).

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

30 (7) Possession of methamphetamine (IC 35-48-4-6.1).

31 (8) Possession of a controlled substance (IC 35-48-4-7).

32 (9) Possession of paraphernalia (IC 35-48-4-8.3).

33 (10) Dealing in paraphernalia (IC 35-48-4-8.5).

34 (11) Offenses relating to registration (IC 35-48-4-14).

35 Sec. 218. "Offense relating to a criminal sexual act" means the
36 following:

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

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

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

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

41 (5) Prostitution (IC 35-45-4-2).

42 (6) Patronizing a prostitute (IC 35-45-4-3).

43 (7) Incest (IC 35-46-1-3).

44 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).

45 Sec. 219. "Official proceeding" means a proceeding held or that
46 may be held before a legislative, judicial, administrative, or other



1 agency or before an official authorized to take evidence under oath,
2 including a referee, hearing examiner, commissioner, notary, or
3 other person taking evidence in connection with a proceeding.

4 Sec. 220. "Operator", for purposes of IC 35-45-5 has the
5 meaning set forth in IC 35-45-5-1(h).

6 Sec. 221. "Opiate", for purposes of IC 35-48, has the meaning
7 set forth in IC 35-48-1-21.

8 Sec. 222. "Opium poppy", for purposes of IC 35-48, has the
9 meaning set forth in IC 35-48-1-22.

10 Sec. 223. "Overpass", for purposes of IC 35-42-2-5, has the
11 meaning set forth in IC 35-42-2-5(a).

12 Sec. 224. "Overpressure device", for purposes of IC 35-47.5, has
13 the meaning set forth in IC 35-47.5-2-11.

14 Sec. 225. (a) "Owner", for purposes of IC 35-43-1-3, has the
15 meaning set forth in IC 35-43-1-3(a).

16 (b) "Owner", for purposes of IC 35-49, has the meaning set
17 forth in IC 35-49-1-6.

18 Sec. 226. "Panhandling", for purposes of IC 35-45-17 has the
19 meaning set forth in IC 35-45-17-1.

20 Sec. 227. "Party", for purposes of IC 35-43-9, has the meaning
21 set forth in IC 35-43-9-1.

22 Sec. 228. "Pattern of racketeering activity", for purposes of
23 IC 35-45-6 has the meaning set forth in IC 35-45-6-1(d).

24 Sec. 229. "Party line", for purposes of IC 35-45-2-3, has the
25 meaning set forth in IC 35-45-2-3(b).

26 Sec. 230. "Patient", for purposes of IC 35-48-7, has the meaning
27 set forth in IC 35-48-7-5.6.

28 Sec. 231. (a) "Pecuniary interest", for purposes of IC 35-44-1-3,
29 has the meaning set forth in IC 35-44-1-3(a)(3).

30 (b) "Pecuniary interest", for purposes of IC 35-44-1-7, has the
31 meaning set forth in IC 35-44-1-7(a).

32 Sec. 232. "Peep", for purposes of IC 35-45-4-5 has the meaning
33 set forth in IC 35-45-4-5(a)(2).

34 Sec. 233. "Penal facility" means state prison, correctional
35 facility, county jail, penitentiary, house of correction, or any other
36 facility for confinement of persons under sentence, or awaiting trial
37 or sentence, for offenses. The term includes a correctional facility
38 constructed under IC 4-13.5.

39 Sec. 234. (a) "Performance", for purposes of IC 35-42-4-4, has
40 the meaning set forth in IC 35-42-4-4(a).

41 (b) "Performance", for purposes of IC 35-49, has the meaning
42 set forth in IC 35-49-1-7.

43 Sec. 235. (a) "Person" means a human being, corporation,
44 limited liability company, partnership, unincorporated association,
45 or governmental entity.

46 (b) "Person", for purposes of IC 35-41-1-10.6, means an adult



1 or a minor.

2 (c) "Person", for purposes of IC 35-43-6, has the meaning set
3 forth in IC 35-43-6-7.

4 (d) "Person", for purposes of IC 35-43-9, has the meaning set
5 forth in IC 35-43-9-2.

6 Sec. 236. "Personally identifying information", for purposes of
7 IC 35-37-6, has the meaning set forth in IC 35-37-6-2.5(a).

8 Sec. 237. "Plea agreement", for purposes of IC 35-35-3, means
9 an agreement between a prosecuting attorney and a defendant
10 concerning the disposition of a felony or misdemeanor charge.

11 Sec. 238. "Police radio", for purposes of IC 35-44-3-12, has the
12 meaning set forth in IC 35-44-3-12(c).

13 Sec. 239. "Polygraph" means a device that permanently and
14 simultaneously records, at a minimum, an individual's:

15 (1) cardiovascular and respiratory patterns; and

16 (2) galvanic skin responses;

17 in order to determine truthfulness.

18 Sec. 240. "Poppy straw", for purposes of IC 35-48, has the
19 meaning set forth in IC 35-48-1-23.

20 Sec. 241. "Postarrest release", for purposes of IC 35-40, has the
21 meaning set forth in IC 35-40-4-5.

22 Sec. 242. "Postconviction release", for purposes of IC 35-40, has
23 the meaning set forth in IC 35-40-4-6.

24 Sec. 243. (a) Except as provided in subsections (b) and (c),
25 "practitioner", for purposes of IC 35-48, has the meaning set forth
26 in IC 35-48-1-24.

27 (b) "Practitioner", for purposes of IC 35-42-2-8, has the
28 meaning set forth in IC 35-42-2-8(a)(3).

29 (c) "Practitioner", for purposes of IC 35-48-7, has the meaning
30 set forth in IC 35-48-7-5.8.

31 Sec. 244. "Prescription", for purposes of IC 35-45-20 has the
32 meaning set forth in IC 35-45-20-1.

33 Sec. 245. "Prescription drug", for purposes of IC 35-48, has the
34 meaning set forth in IC 35-48-1-25.

35 Sec. 246. "Principal", for purposes of IC 35-45-7 has the
36 meaning set forth in IC 35-45-7-1.

37 Sec. 247. "Private area", for purposes of IC 35-45-4-5 has the
38 meaning set forth in IC 35-45-4-5(a)(3).

39 Sec. 248. "Proceeds", for purposes of IC 35-45-15 has the
40 meaning set forth in IC 35-45-15-4.

41 Sec. 249. "Product", for purposes of IC 35-43-7, has the
42 meaning set forth in IC 35-43-7-3.

43 Sec. 250. "Professional sports services contract", for purposes
44 of IC 35-46-4 has the meaning set forth in IC 35-46-4-2.

45 Sec. 251. "Profit", for purposes of IC 35-45-5 has the meaning
46 set forth in IC 35-45-5-1(i).



1 **Sec. 252. "Proper person", for purposes of IC 35-47, has the**
 2 **meaning set forth in IC 35-47-1-7.**

3 **Sec. 253. "Proper reason", for purposes of IC 35-47, has the**
 4 **meaning set forth in IC 35-47-1-8.**

5 **Sec. 254. (a) Except as provided in subsection (c), "property"**
 6 **means anything of value. The term includes:**

7 (1) a gain or advantage or anything that might reasonably be
 8 regarded as such by the beneficiary;

9 (2) real property, personal property, money, labor, and
 10 services;

11 (3) intangibles;

12 (4) commercial instruments;

13 (5) written instruments concerning labor, services, or
 14 property;

15 (6) written instruments otherwise of value to the owner, such
 16 as a public record, deed, will, credit card, or letter of credit;

17 (7) a signature to a written instrument;

18 (8) extension of credit;

19 (9) trade secrets;

20 (10) contract rights, choses-in-action, and other interests in or
 21 claims to wealth;

22 (11) electricity, gas, oil, and water;

23 (12) captured or domestic animals, birds, and fish;

24 (13) food and drink; and

25 (14) human remains.

26 **(b) Property is that "of another person" if the other person has**
 27 **a possessory or proprietary interest in it, even if an accused person**
 28 **also has an interest in that property.**

29 **(c) "Property", for purposes of IC 35-47.5, has the meaning set**
 30 **forth in IC 35-47.5-2-12.**

31 **Sec. 255. "Prosecuting attorney", for purposes of IC 35-35-3,**
 32 **includes a deputy prosecuting attorney.**

33 **Sec. 256. "Protected person", for purposes of IC 35-37-4, has**
 34 **the meaning set forth in IC 35-37-4-6(c).**

35 **Sec. 257. "Pseudoephedrine", for purposes of IC 35-48-4-14.7,**
 36 **has the meaning set forth in IC 35-48-4-14.7(b)(4).**

37 **Sec. 258. "Public court proceeding", for purposes of IC 35-40,**
 38 **has the meaning set forth in IC 35-40-4-7.**

39 **Sec. 259. "Public park" means any property operated by a**
 40 **political subdivision for park purposes (as defined in IC 36-10-1-2).**

41 **Sec. 260. "Public relief or assistance", for purposes of**
 42 **IC 35-43-5, has the meaning set forth in IC 35-43-5-1(o).**

43 **Sec. 261. "Public safety officer", for purposes of IC 35-45-19 has**
 44 **the meaning set forth in IC 35-45-19-2.**

45 **Sec. 262. "Public servant" means a person who:**

46 (1) is authorized to perform an official function on behalf of,



- 1 and is paid by, a governmental entity;
 2 (2) is elected or appointed to office to discharge a public duty
 3 for a governmental entity; or
 4 (3) with or without compensation, is appointed in writing by
 5 a public official to act in an advisory capacity to a
 6 governmental entity concerning a contract or purchase to be
 7 made by the entity.

8 The term does not include a person appointed by the governor to
 9 an honorary advisory or honorary military position.

10 Sec. 263. "Publicly paid costs of representation" means the
 11 portion of all attorney's fees, expenses, or wages incurred by the
 12 county that are:

- 13 (1) directly attributable to the defendant's defense; and
 14 (2) not overhead expenditures made in connection with the
 15 maintenance or operation of a governmental agency.

16 Sec. 264. "Public safety officer", for purposes of IC 35-47-4.5,
 17 has the meaning set forth in IC 35-47-4.5-3.

18 Sec. 265. "Publish", for purposes of IC 35-45-13 has the
 19 meaning set forth in IC 35-45-13-2.

20 Sec. 266. "Racketeering activity", for purposes of IC 35-45-6
 21 has the meaning set forth in IC 35-45-6-1(e).

22 Sec. 267. "Rate", for purposes of IC 35-45-7 has the meaning set
 23 forth in IC 35-45-7-1.

24 Sec. 268. "Rated capacity", for purposes of IC 35-38-3, has the
 25 meaning set forth in IC 35-38-3-1.

26 Sec. 269. "Receiving", for purposes of IC 35-43-4-1, has the
 27 meaning set forth in IC 35-43-4-1(c).

28 Sec. 270. "Receiving authority", for purposes of IC 35-38-3, has
 29 the meaning set forth in IC 35-38-3-1.

30 Sec. 271. "Recipient", for purposes of IC 35-48-7, has the
 31 meaning set forth in IC 35-48-7-6.

32 Sec. 272. "Recipient representative", for purposes of IC 35-48-7,
 33 has the meaning set forth in IC 35-48-7-7.

34 Sec. 273. "Recommendation", for purposes of IC 35-35-3, means
 35 a proposal that is part of a plea agreement made to a court that:

- 36 (1) a felony charge be dismissed; or
 37 (2) a defendant, if the defendant pleads guilty to a felony
 38 charge, receive less than the advisory sentence.

39 Sec. 274. "Recording", for purposes of IC 35-43-5, has the
 40 meaning set forth in IC 35-43-5-1(p).

41 Sec. 275. "Replica", for purposes of IC 35-47.5, has the meaning
 42 set forth in IC 35-47.5-2-8.

43 Sec. 276. "Reside", for purposes of IC 35-42-4-11, has the
 44 meaning set forth in IC 35-42-4-11(b).

45 Sec. 277. "Residential property", for purposes of IC 35-43-6,
 46 has the meaning set forth in IC 35-43-6-1.



1 **Sec. 278. "Residential property transaction", for purposes of**
2 **IC 35-43-9, has the meaning set forth in IC 35-43-9-3.**

3 **Sec. 279. "Retail", for purposes of IC 35-47, has the meaning set**
4 **forth in IC 35-47-1-9.**

5 **Sec. 280. "Retailer", for purposes of IC 35-48-4-14.7, has the**
6 **meaning set forth in IC 35-48-4-14.7(b)(5).**

7 **Sec. 281. "Sado-masochistic abuse", for purposes of IC 35-49,**
8 **has the meaning set forth in IC 35-49-1-8.**

9 **Sec. 282. (a) "Salvia" means salvia divinorum or salvinorin A,**
10 **including:**

11 **(1) all parts of the plant that are classified botanically as**
12 **salvia divinorum, whether growing or not;**

13 **(2) the seeds of the plant;**

14 **(3) any extract from any part of the plant; and**

15 **(4) every compound, manufacture, derivative, mixture, or**
16 **preparation of the plant, its seeds, or extracts, including its**
17 **salts, isomers, and salts of isomers whenever the existence of**
18 **such salts, isomers, and salts of isomers is possible within the**
19 **specific chemical designation of the plant, its seeds, or**
20 **extracts.**

21 **(b) The term does not include any other species in the genus**
22 **salvia.**

23 **Sec. 283. "Sawed-off shotgun", for purposes of IC 35-47, has the**
24 **meaning set forth in IC 35-47-1-10.**

25 **Sec. 284. "School bus" means any motor vehicle designed and**
26 **constructed for the accommodation of more than ten (10)**
27 **passengers, which is used for the transportation of Indiana school**
28 **children.**

29 **Sec. 285. "School corporation", for purposes of IC 35-42-4-7,**
30 **has the meaning set forth in IC 35-42-4-7(h).**

31 **Sec. 286. "School property" means the following:**

32 **(1) A building or other structure owned or rented by:**

33 **(A) a school corporation;**

34 **(B) an entity that is required to be licensed under**
35 **IC 12-17.2 or IC 31-27;**

36 **(C) a private school that is not supported and maintained**
37 **by funds realized from the imposition of a tax on property,**
38 **income, or sales; or**

39 **(D) a federal, state, local, or nonprofit program or service**
40 **operated to serve, assist, or otherwise benefit children who**
41 **are at least three (3) years of age and not yet enrolled in**
42 **kindergarten, including the following:**

43 **(i) A Head Start program under 42 U.S.C. 9831 et seq.**

44 **(ii) A special education preschool program.**

45 **(iii) A developmental child care program for preschool**
46 **children.**



- 1 (2) The grounds adjacent to and owned or rented in common
2 with a building or other structure described in subdivision (1).
3 Sec. 287. "Scientific purposes", for purposes of IC 35-43-1-3,
4 has the meaning set forth in IC 35-43-1-3(a).
5 Sec. 288. "Scientific research facility" means a facility in which
6 research is conducted.
7 Sec. 289. "Search and rescue dog", for purposes of
8 IC 35-46-3-11.3 has the meaning set forth in IC 35-46-3-11.3(a).
9 Sec. 290. "Security agent" means a person who has been
10 employed by a store to prevent the loss of property due to theft.
11 Sec. 291. "Security risk", for purposes of IC 35-38-2.5, has the
12 meaning set forth in IC 35-38-2.5-4.5.
13 Sec. 292. "Self-service display", for purposes of IC 35-46-1-11.8,
14 has the meaning set forth in IC 35-46-1-11.8.
15 Sec. 293. "Serious bodily injury" means bodily injury that
16 creates a substantial risk of death or that causes:
17 (1) serious permanent disfigurement;
18 (2) unconsciousness;
19 (3) extreme pain;
20 (4) permanent or protracted loss or impairment of the
21 function of a bodily member or organ; or
22 (5) loss of a fetus.
23 Sec. 294. "Serious violent felon", for purposes of IC 35-47-4-5,
24 has the meaning set forth in IC 35-47-4-5(a).
25 Sec. 294.5. "Serious violent felony", for purposes of
26 IC 35-47-4-5, has the meaning set forth in IC 35-47-4-5(b).
27 Sec. 295. "Service animal", for purposes of IC 35-46-3-11.5 has
28 the meaning set forth in IC 35-46-3-11.5(a).
29 Sec. 296. "Service provider", for purposes of IC 35-44-1-5, has
30 the meaning set forth in IC 35-44-1-5(a).
31 Sec. 297. (a) "Sex offense", for purposes of IC 35-38-2-2.5, has
32 the meaning set forth in IC 35-38-2-2.5(b).
33 (b) "Sex offense", for purposes of IC 35-50-2-14, has the
34 meaning set forth in IC 35-50-2-14(a).
35 Sec. 298. "Sex offense against a child", for purposes of
36 IC 35-50-2, has the meaning set forth in IC 35-50-2-1.8.
37 Sec. 299. "Sexual activity", for purposes of IC 35-42-4-13, has
38 the meaning set forth in IC 35-42-4-13(b).
39 Sec. 300. (a) "Sexual conduct", for purposes of IC 35-42-4-4, has
40 the meaning set forth in IC 35-42-4-4(a).
41 (b) "Sexual conduct", for purposes of IC 35-49, has the meaning
42 set forth in IC 35-49-1-9.
43 Sec. 301. "Sexual excitement", for purposes of IC 35-49, has the
44 meaning set forth in IC 35-49-1-10.
45 Sec. 302. "Sexual intercourse" means an act that includes any
46 penetration of the female sex organ by the male sex organ.



1 Sec. 303. "Sexually violent predator defendant", for purposes of
2 IC 35-33-8-3.5, has the meaning set forth in IC 35-33-8-3.5(b).

3 Sec. 304. (a) "Sexually violent predator", for purposes of
4 IC 35-38-1-7.5, has the meaning set forth in IC 35-38-1-7.5(a).

5 (b) "Sexually violent predator, for purposes of IC 35-42-4-10,
6 has the meaning set forth in IC 35-42-4-10(b).

7 Sec. 305. "Shotgun", for purposes of IC 35-47, has the meaning
8 set forth in IC 35-47-1-11.

9 Sec. 306. "Slug", for purposes of IC 35-43-5, has the meaning set
10 forth in IC 35-43-5-1(q).

11 Sec. 307. "Social networking web site" for purposes of
12 IC 35-42-4-12, has the meaning set forth in IC 35-42-4-12(d).

13 Sec. 308. "Solicit", for purposes of IC 35-42-4-6, has the
14 meaning set forth in IC 35-42-4-6(a).

15 Sec. 309. "Special education cooperative", for purposes of
16 IC 35-42-4-7, has the meaning set forth in IC 35-42-4-7(i).

17 Sec. 310. "Stalk", for purposes of IC 35-45-10 has the meaning
18 set forth in IC 35-45-10-1.

19 Sec. 311. "State", for purposes of IC 35-48-7, has the meaning
20 set forth in IC 35-48-7-7.5.

21 Sec. 312. "State or federally chartered or federally insured
22 financial institution", for purposes of IC 35-43-5-8, has the
23 meaning set forth in IC 35-43-5-8(b).

24 Sec. 313. "Stepparent", for purposes of IC 35-42-4-7, has the
25 meaning set forth in IC 35-42-4-7(j).

26 Sec. 314. "Store" means a place of business where property or
27 service with respect to property is displayed, rented, sold, or
28 offered for sale.

29 Sec. 315. "Student athlete", for purposes of IC 35-46-4 has the
30 meaning set forth in IC 35-46-4-3.

31 Sec. 316. "Stun gun", for purposes of IC 35-47-8, has the
32 meaning set forth in IC 35-47-8-2.

33 Sec. 317. "Substance offense", for purposes of IC 35-50-2-10,
34 has the meaning set forth in IC 35-50-2-10(a)(2).

35 Sec. 318. "Superintendent", for purposes of IC 35-47, has the
36 meaning set forth in IC 35-47-1-12.

37 Sec. 319. "Support", for purposes of IC 35-46-1 has the meaning
38 set forth in IC 35-46-1-1.

39 Sec. 320. "Suspicious order", for purposes of IC 35-48-4-14.7,
40 has the meaning set forth in IC 35-48-4-14.7(b)(6).

41 Sec. 321. "Synthetic cannabinoid" means a substance containing
42 one (1) or more of the following chemical compounds:

43 (1) JWH-015 ((2-Methyl-1-propyl-1H-
44 indol-3-yl)-1-naphthalenylmethanone).

45 (2) JWH-018 (1-pentyl-3-(1-naphthoyl)indole).

46 (3) JWH-019 (1-hexyl-3-(naphthalen-1-oyl)indole).



- 1 (4) JWH-073 (naphthalen-1-yl-(1-butylindol-3-yl)methanone).
 2 (5) JWH-081 (4-methoxynaphthalen- 1-yl- (1-pentylindol-
 3 3-yl)methanone).
 4 (6) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
 5 (7) JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-
 6 naphthalen-1-ylmethanone).
 7 (8) JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole).
 8 (9) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole).
 9 (10) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
 10 (11) HU-210 ((6aR,10aR)- 9-(Hydroxymethyl)- 6,6-dimethyl-
 11 3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo
 12 [c]chromen- 1-ol).
 13 (12) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)- 6,6-dimethyl-
 14 3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo
 15 [c]chromen-1-ol).
 16 (13) HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-
 17 (2 - m e t h y l o c t a n - 2 - y l) p h e n y l] -
 18 7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).
 19 (14) HU-331 ((3-hydroxy-2- [(1R,6R)-3-methyl-6-
 20 (1-methylethenyl)-2 -cyclohexen-1-yl] -5
 21 -pentyl-2,5-cyclohexadiene-1,4-dione).
 22 (15) CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-
 23 2-(3-hydroxypropyl) cyclohexyl]- 5- (2-methyloctan-
 24 2-yl)phenol).
 25 (16) CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]- 5- (2-
 26 methyloctan-2-yl)phenol) and its homologues.
 27 (17) WIN 55212-2 ((R)-(+)-[2,3-Dihydro-
 28 5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de)- 1,4-
 29 benzoxazin- 6-yl]-1-naphthalenylmethanone).
 30 (18) RCS-4 ((4-methoxyphenyl)
 31 (1-pentyl-1H-indol-3-yl)methanone).
 32 (19) RCS-8 (1-(1-(2-cyclohexylethyl)-1H-
 33 indol-3-yl)-2-(2-methoxyphenyl)ethanone).
 34 (20) 4-Methylmethcathinone. Other name: mephedrone.
 35 (21) 3,4-Methylenedioxy-methcathinone. Other name:
 36 methylone.
 37 (22) Fluoromethcathinone.
 38 (23) 4-Methoxymethcathinone. Other name: methedrone.
 39 (24) 4-Ethylmethcathinone (4-EMC).
 40 (25) Methylenedioxypropylvalerone. Other name: MDPV.

41 Sec. 322. "Synthetic identifying information", for purposes of
 42 IC 35-43-5, has the meaning set forth in IC 35-43-5-1(r).

43 Sec. 323. "Target", for purposes of IC 35-34-2, means a person
 44 who has been charged by information for an offense the grand jury
 45 is investigating, or who is a subject of the grand jury investigation.

46 Sec. 324. "Taser", for purposes of IC 35-47-8, has the meaning



1 set forth in IC 35-47-8-3.

2 Sec. 325. "Tattoo", for purposes of IC 35-42-2-7, has the
3 meaning set forth in IC 35-42-2-7(a).

4 Sec. 326. "Telecommunications device", for purposes of
5 IC 35-45-13 has the meaning set forth in IC 35-45-13-3.

6 Sec. 327. "Telecommunications service", for purposes of
7 IC 35-45-13 has the meaning set forth in IC 35-45-13-4.

8 Sec. 328. "Telecommunications service provider", for purposes
9 of IC 35-45-13 has the meaning set forth in IC 35-45-13-5.

10 Sec. 329. "Terrorism" means the unlawful use of force or
11 violence or the unlawful threat of force or violence to intimidate or
12 coerce a government or all or part of the civilian population.

13 Sec. 330. "Threat", for purposes of IC 35-45-2-1, has the
14 meaning set forth in IC 35-45-2-1(c).

15 Sec. 331. "Title insurance agent", for purposes of IC 35-43-9,
16 has the meaning set forth in IC 35-43-9-4.

17 Sec. 332. "Title insurance escrow account", for purposes of
18 IC 35-43-9, has the meaning set forth in IC 35-43-9-5.

19 Sec. 333. "Title insurer", for purposes of IC 35-43-9, has the
20 meaning set forth in IC 35-43-9-6.

21 Sec. 334. "Tobacco business", for purposes of IC 35-46-1 has the
22 meaning set forth in IC 35-46-1-1.

23 Sec. 335. "Torture", for purposes of IC 35-46-3, has the
24 meaning set forth in IC 35-46-3-0.5(5).

25 Sec. 336. "Tournament", for purposes of IC 35-45-5 has the
26 meaning set forth in IC 35-45-5-1(j).

27 Sec. 337. "Toy crane machine", for purposes of IC 35-45-5 has
28 the meaning set forth in IC 35-45-5-1(k).

29 Sec. 338. "Tumultuous conduct", for purposes of IC 35-45-1,
30 has the meaning set forth in IC 35-45-1-1.

31 Sec. 339. "Ultimate user", for purposes of IC 35-48, has the
32 meaning set forth in IC 35-48-1-27.

33 Sec. 340. "Unit", for purposes of IC 35-40-14, has the meaning
34 set forth in IC 35-40-14-2.

35 Sec. 341. "Unlawful assembly", for purposes of IC 35-45-1, has
36 the meaning set forth in IC 35-45-1-1.

37 Sec. 342. "Unlawful telecommunications device", for purposes
38 of IC 35-45-13 has the meaning set forth in IC 35-45-13-6.

39 Sec. 343. "Unusual theft", for purposes of IC 35-48-4-14.7, has
40 the meaning set forth in IC 35-48-4-14.7(b)(7).

41 Sec. 344. "Utility", for purposes of IC 35-43-5, has the meaning
42 set forth in IC 35-43-5-1(s).

43 Sec. 345. "Utter" means to issue, authenticate, transfer, publish,
44 deliver, sell, transmit, present, or use.

45 Sec. 346. "Vehicle" means a device for transportation by land,
46 water, or air. The term includes mobile equipment with provision



1 for transport of an operator.

2 Sec. 347. "Vending machine", for purposes of IC 35-43-4-7, has
3 the meaning set forth in IC 35-43-4-7(a).

4 Sec. 348. (a) "Victim", for purposes of IC 35-38-1-9 and
5 IC 35-38-1-17, means a person who has suffered harm as a result
6 of a crime.

7 (b) "Victim", for purposes of IC 35-37-6, has the meaning set
8 forth in IC 35-37-6-3.

9 (c) "Victim", for purposes of IC 35-38-7, has the meaning set
10 forth in IC 35-38-7-4.

11 (d) "Victim", for purposes of IC 35-40, has the meaning set
12 forth in IC 35-40-4-8.

13 (e) "Victim", for purposes of IC 35-45-10, has the meaning set
14 forth in IC 35-45-10-4.

15 Sec. 349. "Victim advocate", for purposes IC 35-37-6, has the
16 meaning set forth in IC 35-37-6-3.5.

17 Sec. 350. "Victim representative", for purposes of IC 35-38-1,
18 has the meaning set forth in IC 35-38-1-2(a).

19 Sec. 351. "Victim service provider", for purposes of IC 35-37-6,
20 has the meaning set forth in IC 35-37-6-5.

21 Sec. 352. "Violent offender", for purposes of IC 35-38-2.5, has
22 the meaning set forth in IC 35-38-2.5-4.7.

23 Sec. 353. "Warrant", for purposes of IC 35-33.5, means a
24 warrant authorizing the interception of electronic communication
25 under this article.

26 Sec. 354. "Weapon of mass destruction" means any chemical
27 device, biological device or organism, or radiological device that is
28 capable of being used for terrorism.

29 Sec. 355. "Wholesale", for purposes of IC 35-47, has the
30 meaning set forth in IC 35-47-1-13.

31 Sec. 356. "Written instrument", for purposes of IC 35-43-5, has
32 the meaning set forth in IC 35-43-5-1(t).

33 Sec. 357. (a) "Youth program center" means the following:

34 (1) A building or structure that on a regular basis provides
35 recreational, vocational, academic, social, or other programs
36 or services for persons less than eighteen (18) years of age.

37 (2) The real property on which a building or structure
38 described in subdivision (1) is located.

39 (b) The term does not include school property (as defined in
40 IC 35-41-1-24.7).

41 SECTION 69. IC 35-33-1-1.7, AS ADDED BY P.L.44-2008,
42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
43 JULY 1, 2012]: Sec. 1.7. (a) A facility having custody of a person
44 arrested for a crime of domestic violence (as described in
45 ~~IC 35-41-1-6.3~~ IC 35-31.5-2-78) shall keep the person in custody for
46 at least eight (8) hours from the time of the arrest.



1 (b) A person described in subsection (a) may not be released on bail
2 until at least eight (8) hours from the time of the person's arrest.

3 SECTION 70. IC 35-33-6-1 IS REPEALED [EFFECTIVE JULY 1,
4 2012]. Sec. 1. As used in this chapter:

5 "Adult employee" means an employee who is eighteen (18) years
6 old or older:

7 "Agent" means an operator, a manager, an adult employee, or a
8 security agent employed by a store:

9 "Motion picture exhibition facility" has the meaning set forth in
10 ~~IC 35-46-8-3~~:

11 "Security agent" means a person who has been employed by a store
12 to prevent the loss of property due to theft:

13 "Store" means a place of business where property or service with
14 respect to property is displayed, rented, sold, or offered for sale:

15 SECTION 71. IC 35-33-8-1 IS REPEALED [EFFECTIVE JULY 1,
16 2012]. Sec. 1. As used in this chapter, "bail bond" means a bond
17 executed by a person who has been arrested for the commission of an
18 offense, for the purpose of ensuring:

- 19 (1) the person's appearance at the appropriate legal proceeding;
20 (2) another person's physical safety; or
21 (3) the safety of the community:

22 SECTION 72. IC 35-33-8-6.5, AS ADDED BY P.L.44-2008,
23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2012]: Sec. 6.5. The court may not release a person arrested
25 for a crime of domestic violence (as described in ~~IC 35-41-1-6.3~~)
26 **IC 35-31.5-2-78**) on bail until at least eight (8) hours from the time of
27 the person's arrest.

28 SECTION 73. IC 35-33-8-11, AS ADDED BY P.L.94-2010,
29 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2012]: Sec. 11. (a) A court may require a person who has been
31 charged with a crime of domestic violence (as described in
32 ~~IC 35-41-1-6.3~~) **IC 35-31.5-2-78**) to wear a GPS tracking device as a
33 condition of bail.

34 (b) A court may order a person who is required to wear a GPS
35 tracking device under subsection (a) to pay any costs associated with
36 the GPS tracking device.

37 SECTION 74. IC 35-33.5-1 IS REPEALED [EFFECTIVE JULY 1,
38 2012]. (Applicability and Definitions).

39 SECTION 75. IC 35-34-2-1 IS REPEALED [EFFECTIVE JULY 1,
40 2012]. Sec. 1. As used in this chapter:

41 "Target" means a person who has been charged by information for
42 an offense the grand jury is investigating, or who is a subject of the
43 grand jury investigation:

44 SECTION 76. IC 35-35-1-2 IS AMENDED TO READ AS
45 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The court shall
46 not accept a plea of guilty or guilty but mentally ill at the time of the



1 crime without first determining that the defendant:

2 (1) understands the nature of the charge against ~~him~~; **the**
3 **defendant**;

4 (2) has been informed that by ~~his~~ **the defendant's** plea ~~he~~ **the**
5 **defendant** waives ~~his~~ **the defendant's** rights to:

6 (A) a public and speedy trial by jury;

7 (B) confront and cross-examine the witnesses against ~~him~~; **the**
8 **defendant**;

9 (C) have compulsory process for obtaining witnesses in ~~his~~ **the**
10 **defendant's** favor; and

11 (D) require the state to prove ~~his~~ **the defendant's** guilt beyond
12 a reasonable doubt at a trial at which the defendant may not be
13 compelled to testify against himself **or herself**;

14 (3) has been informed of the maximum possible sentence and
15 minimum sentence for the crime charged and any possible
16 increased sentence by reason of the fact of a prior conviction or
17 convictions, and any possibility of the imposition of consecutive
18 sentences;

19 (4) has been informed that the person will lose the right to possess
20 a firearm if the person is convicted of a crime of domestic
21 violence (~~IC 35-41-1-6.3~~); **(IC 35-31.5-2-78)**; and

22 (5) has been informed that if:

23 (A) there is a plea agreement as defined by ~~IC 35-35-3-1~~;
24 **IC 35-31.5-2-237**; and

25 (B) the court accepts the plea;

26 the court is bound by the terms of the plea agreement.

27 (b) A defendant in a misdemeanor case may waive the rights under
28 subsection (a) by signing a written waiver.

29 (c) Any variance from the requirements of this section that does not
30 violate a constitutional right of the defendant is not a basis for setting
31 aside a plea of guilty.

32 SECTION 77. IC 35-35-3-1 IS REPEALED [EFFECTIVE JULY 1,
33 2012]. Sec. 1. As used in this chapter:

34 "Advisory sentence" means the nonbinding guideline sentence
35 defined in ~~IC 35-50-2-1.3~~.

36 "Plea agreement" means an agreement between a prosecuting
37 attorney and a defendant concerning the disposition of a felony or
38 misdemeanor charge.

39 "Prosecuting attorney" includes a deputy prosecuting attorney.

40 "Recommendation" means a proposal that is part of a plea
41 agreement made to a court that:

42 (1) a felony charge be dismissed; or

43 (2) a defendant, if the defendant pleads guilty to a felony charge,
44 receive less than the advisory sentence.

45 "Victim" means a person who has suffered harm as a result of a
46 crime:



1 SECTION 78. IC 35-36-2-5, AS AMENDED BY P.L.110-2009,
 2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 5. (a) Except as provided by subsection (e),
 4 whenever a defendant is found guilty but mentally ill at the time of the
 5 crime or enters a plea to that effect that is accepted by the court, the
 6 court shall sentence the defendant in the same manner as a defendant
 7 found guilty of the offense.

8 (b) Before sentencing the defendant under subsection (a), the court
 9 shall require the defendant to be evaluated by a physician licensed
 10 under IC 25-22.5 who practices psychiatric medicine, a licensed
 11 psychologist, or a community mental health center (as defined in
 12 IC 12-7-2-38). However, the court may waive this requirement if the
 13 defendant was evaluated by a physician licensed under IC 25-22.5 who
 14 practices psychiatric medicine, a licensed psychologist, or a community
 15 mental health center and the evaluation is contained in the record of the
 16 defendant's trial or plea agreement hearing.

17 (c) If a defendant who is found guilty but mentally ill at the time of
 18 the crime is committed to the department of correction, the defendant
 19 shall be further evaluated and then treated in such a manner as is
 20 psychiatrically indicated for the defendant's mental illness. Treatment
 21 may be provided by:

- 22 (1) the department of correction; or
- 23 (2) the division of mental health and addiction after transfer under
 24 IC 11-10-4.

25 (d) If a defendant who is found guilty but mentally ill at the time of
 26 the crime is placed on probation, the court may, in accordance with
 27 IC 35-38-2-2.3, require that the defendant undergo treatment.

28 (e) As used in this subsection, "individual with mental retardation"
 29 has the meaning set forth in ~~IC 35-36-9-2~~ **IC 35-31.5-2-170**. If a court
 30 determines under IC 35-36-9 that a defendant who is charged with a
 31 murder for which the state seeks a death sentence is an individual with
 32 mental retardation, the court shall sentence the defendant under
 33 IC 35-50-2-3(a).

34 (f) If a defendant is found guilty but mentally ill, the court shall
 35 transmit any information required by the division of state court
 36 administration to the division of state court administration for
 37 transmission to the NICS (as defined in IC 35-47-2.5-2.5) in
 38 accordance with IC 33-24-6-3.

39 SECTION 79. IC 35-36-9-2 IS REPEALED [EFFECTIVE JULY 1,
 40 2012]. Sec. 2: As used in this chapter, "individual with mental
 41 retardation" means an individual who, before becoming twenty-two
 42 (22) years of age, manifests:

- 43 (1) significantly subaverage intellectual functioning; and
- 44 (2) substantial impairment of adaptive behavior;

45 that is documented in a court ordered evaluative report.

46 SECTION 80. IC 35-37-4.5-1 IS REPEALED [EFFECTIVE JULY



1, 2012]. Sec. 7. As used in this chapter, "polygraph" means a device that permanently and simultaneously records, at a minimum, an individual's:

- (1) cardiovascular and respiratory patterns; and
- (2) galvanic skin responses;

in order to determine truthfulness.

SECTION 81. IC 35-38-1-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.7. (a) At the time of sentencing, a court shall determine whether a person has committed a crime of domestic violence (as defined in ~~IC 35-41-1-6.3~~). **IC 35-31.5-2-78**).

(b) A determination under subsection (a) must be based upon:

- (1) evidence introduced at trial; or
- (2) a factual basis provided as part of a guilty plea.

(c) Upon determining that a defendant has committed a crime of domestic violence, a court shall advise the defendant of the consequences of this finding.

(d) A judge shall record a determination that a defendant has committed a crime of domestic violence on a form prepared by the division of state court administration.

SECTION 82. IC 35-38-1-9, AS AMENDED BY P.L.155-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) As used in this chapter, "recommendation" **has the meaning set forth in IC 35-31.5-2-273** and "victim" **have has the meanings meaning set out forth in IC 35-35-3-1**. **IC 35-31.5-2-348**.

(b) The presentence investigation consists of the gathering of information with respect to:

- (1) the circumstances attending the commission of the offense;
- (2) the convicted person's history of delinquency or criminality, social history, employment history, family situation, economic status, education, and personal habits;
- (3) the impact of the crime upon the victim; and
- (4) whether the convicted person is licensed or certified in a profession regulated by IC 25.

(c) The presentence investigation may include any matter that the probation officer conducting the investigation believes is relevant to the question of sentence, and must include:

- (1) any matters the court directs to be included;
- (2) any written statements submitted to the prosecuting attorney by a victim under IC 35-35-3;
- (3) any written statements submitted to the probation officer by a victim; and
- (4) preparation of the victim impact statement required under section 8.5 of this chapter.

(d) If there are no written statements submitted to the probation



1 officer, the probation officer shall certify to the court:

2 (1) that the probation officer has attempted to contact the victim;

3 and

4 (2) that if the probation officer has contacted the victim, the
5 probation officer has offered to accept the written statements of
6 the victim or to reduce the victim's oral statements to writing,
7 concerning the sentence, including the acceptance of any
8 recommendation.

9 (e) A presentence investigation report prepared by a probation
10 officer must include the information and comply with any other
11 requirements established in the rules adopted under IC 11-13-1-8.

12 SECTION 83. IC 35-38-1-17, AS AMENDED BY P.L.1-2010,
13 SECTION 141, IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) Within three hundred
15 sixty-five (365) days after:

16 (1) a convicted person begins serving the person's sentence;

17 (2) a hearing is held:

18 (A) at which the convicted person is present; and

19 (B) of which the prosecuting attorney has been notified; and

20 (3) the court obtains a report from the department of correction
21 concerning the convicted person's conduct while imprisoned;

22 the court may reduce or suspend the sentence. The court must
23 incorporate its reasons in the record.

24 (b) If more than three hundred sixty-five (365) days have elapsed
25 since the convicted person began serving the sentence and after a
26 hearing at which the convicted person is present, the court may reduce
27 or suspend the sentence, subject to the approval of the prosecuting
28 attorney. However, if in a sentencing hearing for a convicted person
29 conducted after June 30, 2001, the court could have placed the
30 convicted person in a community corrections program as an alternative
31 to commitment to the department of correction, the court may modify
32 the convicted person's sentence under this section without the approval
33 of the prosecuting attorney to place the convicted person in a
34 community corrections program under IC 35-38-2.6.

35 (c) The court must give notice of the order to reduce or suspend the
36 sentence under this section to the victim (as defined in IC ~~35-35-3-1~~)
37 **IC 35-31.5-2-348**) of the crime for which the convicted person is
38 serving the sentence.

39 (d) The court may suspend a sentence for a felony under this section
40 only if suspension is permitted under IC 35-50-2-2.

41 (e) The court may deny a request to suspend or reduce a sentence
42 under this section without making written findings and conclusions.

43 (f) Notwithstanding subsections (a) and (b), the court is not required
44 to conduct a hearing before reducing or suspending a sentence if:

45 (1) the prosecuting attorney has filed with the court an agreement
46 of the reduction or suspension of the sentence; and



1 (2) the convicted person has filed with the court a waiver of the
 2 right to be present when the order to reduce or suspend the
 3 sentence is considered.

4 SECTION 84. IC 35-38-2-2.2, AS AMENDED BY P.L.119-2008,
 5 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2012]: Sec. 2.2. As a condition of probation for a sex offender
 7 (as defined in IC 11-8-8-4.5), the court shall:

- 8 (1) require the sex offender to register with the local law
 9 enforcement authority under IC 11-8-8;
 10 (2) prohibit the sex offender from residing within one thousand
 11 (1,000) feet of school property (as defined in ~~IC 35-41-1-24.7~~;
 12 **IC 35-31.5-2-286**), as measured from the property line of the sex
 13 offender's residence to the property line of the school property, for
 14 the period of probation, unless the sex offender obtains written
 15 approval from the court;
 16 (3) require the sex offender to consent:
 17 (A) to the search of the sex offender's personal computer at
 18 any time; and
 19 (B) to the installation on the sex offender's personal computer
 20 or device with Internet capability, at the sex offender's
 21 expense, of one (1) or more hardware or software systems to
 22 monitor Internet usage; and
 23 (4) prohibit the sex offender from:
 24 (A) accessing or using certain web sites, chat rooms, or instant
 25 messaging programs frequented by children; and
 26 (B) deleting, erasing, or tampering with information on the sex
 27 offender's personal computer with intent to conceal an activity
 28 prohibited by clause (A).

29 If the court allows the sex offender to reside within one thousand
 30 (1,000) feet of school property under subdivision (2), the court shall
 31 notify each school within one thousand (1,000) feet of the sex
 32 offender's residence of the order. However, a court may not allow a sex
 33 offender who is a sexually violent predator (as defined in
 34 IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to
 35 reside within one thousand (1,000) feet of school property.

36 SECTION 85. IC 35-41-1-3 IS REPEALED [EFFECTIVE JULY 1,
 37 2012]. Sec. 3. The definitions in this chapter apply throughout this title
 38 and to all other statutes relating to penal offenses.

39 SECTION 86. IC 35-41-1-3.2 IS REPEALED [EFFECTIVE JULY
 40 1, 2012]. Sec. 3-2: (a) "Agency" means any authority, board, bureau,
 41 commission, committee, department, division, hospital, military body,
 42 or other instrumentality of:

- 43 (1) the state; a county; a township; a city; a town; a separate
 44 municipal corporation; a special taxing district; or a public
 45 corporation; or
 46 (2) a state-assisted college or state-assisted university.



1 (b) The term does not include any part of the legislative department
2 or the judicial department of state government.

3 SECTION 87. IC 35-41-1-3.4 IS REPEALED [EFFECTIVE JULY
4 1, 2012]. Sec. 3:4. "Apartment complex" means real property
5 consisting of at least five (5) units that are regularly used to rent or
6 otherwise furnish residential accommodations for periods of at least
7 thirty (30) days.

8 SECTION 88. IC 35-41-1-4 IS REPEALED [EFFECTIVE JULY 1,
9 2012]. Sec. 4: "Bodily injury" means any impairment of physical
10 condition, including physical pain.

11 SECTION 89. IC 35-41-1-4.3 IS REPEALED [EFFECTIVE JULY
12 1, 2012]. Sec. 4:3: (a) "Bomb" means an explosive or incendiary device
13 designed to release:

- 14 (1) destructive materials or force; or
- 15 (2) dangerous gases;

16 that is detonated by impact; proximity to an object; a timing
17 mechanism; a chemical reaction; ignition; or other predetermined
18 means.

19 (b) The term does not include the following:

- 20 (1) A firearm (as defined in IC 35-47-1-5) or the ammunition or
- 21 components for handloading ammunition for a firearm.
- 22 (2) Fireworks regulated under IC 22-11-14.
- 23 (3) Boating; railroad; and other safety flares.
- 24 (4) Propellants used in model rockets or similar hobby activities.
- 25 (5) Commercially manufactured black powder in quantities not to
- 26 exceed fifty (50) pounds; percussion caps; safety and pyrotechnic
- 27 fuses; quills; quick and slow matches; and friction primers
- 28 intended to be used solely for sporting; recreational; or cultural
- 29 purposes in antique firearms or antique devices.

30 SECTION 90. IC 35-41-1-4.4 IS REPEALED [EFFECTIVE JULY
31 1, 2012]. Sec. 4:4. "Community transition program" has the meaning
32 set forth in IC 11-8-1-5.5.

33 SECTION 91. IC 35-41-1-4.6 IS REPEALED [EFFECTIVE JULY
34 1, 2012]. Sec. 4:6. "Community restitution or service" means
35 performance of services directly for a:

- 36 (1) victim;
- 37 (2) nonprofit entity; or
- 38 (3) governmental entity;

39 without compensation; including graffiti abatement; park maintenance;
40 and other community service activities. The term does not include the
41 reimbursement under IC 35-50-5-3 or another law of damages or
42 expenses incurred by a victim or another person as the result of a
43 violation of law.

44 SECTION 92. IC 35-41-1-4.7 IS REPEALED [EFFECTIVE JULY
45 1, 2012]. Sec. 4:7. "Community policing volunteer" means a person
46 who is:



- 1 (1) not a law enforcement officer; and
 2 (2) actively participating in a plan, system, or strategy:
 3 (A) established by and conducted under the authority of a law
 4 enforcement agency; and
 5 (B) in which citizens:
 6 (i) participate with and are guided by the law enforcement
 7 agency; and
 8 (ii) work with members of the law enforcement agency to
 9 reduce or prevent crime within a defined geographic area.

10 SECTION 93. IC 35-41-1-5 IS REPEALED [EFFECTIVE JULY 1,
 11 2012]. Sec. 5: "Credit institution" means a bank; insurance company;
 12 credit union; savings association; investment trust; industrial loan and
 13 investment company, or other organization held out to the public as a
 14 place of deposit of funds or a medium of savings or collective
 15 investment.

16 SECTION 94. IC 35-41-1-5.5 IS REPEALED [EFFECTIVE JULY
 17 1, 2012]. Sec. 5.5: "Credit restricted felon" means a person who has
 18 been convicted of at least one (1) of the following offenses:

- 19 (1) Child molesting involving sexual intercourse or deviate sexual
 20 conduct (IC 35-42-4-3(a)); if:
 21 (A) the offense is committed by a person at least twenty-one
 22 (21) years of age; and
 23 (B) the victim is less than twelve (12) years of age.
 24 (2) Child molesting (IC 35-42-4-3) resulting in serious bodily
 25 injury or death.
 26 (3) Murder (IC 35-42-1-1); if:
 27 (A) the person killed the victim while committing or
 28 attempting to commit child molesting (IC 35-42-4-3);
 29 (B) the victim was the victim of a sex crime under IC 35-42-4
 30 for which the person was convicted; or
 31 (C) the victim of the murder was listed by the state or known
 32 by the person to be a witness against the person in a
 33 prosecution for a sex crime under IC 35-42-4 and the person
 34 committed the murder with the intent to prevent the person
 35 from testifying.

36 SECTION 95. IC 35-41-1-6 IS REPEALED [EFFECTIVE JULY 1,
 37 2012]. Sec. 6: "Crime" means a felony or a misdemeanor.

38 SECTION 96. IC 35-41-1-6.3 IS REPEALED [EFFECTIVE JULY
 39 1, 2012]. Sec. 6.3: "Crime of domestic violence," for purposes of
 40 IC 5-2-6.1 and IC 35-47-4-7, means an offense or the attempt to
 41 commit an offense that:

- 42 (1) has as an element the:
 43 (A) use of physical force; or
 44 (B) threatened use of a deadly weapon; and
 45 (2) is committed against a:
 46 (A) current or former spouse; parent; or guardian of the



- 1 defendant;
 2 (B) person with whom the defendant shared a child in
 3 common;
 4 (C) person who was cohabiting with or had cohabited with the
 5 defendant as a spouse; parent; or guardian; or
 6 (D) person who was or had been similarly situated to a spouse,
 7 parent; or guardian of the defendant.

8 SECTION 97. IC 35-41-1-6.5 IS REPEALED [EFFECTIVE JULY
 9 1, 2012]. Sec. 6-5: "Crime involving domestic or family violence"
 10 means a crime that occurs when a family or household member
 11 commits, attempts to commit, or conspires to commit any of the
 12 following against another family or household member:

- 13 (1) A homicide offense under IC 35-42-1.
 14 (2) A battery offense under IC 35-42-2.
 15 (3) Kidnapping or confinement under IC 35-42-3.
 16 (4) Human and sexual trafficking crimes under IC 35-42-3.5.
 17 (5) A sex offense under IC 35-42-4.
 18 (6) Robbery under IC 35-42-5.
 19 (7) Arson or mischief under IC 35-43-1.
 20 (8) Burglary or trespass under IC 35-43-2.
 21 (9) Disorderly conduct under IC 35-45-1.
 22 (10) Intimidation or harassment under IC 35-45-2.
 23 (11) Voyeurism under IC 35-45-4.
 24 (12) Stalking under IC 35-45-10.
 25 (13) An offense against family under IC 35-46-1-2 through
 26 IC 35-46-1-8; IC 35-46-1-12; or IC 35-46-1-15.1.
 27 (14) A crime involving animal cruelty and a family or household
 28 member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

29 SECTION 98. IC 35-41-1-6.6 IS REPEALED [EFFECTIVE JULY
 30 1, 2012]. Sec. 6-6: "Dangerous gas", for purposes of IC 35-41-1-4.3,
 31 means a toxic chemical or its precursors that through chemical action
 32 or properties on life processes cause death or permanent injury to
 33 human beings. The term does not include the following:

- 34 (1) Riot control agents; smoke; and obscuration materials or
 35 medical products that are manufactured, possessed, transported,
 36 or used in accordance with the laws of the United States and of
 37 this state.
 38 (2) Tear gas devices designed to be carried on or about the person
 39 that contain not more than one-half (1/2) ounce of the chemical.

40 SECTION 99. IC 35-41-1-7 IS REPEALED [EFFECTIVE JULY 1,
 41 2012]. Sec. 7: "Deadly force" means force that creates a substantial risk
 42 of serious bodily injury:

43 SECTION 100. IC 35-41-1-8 IS REPEALED [EFFECTIVE JULY
 44 1, 2012]. Sec. 8: (a) Except as provided in subsection (b); "deadly
 45 weapon" means the following:

- 46 (1) A loaded or unloaded firearm.



(2) A destructive device, weapon, device, taser (as defined in IC 35-47-8-3) or electronic stun weapon (as defined in IC 35-47-8-1); equipment; chemical substance, or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury:

(3) An animal (as defined in IC 35-46-3-3) that is:

(A) readily capable of causing serious bodily injury; and

(B) used in the commission or attempted commission of a crime.

(4) A biological disease, virus, or organism that is capable of causing serious bodily injury:

(b) The term does not include:

(1) a taser (as defined in IC 35-47-8-3);

(2) an electronic stun weapon (as defined in IC 35-47-8-1);

(3) a chemical designed to temporarily incapacitate a person; or

(4) another device designed to temporarily incapacitate a person;

if the device described in subdivisions (1) through (4) is used by a law enforcement officer who has been trained in the use of the device and who uses the device in accordance with the law enforcement officer's training and while lawfully engaged in the execution of official duties:

SECTION 101. IC 35-41-1-8.5 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 8-5: "Destructive device" has the meaning set forth in IC 35-47.5-2-4.

SECTION 102. IC 35-41-1-9 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 9: "Deviate sexual conduct" means an act involving:

(1) a sex organ of one person and the mouth or anus of another person; or

(2) the penetration of the sex organ or anus of a person by an object.

SECTION 103. IC 35-41-1-10 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 10: "Dwelling" means a building, structure, or other enclosed space, permanent or temporary, movable or fixed, that is a person's home or place of lodging:

SECTION 104. IC 35-41-1-10.3 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 10-3: "The effects of battery" refers to a psychological condition of an individual who has suffered repeated physical or sexual abuse inflicted by another individual who is the:

(1) victim of an alleged crime for which the abused individual is charged in a pending prosecution; and

(2) abused individual's:

(A) spouse or former spouse;

(B) parent;

(C) guardian or former guardian;

(D) custodian or former custodian; or

(E) cohabitant or former cohabitant.



1 SECTION 105. IC 35-41-1-10.5 IS REPEALED [EFFECTIVE
2 JULY 1, 2012]. Sec. 10:5. "Family housing complex" means a building
3 or series of buildings:

- 4 (1) that contains at least twelve (12) dwelling units:
5 (A) where children are domiciled or are likely to be domiciled;
6 and
7 (B) that are owned by a governmental unit or political
8 subdivision;
9 (2) that is operated as a hotel or motel (as described in
10 IC 22-11-18-1);
11 (3) that is operated as an apartment complex; or
12 (4) that contains subsidized housing.

13 SECTION 106. IC 35-41-1-10.6 IS REPEALED [EFFECTIVE
14 JULY 1, 2012]. Sec. 10:6. (a) An individual is a "family or household
15 member" of another person if the individual:

- 16 (1) is a current or former spouse of the other person;
17 (2) is dating or has dated the other person;
18 (3) is or was engaged in a sexual relationship with the other
19 person;
20 (4) is related by blood or adoption to the other person;
21 (5) is or was related by marriage to the other person;
22 (6) has or previously had an established legal relationship:
23 (A) as a guardian of the other person;
24 (B) as a ward of the other person;
25 (C) as a custodian of the other person;
26 (D) as a foster parent of the other person; or
27 (E) in a capacity with respect to the other person similar to
28 those listed in clauses (A) through (D); or
29 (7) has a child in common with the other person.

30 (b) An individual is a "family or household member" of both
31 persons to whom subsection (a)(1); (a)(2); (a)(3); (a)(4); (a)(5); (a)(6);
32 or (a)(7) applies if the individual is a minor child of one (1) of the
33 persons:

34 SECTION 107. IC 35-41-1-10.8 IS REPEALED [EFFECTIVE
35 JULY 1, 2012]. Sec. 10:8. "Food processing facility" means a facility
36 used to prepare or process animal, plant, or other food ingredients into
37 food products intended for sale or distribution to the general public for
38 human consumption.

39 SECTION 108. IC 35-41-1-11 IS REPEALED [EFFECTIVE JULY
40 1, 2012]. Sec. 11: "Forcible felony" means a felony that involves the
41 use or threat of force against a human being, or in which there is
42 imminent danger of bodily injury to a human being.

43 SECTION 109. IC 35-41-1-12 IS REPEALED [EFFECTIVE JULY
44 1, 2012]. Sec. 12: "Governmental entity" means:

- 45 (1) the United States or any state, county, township, city, town,
46 separate municipal corporation, special taxing district, or public



1 school corporation;

2 (2) any authority; board; bureau; commission; committee;
3 department; division; hospital; military body; or other
4 instrumentality of any of those entities; or

5 (3) a state-assisted college or state-assisted university.

6 SECTION 110. IC 35-41-1-12.3 IS REPEALED [EFFECTIVE
7 JULY 1, 2012]. Sec. 12.3: "Graffiti" means any unauthorized
8 inscription; work; figure; or design that is marked; etched; scratched;
9 drawn; or painted on a component of any building; structure; or other
10 facility:

11 SECTION 111. IC 35-41-1-13 IS REPEALED [EFFECTIVE JULY
12 1, 2012]. Sec. 13: "Harm" means loss; disadvantage; or injury or
13 anything so regarded by the person affected; including loss;
14 disadvantage; or injury to any other person in whose welfare he is
15 interested:

16 SECTION 112. IC 35-41-1-14 IS REPEALED [EFFECTIVE JULY
17 1, 2012]. Sec. 14: "Human being" means an individual who has been
18 born and is alive:

19 SECTION 113. IC 35-41-1-15 IS REPEALED [EFFECTIVE JULY
20 1, 2012]. Sec. 15: "Imprison" means to:

21 (1) confine in a penal facility;

22 (2) commit to the department of correction; or

23 (3) assign to a community transition program under
24 IC 11-10-11.5:

25 SECTION 114. IC 35-41-1-16 IS REPEALED [EFFECTIVE JULY
26 1, 2012]. Sec. 16: "Included offense" means an offense that:

27 (1) is established by proof of the same material elements or less
28 than all the material elements required to establish the
29 commission of the offense charged;

30 (2) consists of an attempt to commit the offense charged or an
31 offense otherwise included therein; or

32 (3) differs from the offense charged only in the respect that a less
33 serious harm or risk of harm to the same person; property; or
34 public interest; or a lesser kind of culpability; is required to
35 establish its commission:

36 SECTION 115. IC 35-41-1-16.5 IS REPEALED [EFFECTIVE
37 JULY 1, 2012]. Sec. 16.5: "Key facility" means any of the following:

38 (1) A chemical manufacturing facility;

39 (2) A refinery;

40 (3) An electric utility facility, including:

41 (A) a power plant;

42 (B) a power generation facility peaker;

43 (C) an electric transmission facility;

44 (D) an electric station or substation; or

45 (E) any other facility used to support the generation;
46 transmission; or distribution of electricity.



1 However, the term does not include electric transmission land or
 2 right-of-way that is not completely enclosed, posted, and
 3 maintained by the electric utility:

4 (4) A water intake structure or water treatment facility:

5 (5) A natural gas utility facility, including:

6 (A) an age station;

7 (B) a compressor station;

8 (C) an odorization facility;

9 (D) a main line valve;

10 (E) a natural gas storage facility; or

11 (F) any other facility used to support the acquisition,
 12 transmission, distribution, or storage of natural gas. However,
 13 the term does not include gas transmission pipeline property
 14 that is not completely enclosed, posted, and maintained by the
 15 natural gas utility:

16 (6) A gasoline, propane, liquid natural gas (LNG), or other fuel
 17 terminal or storage facility:

18 (7) A transportation facility, including, but not limited to, a port,
 19 railroad switching yard, or trucking terminal. However, the term
 20 does not include a railroad track that is not part of a railroad
 21 switching yard:

22 (8) A pulp or paper manufacturing facility:

23 (9) A pharmaceutical manufacturing facility:

24 (10) A hazardous waste storage, treatment, or disposal facility:

25 (11) A telecommunications facility, including a central office or
 26 cellular telephone tower site:

27 (12) A facility:

28 (A) that is substantially similar to a facility, structure, or
 29 station listed in this section; or

30 (B) whose owner or operator is required to submit a risk
 31 management plan under the federal Chemical Safety
 32 Information, Site Security and Fuels Regulatory Relief Act (42
 33 U.S.C. 7412(r)).

34 SECTION 116. IC 35-41-1-17 IS REPEALED [EFFECTIVE JULY
 35 1, 2012]. Sec. 17: (a) "Law enforcement officer" means:

36 (1) a police officer (including a correctional police officer),
 37 sheriff, constable, marshal, prosecuting attorney, special
 38 prosecuting attorney, special deputy prosecuting attorney, the
 39 securities commissioner, or the inspector general;

40 (2) a deputy of any of those persons;

41 (3) an investigator for a prosecuting attorney or for the inspector
 42 general;

43 (4) a conservation officer;

44 (5) an enforcement officer of the alcohol and tobacco
 45 commission; or

46 (6) an enforcement officer of the securities division of the office



- 1 of the secretary of state:
- 2 (b) "Federal enforcement officer" means any of the following:
- 3 (1) A Federal Bureau of Investigation special agent.
- 4 (2) A United States Marshals Service marshal or deputy.
- 5 (3) A United States Secret Service special agent.
- 6 (4) A United States Fish and Wildlife Service special agent.
- 7 (5) A United States Drug Enforcement Agency agent.
- 8 (6) A Bureau of Alcohol, Tobacco, Firearms and Explosives
- 9 agent.
- 10 (7) A United States Forest Service law enforcement officer.
- 11 (8) A United States Department of Defense police officer or
- 12 criminal investigator.
- 13 (9) A United States Customs Service agent.
- 14 (10) A United States Postal Service investigator.
- 15 (11) A National Park Service law enforcement commissioned
- 16 ranger.
- 17 (12) United States Department of Agriculture, Office of Inspector
- 18 General special agent.
- 19 (13) A United States Citizenship and Immigration Services
- 20 special agent.
- 21 (14) An individual who is:
- 22 (A) an employee of a federal agency; and
- 23 (B) authorized to make arrests and carry a firearm in the
- 24 performance of the individual's official duties.

25 SECTION 117. IC 35-41-1-18 IS REPEALED [EFFECTIVE JULY

26 1, 2012]. Sec. 18. (a) "Lawful detention" means:

- 27 (1) arrest;
- 28 (2) custody following surrender in lieu of arrest;
- 29 (3) detention in a penal facility;
- 30 (4) detention in a facility for custody of persons alleged or found
- 31 to be delinquent children;
- 32 (5) detention under a law authorizing civil commitment in lieu of
- 33 criminal proceedings or authorizing such detention while criminal
- 34 proceedings are held in abeyance;
- 35 (6) detention for extradition or deportation;
- 36 (7) placement in a community corrections program's residential
- 37 facility;
- 38 (8) electronic monitoring;
- 39 (9) custody for purposes incident to any of the above including
- 40 transportation, medical diagnosis or treatment, court appearances,
- 41 work, or recreation; or
- 42 (10) any other detention for law enforcement purposes.

43 (b) Except as provided in subsection (a)(7) and (a)(8), the term does

44 not include supervision of a person on probation or parole or constraint

45 incidental to release with or without bail.

46 SECTION 118. IC 35-41-1-18.3 IS REPEALED [EFFECTIVE



1 JULY 1, 2012]. Sec. 18.3: "Machine gun" means a weapon that:

- 2 (1) shoots; or
3 (2) can be readily restored to shoot;

4 automatically more than one (1) shot, without manual reloading, by a
5 single function of the trigger.

6 SECTION 119. IC 35-41-1-18.5 IS REPEALED [EFFECTIVE
7 JULY 1, 2012]. Sec. 18.5: "Motor vehicle" has the meaning set forth in
8 IC 9-13-2-105(a).

9 SECTION 120. IC 35-41-1-19 IS REPEALED [EFFECTIVE JULY
10 1, 2012]. Sec. 19: "Offense" means a crime. The term does not include
11 an infraction.

12 SECTION 121. IC 35-41-1-19.3 IS REPEALED [EFFECTIVE
13 JULY 1, 2012]. Sec. 19.3: "Offense relating to a criminal sexual act"
14 means the following:

- 15 (1) Rape (IC 35-42-4-1);
16 (2) Criminal deviate conduct (IC 35-42-4-2);
17 (3) Child molesting (IC 35-42-4-3);
18 (4) Child seduction (IC 35-42-4-7);
19 (5) Prostitution (IC 35-45-4-2);
20 (6) Patronizing a prostitute (IC 35-45-4-3);
21 (7) Incest (IC 35-46-1-3);
22 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).

23 SECTION 122. IC 35-41-1-19.4 IS REPEALED [EFFECTIVE
24 JULY 1, 2012]. Sec. 19.4: "Offense relating to controlled substances"
25 means the following:

- 26 (1) Dealing in or manufacturing cocaine or a narcotic drug (IC
27 35-48-4-1);
28 (2) Dealing in methamphetamine (IC 35-48-4-1.1);
29 (3) Dealing in a schedule I, II, or III controlled substance (IC
30 35-48-4-2);
31 (4) Dealing in a schedule IV controlled substance (IC 35-48-4-3);
32 (5) Dealing in a schedule V controlled substance (IC 35-48-4-4);
33 (6) Possession of cocaine or a narcotic drug (IC 35-48-4-6);
34 (7) Possession of methamphetamine (IC 35-48-4-6.1);
35 (8) Possession of a controlled substance (IC 35-48-4-7);
36 (9) Possession of paraphernalia (IC 35-48-4-8.3);
37 (10) Dealing in paraphernalia (IC 35-48-4-8.5);
38 (11) Offenses relating to registration (IC 35-48-4-14).

39 SECTION 123. IC 35-41-1-20 IS REPEALED [EFFECTIVE JULY
40 1, 2012]. Sec. 20: "Official proceeding" means a proceeding held or
41 that may be held before a legislative, judicial, administrative, or other
42 agency or before an official authorized to take evidence under oath;
43 including a referee, hearing examiner, commissioner, notary, or other
44 person taking evidence in connection with a proceeding.

45 SECTION 124. IC 35-41-1-21 IS REPEALED [EFFECTIVE JULY
46 1, 2012]. Sec. 21: "Penal facility" means state prison, correctional



1 facility; county jail; penitentiary; house of correction; or any other
 2 facility for confinement of persons under sentence; or awaiting trial or
 3 sentence; for offenses. The term includes a correctional facility
 4 constructed under IC 4-13-5:

5 SECTION 125. IC 35-41-1-22 IS REPEALED [EFFECTIVE JULY
 6 1, 2012]. Sec. 22: (a) "Person" means a human being; corporation;
 7 limited liability company; partnership; unincorporated association; or
 8 governmental entity:

9 (b) "Person"; for purposes of section 10.6 of this chapter; means an
 10 adult or a minor:

11 SECTION 126. IC 35-41-1-23 IS REPEALED [EFFECTIVE JULY
 12 1, 2012]. Sec. 23: (a) "Property" means anything of value. The term
 13 includes:

- 14 (1) a gain or advantage or anything that might reasonably be
- 15 regarded as such by the beneficiary;
- 16 (2) real property; personal property; money; labor; and services;
- 17 (3) intangibles;
- 18 (4) commercial instruments;
- 19 (5) written instruments concerning labor; services; or property;
- 20 (6) written instruments otherwise of value to the owner; such as
- 21 a public record; deed; will; credit card; or letter of credit;
- 22 (7) a signature to a written instrument;
- 23 (8) extension of credit;
- 24 (9) trade secrets;
- 25 (10) contract rights; choses-in-action; and other interests in or
- 26 claims to wealth;
- 27 (11) electricity; gas; oil; and water;
- 28 (12) captured or domestic animals; birds; and fish;
- 29 (13) food and drink; and
- 30 (14) human remains:

31 (b) Property is that "of another person" if the other person has a
 32 possessory or proprietary interest in it, even if an accused person also
 33 has an interest in that property:

34 SECTION 127. IC 35-41-1-23.7 IS REPEALED [EFFECTIVE
 35 JULY 1, 2012]. Sec. 23.7: "Public park" means any property operated
 36 by a political subdivision for park purposes (as defined in
 37 IC 36-10-1-2):

38 SECTION 128. IC 35-41-1-24 IS REPEALED [EFFECTIVE JULY
 39 1, 2012]. Sec. 24: "Public servant" means a person who:

- 40 (1) is authorized to perform an official function on behalf of; and
- 41 is paid by; a governmental entity;
- 42 (2) is elected or appointed to office to discharge a public duty for
- 43 a governmental entity; or
- 44 (3) with or without compensation; is appointed in writing by a
- 45 public official to act in an advisory capacity to a governmental
- 46 entity concerning a contract or purchase to be made by the entity:



1 The term does not include a person appointed by the governor to an
2 honorary advisory or honorary military position:

3 SECTION 129. IC 35-41-1-24.2 IS REPEALED [EFFECTIVE
4 JULY 1, 2012]. Sec. 24.2: (a) "Salvia" means salvia divinorum or
5 salvinorin A, including:

- 6 (1) all parts of the plant that are classified botanically as salvia
7 divinorum; whether growing or not;
- 8 (2) the seeds of the plant;
- 9 (3) any extract from any part of the plant; and
- 10 (4) every compound, manufacture, derivative, mixture, or
11 preparation of the plant; its seeds; or extracts, including its salts;
12 isomers; and salts of isomers whenever the existence of such salts;
13 isomers; and salts of isomers is possible within the specific
14 chemical designation of the plant; its seeds; or extracts:

15 (b) The term does not include any other species in the genus salvia:

16 SECTION 130. IC 35-41-1-24.3 IS REPEALED [EFFECTIVE
17 JULY 1, 2012]. Sec. 24.3: "School bus" means any motor vehicle
18 designed and constructed for the accommodation of more than ten (10)
19 passengers, which is used for the transportation of Indiana school
20 children:

21 SECTION 131. IC 35-41-1-24.7 IS REPEALED [EFFECTIVE
22 JULY 1, 2012]. Sec. 24.7: "School property" means the following:

23 (1) A building or other structure owned or rented by:

- 24 (A) a school corporation;
- 25 (B) an entity that is required to be licensed under IC 12-17.2
26 or IC 31-27;
- 27 (C) a private school that is not supported and maintained by
28 funds realized from the imposition of a tax on property;
29 income; or sales; or
- 30 (D) a federal, state, local, or nonprofit program or service
31 operated to serve, assist, or otherwise benefit children who are
32 at least three (3) years of age and not yet enrolled in
33 kindergarten; including the following:

- 34 (i) A Head Start program under 42 U.S.C. 9831 et seq.
- 35 (ii) A special education preschool program.
- 36 (iii) A developmental child care program for preschool
37 children:

38 (2) The grounds adjacent to and owned or rented in common with
39 a building or other structure described in subdivision (1):

40 SECTION 132. IC 35-41-1-24.8 IS REPEALED [EFFECTIVE
41 JULY 1, 2012]. Sec. 24.8: "Scientific research facility" means a facility
42 in which research is conducted:

43 SECTION 133. IC 35-41-1-25 IS REPEALED [EFFECTIVE JULY
44 1, 2012]. Sec. 25: "Serious bodily injury" means bodily injury that
45 creates a substantial risk of death or that causes:

- 46 (1) serious permanent disfigurement;



- 1 (2) unconsciousness;
 2 (3) extreme pain;
 3 (4) permanent or protracted loss or impairment of the function of
 4 a bodily member or organ; or
 5 (5) loss of a fetus.

6 SECTION 134. IC 35-41-1-26 IS REPEALED [EFFECTIVE JULY
 7 1, 2012]. Sec. 26. "Sexual intercourse" means an act that includes any
 8 penetration of the female sex organ by the male sex organ.

9 SECTION 135. IC 35-41-1-26.3 IS REPEALED [EFFECTIVE
 10 JULY 1, 2012]. Sec. 26.3. "Synthetic cannabinoid" means a substance
 11 containing one (1) or more of the following chemical compounds:

- 12 (1) JWH-015 ((2-Methyl-1-propyl-1H-
 13 indol-3-yl)-1-naphthalenylmethanone);
 14 (2) JWH-018 (1-pentyl-3-(1-naphthoyl)indole);
 15 (3) JWH-019 (1-hexyl-3-(naphthalen-1-oyl)indole);
 16 (4) JWH-073 (naphthalen-1-yl-(1-butylindol-3-yl)methanone);
 17 (5) JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-
 18 3-yl)methanone);
 19 (6) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
 20 (7) JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-
 21 naphthalen-1-ylmethanone);
 22 (8) JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole);
 23 (9) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole);
 24 (10) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole);
 25 (11) HU-210 ((6aR,10aR)-9-(1-Hydroxymethyl)-6,6-dimethyl-
 26 3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-
 27 1-ol);
 28 (12) HU-211 ((6aS,10aS)-9-(1-Hydroxymethyl)-6,6-dimethyl-
 29 3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo
 30 [c]chromen-1-ol);
 31 (13) HU-308 ((1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-
 32 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]
 33 methanol);
 34 (14) HU-331 ((3-hydroxy-2- [(1R,6R)-3-methyl-6-
 35 (1-methylethenyl)-2-cyclohexen-1-yl]-5
 36 -pentyl-2,5-cyclohexadiene-1,4-dione);
 37 (15) CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)
 38 cyclohexyl]-5-(2-methyloctan-2-yl)phenol);
 39 (16) CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]-5-
 40 (2-methyloctan-2-yl)phenol) and its homologues;
 41 (17) WIN 55,212-2
 42 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo
 43 [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone);
 44 (18) RCS-4 ((4-methoxyphenyl)-
 45 (1-pentyl-1H-indol-3-yl)methanone);
 46 (19) RCS-8 (1-(1-(2-cyclohexylethyl)-1H-



1 indol-3-yl)-2-(2-methoxyphenyl)ethanone):

2 (20) 4-Methylmethcathinone: Other name: mephedrone:

3 (21) 3,4-Methylenedioxyamphetaminone: Other name: methylone:

4 (22) Fluoromethcathinone:

5 (23) 4-Methoxymethcathinone: Other name: methedrone:

6 (24) 4-Ethylmethcathinone (4-EMC):

7 (25) Methylenedioxypropylone: Other name: MDPV:

8 SECTION 136. IC 35-41-1-26.5 IS REPEALED [EFFECTIVE
9 JULY 1, 2012]. Sec. 26.5: "Terrorism" means the unlawful use of force
10 or violence or the unlawful threat of force or violence to intimidate or
11 coerce a government or all or part of the civilian population:

12 SECTION 137. IC 35-41-1-27 IS REPEALED [EFFECTIVE JULY
13 1, 2012]. Sec. 27: "Utter" means to issue; authenticate; transfer;
14 publish; deliver; sell; transmit; present; or use:

15 SECTION 138. IC 35-41-1-28 IS REPEALED [EFFECTIVE JULY
16 1, 2012]. Sec. 28: "Vehicle" means a device for transportation by land,
17 water; or air. The term includes mobile equipment with provision for
18 transport of an operator:

19 SECTION 139. IC 35-41-1-29 IS REPEALED [EFFECTIVE JULY
20 1, 2012]. Sec. 29: (a) "Youth program center" means the following:

21 (1) A building or structure that on a regular basis provides
22 recreational; vocational; academic; social; or other programs or
23 services for persons less than eighteen (18) years of age:

24 (2) The real property on which a building or structure described
25 in subdivision (1) is located:

26 (b) The term does not include school property (as defined in section
27 24-7 of this chapter):

28 SECTION 140. IC 35-41-1-29.4 IS REPEALED [EFFECTIVE
29 JULY 1, 2012]. Sec. 29.4: "Weapon of mass destruction" means any
30 chemical device; biological device or organism; or radiological device
31 that is capable of being used for terrorism:

32 SECTION 141. IC 35-42-2-1, AS AMENDED BY P.L.131-2009,
33 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2012]: Sec. 1. (a) A person who knowingly or intentionally
35 touches another person in a rude, insolent, or angry manner commits
36 battery, a Class B misdemeanor. However, the offense is:

37 (1) a Class A misdemeanor if:

38 (A) it results in bodily injury to any other person;

39 (B) it is committed against a law enforcement officer or
40 against a person summoned and directed by the officer while
41 the officer is engaged in the execution of the officer's official
42 duty;

43 (C) it is committed against an employee of a penal facility or
44 a juvenile detention facility (as defined in IC 31-9-2-71) while
45 the employee is engaged in the execution of the employee's
46 official duty;



- 1 (D) it is committed against a firefighter (as defined in
 2 IC 9-18-34-1) while the firefighter is engaged in the execution
 3 of the firefighter's official duty;
- 4 (E) it is committed against a community policing volunteer:
 5 (i) while the volunteer is performing the duties described in
 6 ~~IC 35-41-1-4.7~~; **IC 35-31.5-2-49**; or
 7 (ii) because the person is a community policing volunteer;
 8 or
- 9 (F) it is committed against the state chemist or the state
 10 chemist's agent while the state chemist or the state chemist's
 11 agent is performing a duty under IC 15-16-5;
- 12 (2) a Class D felony if it results in bodily injury to:
 13 (A) a law enforcement officer or a person summoned and
 14 directed by a law enforcement officer while the officer is
 15 engaged in the execution of the officer's official duty;
 16 (B) a person less than fourteen (14) years of age and is
 17 committed by a person at least eighteen (18) years of age;
 18 (C) a person of any age who has a mental or physical disability
 19 and is committed by a person having the care of the person
 20 with a mental or physical disability, whether the care is
 21 assumed voluntarily or because of a legal obligation;
 22 (D) the other person and the person who commits the battery
 23 was previously convicted of a battery in which the victim was
 24 the other person;
 25 (E) an endangered adult (as defined in IC 12-10-3-2);
 26 (F) an employee of the department of correction while the
 27 employee is engaged in the execution of the employee's
 28 official duty;
 29 (G) an employee of a school corporation while the employee
 30 is engaged in the execution of the employee's official duty;
 31 (H) a correctional professional while the correctional
 32 professional is engaged in the execution of the correctional
 33 professional's official duty;
 34 (I) a person who is a health care provider (as defined in
 35 IC 16-18-2-163) while the health care provider is engaged in
 36 the execution of the health care provider's official duty;
 37 (J) an employee of a penal facility or a juvenile detention
 38 facility (as defined in IC 31-9-2-71) while the employee is
 39 engaged in the execution of the employee's official duty;
 40 (K) a firefighter (as defined in IC 9-18-34-1) while the
 41 firefighter is engaged in the execution of the firefighter's
 42 official duty;
- 43 (L) a community policing volunteer:
 44 (i) while the volunteer is performing the duties described in
 45 ~~IC 35-41-1-4.7~~; **IC 35-31.5-2-49**; or
 46 (ii) because the person is a community policing volunteer;



- 1 (M) a family or household member (as defined in
 2 ~~IC 35-41-1-10.6~~ IC 35-31.5-2-128) if the person who
 3 committed the offense:
- 4 (i) is at least eighteen (18) years of age; and
 5 (ii) committed the offense in the physical presence of a child
 6 less than sixteen (16) years of age, knowing that the child
 7 was present and might be able to see or hear the offense; or
- 8 (N) a department of child services employee while the
 9 employee is engaged in the execution of the employee's
 10 official duty;
- 11 (3) a Class C felony if it results in serious bodily injury to any
 12 other person or if it is committed by means of a deadly weapon;
- 13 (4) a Class B felony if it results in serious bodily injury to a
 14 person less than fourteen (14) years of age and is committed by a
 15 person at least eighteen (18) years of age;
- 16 (5) a Class A felony if it results in the death of a person less than
 17 fourteen (14) years of age and is committed by a person at least
 18 eighteen (18) years of age;
- 19 (6) a Class C felony if it results in serious bodily injury to an
 20 endangered adult (as defined in IC 12-10-3-2);
- 21 (7) a Class B felony if it results in the death of an endangered
 22 adult (as defined in IC 12-10-3-2); and
- 23 (8) a Class C felony if it results in bodily injury to a pregnant
 24 woman and the person knew the woman was pregnant.
- 25 (b) For purposes of this section:
- 26 (1) "law enforcement officer" includes an alcoholic beverage
 27 enforcement officer; and
- 28 (2) "correctional professional" means a:
- 29 (A) probation officer;
- 30 (B) parole officer;
- 31 (C) community corrections worker; or
- 32 (D) home detention officer.
- 33 SECTION 142. IC 35-42-4-7, AS AMENDED BY P.L.125-2009,
 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2012]: Sec. 7. (a) As used in this section, "adoptive parent"
 36 has the meaning set forth in IC 31-9-2-6.
- 37 (b) As used in this section, "adoptive grandparent" means the parent
 38 of an adoptive parent.
- 39 (c) As used in this section, "charter school" has the meaning set
 40 forth in IC 20-18-2-2.5.
- 41 (d) As used in this section, "child care worker" means a person who:
- 42 (1) provides care, supervision, or instruction to a child within the
 43 scope of the person's employment in a shelter care facility;
- 44 (2) is employed by a:
- 45 (A) school corporation;
- 46 (B) charter school;



- 1 (C) nonpublic school; or
 2 (D) special education cooperative;
 3 attended by a child who is the victim of a crime under this
 4 chapter; or
 5 (3) is:
 6 (A) affiliated with a:
 7 (i) school corporation;
 8 (ii) charter school;
 9 (iii) nonpublic school; or
 10 (iv) special education cooperative;
 11 attended by a child who is the victim of a crime under this
 12 chapter, regardless of how or whether the person is
 13 compensated;
 14 (B) in a position of trust in relation to a child who attends the
 15 school or cooperative;
 16 (C) engaged in the provision of care or supervision to a child
 17 who attends the school or cooperative; and
 18 (D) at least four (4) years older than the child who is the
 19 victim of a crime under this chapter.
 20 The term does not include a student who attends the school or
 21 cooperative.
 22 (e) As used in this section, "custodian" means any person who
 23 resides with a child and is responsible for the child's welfare.
 24 (f) As used in this section, "military recruiter" means a member of
 25 the armed forces of the United States (as defined in IC 20-33-10-2) or
 26 the Indiana National Guard whose primary job function, classification,
 27 or specialty is recruiting individuals to enlist with the armed forces of
 28 the United States or the Indiana National Guard.
 29 (g) As used in this section, "nonpublic school" has the meaning set
 30 forth in IC 20-18-2-12.
 31 (h) As used in this section, "school corporation" has the meaning set
 32 forth in IC 20-18-2-16.
 33 (i) As used in this section, "special education cooperative" has the
 34 meaning set forth in IC 20-35-5-1.
 35 (j) As used in this section, "stepparent" means an individual who is
 36 married to a child's custodial or noncustodial parent and is not the
 37 child's adoptive parent.
 38 (k) If a person who:
 39 (1) is at least eighteen (18) years of age; and
 40 (2) is:
 41 (A) the:
 42 (i) guardian, adoptive parent, adoptive grandparent,
 43 custodian, or stepparent of; or
 44 (ii) child care worker for; or
 45 (B) a military recruiter who is attempting to enlist;
 46 a child at least sixteen (16) years of age but less than eighteen



1 (18) years of age;
 2 engages with the child in sexual intercourse, deviate sexual conduct (as
 3 defined in ~~IC 35-41-1-9~~), **IC 35-31.5-2-94**), or any fondling or touching
 4 with the intent to arouse or satisfy the sexual desires of either the child
 5 or the adult, the person commits child seduction, a Class D felony.

6 SECTION 143. IC 35-44-4-7 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. A person other than
 8 a firefighter who, with intent to mislead a firefighter or law
 9 enforcement officer as to the person's status as a dispatched firefighter,
 10 knowingly or intentionally enters an emergency incident area while
 11 wearing, transporting, or otherwise possessing a uniform, fire
 12 protective clothing, or fire protective gear commits a Class A
 13 misdemeanor. However, the offense is a Class D felony if, as a
 14 proximate result of the person entering the emergency incident area, a
 15 person or firefighter suffers bodily injury (as defined in ~~IC 35-41-1-4~~);
 16 **IC 35-31.5-2-29**).

17 SECTION 144. IC 35-47-1-7, AS AMENDED BY P.L.127-2011,
 18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2012]: Sec. 7. "Proper person" means a person who:

- 20 (1) does not have a conviction for resisting law enforcement
 21 under IC 35-44-3-3 within five (5) years before the person applies
 22 for a license or permit under this chapter;
- 23 (2) does not have a conviction for a crime for which the person
 24 could have been sentenced for more than one (1) year;
- 25 (3) does not have a conviction for a crime of domestic violence
 26 (as defined in ~~IC 35-41-1-6.3~~), **IC 35-31.5-2-78**), unless a court
 27 has restored the person's right to possess a firearm under
 28 IC 35-47-4-7;
- 29 (4) is not prohibited by a court order from possessing a handgun;
- 30 (5) does not have a record of being an alcohol or drug abuser as
 31 defined in this chapter;
- 32 (6) does not have documented evidence which would give rise to
 33 a reasonable belief that the person has a propensity for violent or
 34 emotionally unstable conduct;
- 35 (7) does not make a false statement of material fact on the
 36 person's application;
- 37 (8) does not have a conviction for any crime involving an inability
 38 to safely handle a handgun;
- 39 (9) does not have a conviction for violation of the provisions of
 40 this article within five (5) years of the person's application;
- 41 (10) does not have an adjudication as a delinquent child for an act
 42 that would be a felony if committed by an adult, if the person
 43 applying for a license or permit under this chapter is less than
 44 twenty-three (23) years of age;
- 45 (11) has not been involuntarily committed, other than a temporary
 46 commitment for observation or evaluation, to a mental institution



- 1 by a court, board, commission, or other lawful authority;
 2 (12) has not been the subject of a:
 3 (A) ninety (90) day commitment as a result of proceeding
 4 under IC 12-26-6; or
 5 (B) regular commitment under IC 12-26-7; or
 6 (13) has not been found by a court to be mentally incompetent,
 7 including being found:
 8 (A) not guilty by reason of insanity;
 9 (B) guilty but mentally ill; or
 10 (C) incompetent to stand trial.

11 SECTION 145. IC 35-47-5-2.5, AS ADDED BY P.L.72-2006,
 12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 2.5. (a) As used in this section, "knife" means an
 14 instrument that:

- 15 (1) consists of a sharp edged or sharp pointed blade capable of
 16 inflicting cutting, stabbing, or tearing wounds; and
 17 (2) is intended to be used as a weapon.
 18 (b) The term includes a dagger; dirk, poniard, stiletto, switchblade
 19 knife, or gravity knife.
 20 (c) A person who recklessly, knowingly, or intentionally possesses
 21 a knife on:

- 22 (1) school property (as defined in ~~IC 35-41-1-24.7~~;
 23 **IC 35-31.5-2-286**);
 24 (2) a school bus (as defined in IC 20-27-2-8); or
 25 (3) a special purpose bus (as defined in IC 20-27-2-10);

26 commits a Class B misdemeanor. However, the offense is a Class A
 27 misdemeanor if the person has a previous unrelated conviction under
 28 this section and a Class D felony if the offense results in bodily injury
 29 or serious bodily injury to another person.

- 30 (d) This section does not apply to a person who possesses a knife:
 31 (1) if:
 32 (A) the knife is provided to the person by the school
 33 corporation or possession of the knife is authorized by the
 34 school corporation; and
 35 (B) the person uses the knife for a purpose authorized by the
 36 school corporation; or
 37 (2) if the knife is secured in a motor vehicle.

38 SECTION 146. IC 35-47-6-1.1, AS ADDED BY P.L.50-2005,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2012]: Sec. 1.1. (a) As used in this section, "dangerous
 41 device" means:

- 42 (1) a firearm;
 43 (2) a destructive device (as defined in IC 35-47.5-2-4); or
 44 (3) a weapon of mass destruction (~~IC 35-41-1-29.4~~;
 45 **IC 35-31.5-2-354**).

- 46 (b) A person who checks an item to be transported on a commercial



1 passenger airline and who:

- 2 (1) knows the item contains a dangerous device; and
 3 (2) knowingly or intentionally fails to disclose orally or in writing
 4 to the person to whom possession of the item is delivered for
 5 carriage that the item contains a dangerous device;

6 commits undisclosed transport of a dangerous device, a Class A
 7 misdemeanor.

8 SECTION 147. IC 35-47-12-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A person who
 10 knowingly or intentionally places or disseminates a device or substance
 11 with the intent to cause a reasonable person to believe that the device
 12 or substance is a weapon of mass destruction (as defined in
 13 ~~IC 35-41-1-29.4~~; **IC 35-31.5-2-354**), commits terroristic mischief, a
 14 Class C felony. However, the offense is a Class B felony if, as a result
 15 of the terroristic mischief:

- 16 (1) a physician prescribes diagnostic testing or medical treatment
 17 for any person other than the person who committed the terroristic
 18 mischief; or
 19 (2) a person suffers serious bodily injury.

20 SECTION 148. IC 35-47-15-3, AS ADDED BY P.L.1-2006,
 21 SECTION 538, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2012]: Sec. 3. As used in this chapter, "law
 23 enforcement officer" has the meaning set forth in ~~IC 35-41-1-17(a)~~;
 24 **IC 35-31.5-2-186**. The term includes an arson investigator employed
 25 by the office of the state fire marshal.

26 SECTION 149. IC 35-50-2-1.5, AS AMENDED BY P.L.99-2007,
 27 SECTION 211, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2012]: Sec. 1.5. As used in this chapter,
 29 "individual with mental retardation" has the meaning set forth in
 30 ~~IC 35-36-9-2~~; **IC 35-31.5-2-170**.

31 SECTION 150. IC 35-50-5-1.1, AS AMENDED BY P.L.119-2005,
 32 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 1.1. (a) Whenever a person is convicted of a
 34 misdemeanor under IC 35-44-1, the court may include in the sentence
 35 an order rendering the person incapable of holding a public office of
 36 trust or profit for a fixed period of not more than ten (10) years.

37 (b) If any officer of a governmental entity is convicted of a
 38 misdemeanor under IC 35-44-1, the court may enter an order removing
 39 the officer from office.

40 (c) This subsection applies whenever:

- 41 (1) the court enters an order under this section that applies to a
 42 person who is an officer of a governmental entity (as defined in
 43 ~~IC 35-41-1-12~~); **IC 35-31.5-2-144**); and
 44 (2) a vacancy occurs in the office held by the person as the result
 45 of the court's order.

46 The court must file a certified copy of the order with the person who is



1 entitled under IC 5-8-6 to receive notice of the death of an individual
 2 holding the office. The person receiving the copy of the order must give
 3 notice of the order in the same manner as if the person had received a
 4 notice of the death of the officeholder under IC 5-8-6. The person
 5 required or permitted to fill the vacancy that results from a removal
 6 under this section must comply with IC 3-13 or IC 20, whichever
 7 applies, to fill the vacancy.

8 SECTION 151. IC 36-2-13-14 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) As used in this
 10 section, "accident and sickness insurance policy" means an insurance
 11 policy that provides one (1) or more of the types of insurance described
 12 as Class 1(b) or 2(a) insurance under IC 27-1-5-1 on an individual
 13 basis or a group basis.

14 (b) As used in this section, "enrollee" has the meaning set forth in
 15 IC 27-13-1-12.

16 (c) As used in this section, "lawful detention" has the meaning set
 17 forth in ~~IC 35-41-1-18~~. **IC 35-31.5-2-187.**

18 (d) As used in this section, "health maintenance organization" has
 19 the meaning set forth in IC 27-13-1-19.

20 (e) An individual who is:

- 21 (1) insured under an accident and sickness insurance policy; or
- 22 (2) an enrollee under a health maintenance organization;

23 shall submit a claim under the policy or plan for expenses resulting
 24 from health care services that are rendered to the individual while the
 25 individual is subject to lawful detention by a county sheriff.

26 (f) A county sheriff is not obligated to pay for health care services
 27 rendered to an individual while in the lawful detention of the sheriff to
 28 the extent that payment for the services is available under:

- 29 (1) an accident and sickness insurance policy under which the
 30 individual is insured; or
- 31 (2) a health maintenance organization under which the individual
 32 is an enrollee.

33 (g) If an individual to whom health care services are rendered while
 34 subject to lawful detention by a county sheriff fails or refuses to file a
 35 claim for payment of expenses resulting from the health care services,
 36 a claim for payment of the expenses may be filed by:

- 37 (1) the sheriff; or
- 38 (2) the health care provider that rendered the services;

39 on behalf of the individual with the accident and sickness insurance
 40 policy under which the individual is insured or the health maintenance
 41 organization under which the individual is an enrollee.

42 SECTION 152. IC 36-2-13-15 IS AMENDED TO READ AS
 43 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) As used in this
 44 section, "lawful detention" has the meaning set forth in ~~IC 35-41-1-18~~.
 45 **IC 35-31.5-2-187.**

46 (b) This section applies to a county only if the legislative body for



1 the county elects by ordinance to implement this section.

2 (c) A person who is:

- 3 (1) sentenced under this article for a felony or a misdemeanor;
 4 (2) subject to lawful detention in a county jail for a period of more
 5 than seventy-two (72) hours;
 6 (3) not a member of a family that makes less than 150% of the
 7 federal income poverty level; and
 8 (4) not detained as a child subject to the jurisdiction of a juvenile
 9 court;

10 shall reimburse the county for the costs described in subsection (d).

11 (d) A person described in subsection (c) shall reimburse the county
 12 for the sum of the following amounts:

13 (1) The lesser of:

- 14 (A) the per diem amount specified under subsection (e); or
 15 (B) thirty dollars (\$30);

16 multiplied by each day or part of a day that the person is lawfully
 17 detained in a county jail or lawfully detained under IC 35-33-11-3
 18 for more than six (6) hours.

19 (2) The direct cost of investigating whether the person is indigent.

20 (3) The cost of collecting the amount for which the person is
 21 liable under this section.

22 (e) The county fiscal body shall fix the per diem described in
 23 subsection (d)(1)(A) in an amount that is reasonably related to the
 24 average daily cost of housing a person in the county jail. If the county
 25 transfers the person to another county or the department of correction
 26 under IC 35-33-11-3, the per diem is equal to the per diem charged to
 27 the county under IC 35-33-11-5.

28 (f) The county sheriff shall collect the amounts due from a person
 29 under this section in conformity with the procedures specified in the
 30 ordinance adopted under subsection (b). If the county sheriff does not
 31 collect the amount due to the county, the county attorney may collect
 32 the amount due.

33 SECTION 153. IC 36-2-13-15.3 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15.3. (a) As used in this
 35 section, "lawful detention" has the meaning set forth in ~~IC 35-41-1-18.~~
 36 **IC 35-31.5-2-187.**

37 (b) This section applies only:

- 38 (1) to a county having a population of less than six thousand
 39 (6,000); and
 40 (2) if the legislative body for the county elects by ordinance to
 41 implement this section.

42 (c) A person who is:

- 43 (1) sentenced under this article for a felony or a misdemeanor;
 44 (2) subject to lawful detention in a county jail for a period of more
 45 than six (6) hours;
 46 (3) not a member of a family that makes less than **one hundred**



1 **fifty percent** (150%) of the federal income poverty level; and
 2 (4) not detained as a child subject to the jurisdiction of a juvenile
 3 court;

4 shall reimburse the county for the costs described in subsection (d).

5 (d) A person described in subsection (c) shall reimburse the county
 6 for the sum of the following amounts:

7 (1) The lesser of:

8 (A) the per diem amount specified under subsection (e); or

9 (B) fifty dollars (\$50);

10 multiplied by each day or part of a day that the person is lawfully
 11 detained in a county jail or lawfully detained under IC 35-33-11-3
 12 for more than six (6) hours.

13 (2) The direct cost of investigating whether the person is indigent.

14 (3) The cost of collecting the amount for which the person is
 15 liable under this section.

16 (e) The county fiscal body shall fix the per diem described in
 17 subsection (d)(1)(A) in an amount that is reasonably related to the
 18 average daily cost of housing a person in the county jail. If the county
 19 transfers the person to another county or the department of correction
 20 under IC 35-33-11-3, the per diem is equal to the per diem charged to
 21 the county under IC 35-33-11-5.

22 (f) The county sheriff shall collect the amounts due from a person
 23 under this section in conformity with the procedures specified in the
 24 ordinance adopted under subsection (b). If the county sheriff does not
 25 collect the amount due to the county, the county attorney may collect
 26 the amount due.

27 SECTION 154. IC 36-8-10-10.6 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10.6. (a) The sheriff
 29 may appoint as a special deputy any person who is employed by a
 30 governmental entity as defined in ~~IC 35-41-1~~ **IC 35-31.5-2-144** or
 31 private employer, the nature of which employment necessitates that the
 32 person have the powers of a law enforcement officer. During the term
 33 of ~~his~~ **the special deputy's** appointment and while ~~he~~ **the special**
 34 **deputy** is fulfilling the specific responsibilities for which the
 35 appointment is made, a special deputy has the powers, privileges, and
 36 duties of a county police officer under this chapter, subject to any
 37 written limitations and specific requirements imposed by the sheriff
 38 and signed by the special deputy. A special deputy is subject to the
 39 direction of the sheriff and shall obey the rules and orders of the
 40 department. A special deputy may be removed by the sheriff at any
 41 time, without notice and without assigning any cause.

42 (b) The sheriff shall fix the prerequisites of training, education, and
 43 experience for special deputies, subject to the minimum requirements
 44 prescribed by this subsection. Applicants must:

45 (1) be twenty-one (21) years of age or older;

46 (2) never have been convicted of a felony, or a misdemeanor



- 1 involving moral turpitude;
 2 (3) be of good moral character; and
 3 (4) have sufficient training to insure the proper performance of
 4 their authorized duties.

5 (c) Except as provided in subsection (d), a special deputy shall wear
 6 a uniform the design and color of which is easily distinguishable from
 7 the uniforms of the Indiana state police, the regular county police force,
 8 and all municipal police and fire forces located in the county.

9 (d) The sheriff may permit a special deputy to wear the uniform of
 10 the regular county police force if the special deputy:

- 11 (1) has successfully completed the minimum basic training
 12 requirements under IC 5-2-1;
 13 (2) is periodically assigned by the sheriff to duties of a regular
 14 county police officer; and
 15 (3) is an employee of the department.

16 The sheriff may revoke permission for the special deputy to wear the
 17 uniform of the regular county police force at any time without cause or
 18 notice.

19 (e) The sheriff may also appoint one (1) legal deputy, who must be
 20 a member of the Indiana bar. The legal deputy does not have police
 21 powers. The legal deputy may continue to practice law. However,
 22 neither the legal deputy nor any attorney in partnership with ~~him~~ **the**
 23 **legal deputy** may represent a defendant in a criminal case.

24 (f) The sheriff, for the purpose of guarding prisoners in the county
 25 jail:

- 26 (1) in counties not having a consolidated city, may appoint special
 27 deputies to serve as county jail guards; and
 28 (2) in counties having a consolidated city, shall appoint only
 29 special deputies to serve as county jail guards.

30 This subsection does not affect the rights or liabilities accrued by any
 31 county police officer assigned to guard the jail before August 31, 1982.

32 SECTION 155. IC 36-8-12-2, AS AMENDED BY P.L.174-2009,
 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2012]: Sec. 2. As used in this chapter:

35 "Emergency medical services personnel" means individuals certified
 36 by the emergency medical services commission established by
 37 IC 16-31-2-1 who:

- 38 (1) as a result of a written application, have been elected or
 39 appointed to membership in a volunteer fire department; and
 40 (2) have executed a pledge to faithfully perform, with or without
 41 nominal compensation, the work related duties assigned and
 42 orders given to the individuals by the chief of the volunteer fire
 43 department or an officer of the volunteer fire department,
 44 including orders or duties involving education and training.

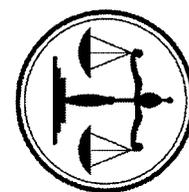
45 "Employee" means a person in the service of another person under
 46 a written or implied contract of hire or apprenticeship.



- 1 "Employer" means:
 2 (1) a political subdivision;
 3 (2) an individual or the legal representative of a deceased
 4 individual;
 5 (3) a firm;
 6 (4) an association;
 7 (5) a limited liability company;
 8 (6) an employer that provides on-the-job training under the
 9 federal School to Work Opportunities Act (20 U.S.C. 6101 et
 10 seq.) to the extent set forth in IC 22-3-2-2.5(a); or
 11 (7) a corporation or its receiver or trustee;
 12 that uses the services of another person for pay.
- 13 "Essential employee" means an employee:
 14 (1) who the employer has determined to be essential to the
 15 operation of the employer's daily enterprise; and
 16 (2) without whom the employer is likely to suffer economic injury
 17 as a result of the absence of the essential employee.
- 18 "Nominal compensation" means annual compensation of not more
 19 than twenty thousand dollars (\$20,000).
- 20 "Public servant" has the meaning set forth in ~~IC 35-41-1-24.~~
 21 **IC 35-31.5-2-262.**
- 22 "Responsible party" has the meaning set forth in IC 13-11-2-191(e).
- 23 "Volunteer fire department" means a department or association
 24 organized for the purpose of answering fire alarms, extinguishing fires,
 25 and providing other emergency services, the majority of members of
 26 which receive no compensation or nominal compensation for their
 27 services.
- 28 "Volunteer firefighter" means a firefighter:
 29 (1) who, as a result of a written application, has been elected or
 30 appointed to membership in a volunteer fire department;
 31 (2) who has executed a pledge to faithfully perform, with or
 32 without nominal compensation, the work related duties assigned
 33 and orders given to the firefighter by the chief of the volunteer
 34 fire department or an officer of the volunteer fire department,
 35 including orders or duties involving education and training as
 36 prescribed by the volunteer fire department or the state; and
 37 (3) whose name has been entered on a roster of volunteer
 38 firefighters that is kept by the volunteer fire department and that
 39 has been approved by the proper officers of the unit.
- 40 "Volunteer member" means a member of a volunteer emergency
 41 medical services association connected with a unit as set forth in
 42 IC 16-31-5-1(6).



TIMELINE OF EVENTS
JAN 2003 - PRESENT



JAN 3- ARRESTED FOR SHOPLIFTING VIDEO GAMES FROM BLOCKBUSTER VIDEO.

*CHARGED WITH ROBBERY (CLASS C FELONY) AND THEFT (CLASS D FELONY). *PLEADS GUILTY TO THEFT WITH ABILITY TO MODIFY CLASS D FELONY TO CLASS A MISDEMEANOR AFTER 18 MONTH PROBATION.

2003

DEC 2- THEFT AMENDED FROM CLASS D FELONY TO CLASS A MISDEMEANOR.

2004

AUG 5- LAWYER IS INFORMED THAT THE NCIC IS INACCURATELY REPORTING CRIMINAL CHARGES.

AUG 17- PROSECUTOR SENDS CERTIFIED MODIFICATION ORDER TO STATE POLICE REQUESTING THE CHANGES BE MADE TO THE NCIC AND IDAC SYSTEM.

2006

AUG 22- LAWYER INFORMS CLIENT THAT THE MATTER HAS BEEN RESOLVED BY THE PROSECUTOR'S OFFICE.

JULY 27- LAWYER SENDS LETTER TO POLICE REQUESTING APPROPRIATE CHANGES TO NCIC.

2006

JUL 2- INDIVIDUAL IS HIRED BY COMPANY THAT PROVIDES RESPITE CARE TO DISABLED INDIVIDUALS.

JUL 5- INDIVIDUAL IS TERMINATED BECAUSE OF FELONY ON CRIMINAL RECORD.

LAWYER IS INFORMED THAT ROBBERY (CLASS C FELONY) IS STILL ON RECORD.

2010

JUL 6- LAWYER AGAIN CONTACTS THE INDIANA STATE POLICE. *ADVISED THAT IT WILL TAKE 4-6 WEEKS TO CORRECT.

OCT 15- THEFT (CLASS A MISDEMEANOR) IS AMENDED TO DISORDERLY CONDUCT (CLASS B MISDEMEANOR).

*INDIVIDUAL IS REHIRED BY RESPITE CARE COMPANY.

2010

JAN 24- INDIVIDUAL HIRED AS A RESEARCH ASSISTANT BY STATE UNIVERSITY.

JAN 31- INDIVIDUAL IS INVOLUNTARILY SEPARATED FROM THE UNIVERSITY BECAUSE THEFT (CLASS A MISDEMEANOR) SHOWED UP ON THE BACKGROUND CHECK CONDUCTED BY HIRERIGHT.

2011

FEB 4- INDIVIDUAL IS REHIRED AFTER PROVIDING COURT CERTIFIED DOCUMENTATION.

OCT 2- INDIVIDUAL ACCESSES MYCASE.IN.GOV AND DISCOVERS INACCURATE DOCUMENTATION.

2011

HOUSE ENROLLED ACT No. 1211



- FATHERS WITH A CRIMINAL HISTORY MAKE 40% LESS AND WORK NINE WEEKS LESS ANNUALLY. (PEW CHARITABLE TRUST, 2010)
- BEFORE INCARCERATION, MORE THAN HALF OF ALL MALE INMATES WERE THE PRIMARY SOURCE OF FINANCIAL SUPPORT FOR THEIR CHILDREN. (PEW CHARITABLE TRUST, 2010)
- TODAY 1 IN EVERY 28 CHILDREN IN THE UNITED STATES HAS A PARENT IN JAIL. (PEW CHARITABLE TRUST, 2010)
- TWO-THIRDS OF INCARCERATED PARENTS ARE SERVING TIME FOR A NON-VIOLENT CRIME. (PEW CHARITABLE TRUST, 2010)
- THERE ARE APPROXIMATELY 9,000 SINGLE PARENT HOMES IN INDIANAPOLIS. (CENSUS, 2010)
- 18,000 CHILDREN SUFFER FROM FOOD INSECURITY IN INDIANAPOLIS. (INTERFAITH HUNGER INITIATIVE, 2011)
- HUNGRY CHILDREN INCUR DEVELOPMENTAL IMPAIRMENTS THAT LIMIT THEIR PHYSICAL, INTELLECTUAL AND EMOTIONAL DEVELOPMENT. (COOK AND JENG, 2009)
- CHILDREN WHO ARE HUNGRY ARE FOUR TIMES MORE LIKELY THAN NON-HUNGRY CHILDREN TO HAVE A HISTORY OF NEEDING MENTAL HEALTH COUNSELING; SEVEN TIMES MORE LIKELY TO BE CLASSIFIED AS CLINICALLY DYSFUNCTIONAL; SEVEN TIMES MORE LIKELY TO GET INTO FIGHTS FREQUENTLY; AND TWELVE TIMES MORE LIKELY TO STEAL. BEHAVIORAL PROBLEMS LIKE AGGRESSION AND STEALING OFTEN LEAD TO CONTACT WITH THE CRIMINAL JUSTICE SYSTEM. (COOK AND JENG, 2009)

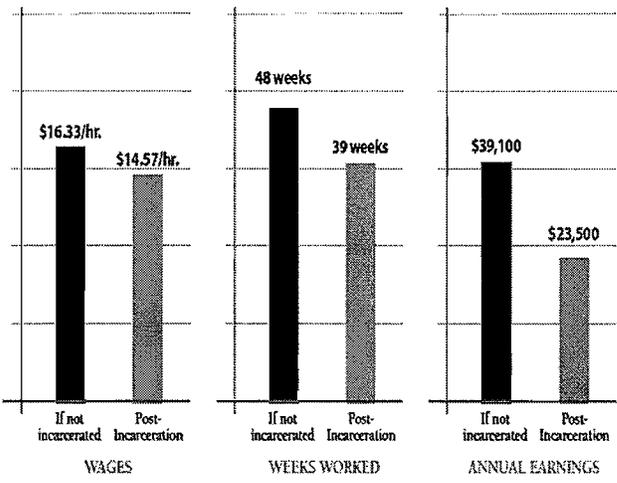


THE BIG PICTURE

"PEOPLE SOMETIMES MAKE BAD CHOICES. AS A RESULT, THEY END UP IN PRISON OR JAIL. BUT WE CAN'T PERMIT INCARCERATION OF A PARENT TO PUNISH AN ENTIRE FAMILY!"

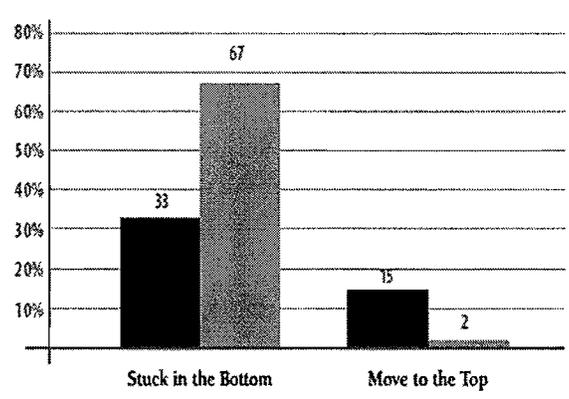
Eric Holder
United States
Attorney General

INCARCERATION REDUCES EARNINGS POWER (PEW CHARITABLE TRUST, 2010)
Estimated effect of incarceration on male wages, weeks worked, and annual earnings, predicted at age 45



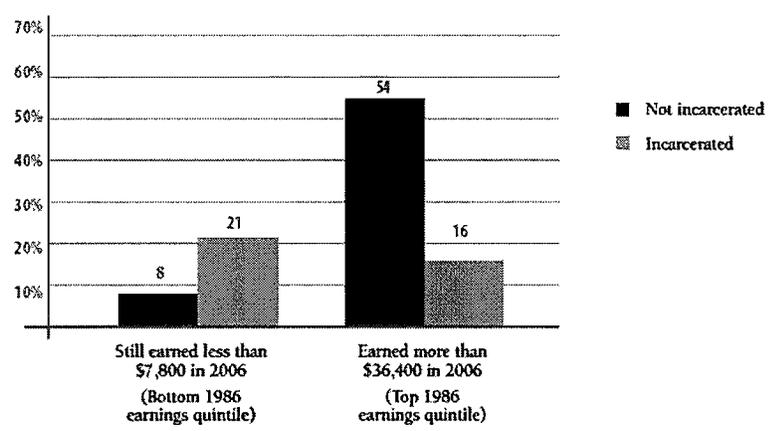
Source: Original analysis for The Pew Charitable Trusts by Bruce Western and Becky Pettit, 2009.

INCARCERATION INCREASES STICKINESS AT THE BOTTOM OF THE EARNINGS LADDER (PEW CHARITABLE TRUST, 2010)
Percent of men in the top and bottom of the earnings distribution in 2006 who were in the bottom in 1986



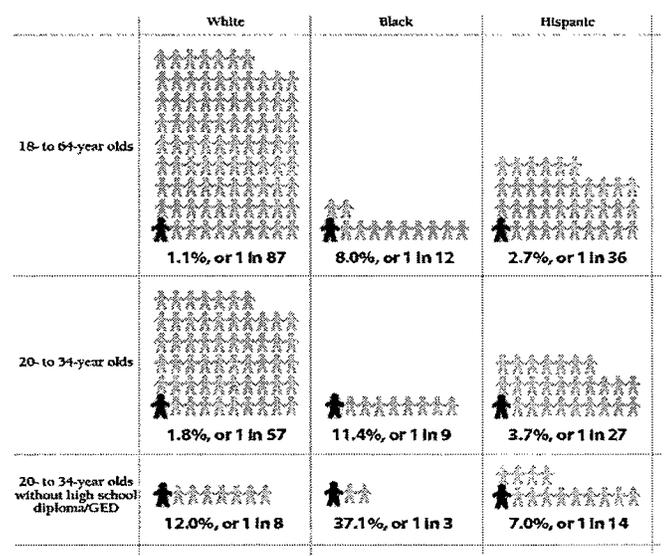
Source: Original analysis for The Pew Charitable Trusts by Bruce Western and Becky Pettit, 2009.

INCARCERATION HINDERS EARNINGS GROWTH (PEW CHARITABLE TRUST, 2010)
2006 earnings position for men who earned less than \$7,800 in 1986



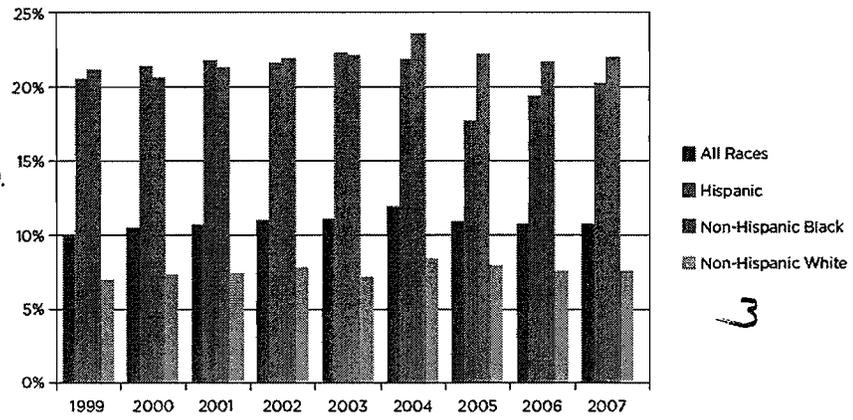
Note: All earnings in 2006 dollars.
Source: Original analysis for The Pew Charitable Trusts by Bruce Western and Becky Pettit, 2009.

WORKING-AGE MEN BEHIND BARS (PEW CHARITABLE TRUST, 2010)
Rates of incarceration by race, age and education, 2008



Note: These numbers differ from previous Pew reports primarily because they pertain to working-age men as opposed to all adults.
Source: Original analysis for The Pew Charitable Trusts by Bruce Western and Becky Pettit, 2009.

Proportion of U.S. Households that are Food Insecure by Race/Ethnicity: 1999-2005 (LOOK AND JENG, 2009)



References

- Cook, J., & Jeng, K. (2009). *Child food insecurity: The economic impact on our nation*. Chicago, IL: Feeding America
- Hatter, A. J., & Smith, E. (2007). *African American Families*. Thousand Oaks, CA: Sage Publications, Inc.
- IndyStat (2010). *Indy stat: Accountability in action for the city of Indianapolis*. Retrieved from http://www.indy.gov/eGov/City/OAP/IndyStat/Documents/April_2011_Neighborhoods_IndyStat_merged.pdf
- Interfaith Hunger Initiative. (n.d.). *Food for Thought*. Retrieved Oct 30, 2011, from Interfaith Hunger Initiative: <http://www.interfaithhungerinitiative.org/>
- Pew Charitable Trust (2010). *Collateral costs: Incarcerations effects on economic mobility*. Retrieved from <http://www.economicmobility.org/>
- Pew Center of the States (2010). *Prison count 2010: State population declines for the first time in 38 years*. Retrieved from http://www.pewcenteronthestates.org/uploadedFiles/Prison_Count_2010.pdf
- U.S. Cesus Bureau (2010). *American fact finder: profile of general demographic characteristics*. Retrieved from <http://factfinder2.census.gov>
- Trupin, E. W. (2009). *Reducing Juvenile Justice Recidivism in a Cost-Effective Manner*. Retrieved from <http://criminaljustice.state.ny.us/ofpa/jj/docs/pdf/trupinsept17.pdf>