

**CRIMINAL CODE REVISION
HEA 1006 (2013) & HEA 1006 (2014)**

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2.	Specifies that if the DOC estimates that such operational cost savings will be realized, the DOC, after review by the budget committee and approval by the budget agency, do the following: (1) make additional grants to counties for community corrections programs from funds appropriated to the department for the department's operating expenses; and (2) transfer funds (from funds appropriated to the DOC for its operating expenses) to the judicial conference of Indiana to be used to provide additional financial aid for the support of court probation services.	19
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I. Background

A. Criminal Code Evaluation Commission (CCEC)

1. Established by HEA 1001(ss) 2009.
2. Purpose: "...evaluating the criminal laws of Indiana."
3. CCEC issued a Final Report in Nov. 2012.
4. CCEC was filed as HEA 1006 (2013)

B. Criminal Law and Sentencing Policy Study Committee (CLSPSC)

1. In 2013, the CLSPSC make additional recommendations for changes to the criminal code which became HEA 1006 (2014)

C. Effective Date

1. HEA 1006 (2013) and HEA 1006 (2014) are effective on July 1, 2014

II. Sentencing Changes

A. Change from Murder and 4 Classes to Murder and 6 Levels

1. Murder remains as its own category.
2. Expands current 4 felony Classes (A-D) to 6 Levels (1-6).
 - a. Class A felonies divided into Levels 1, 2
 - b. Class B felonies divided into Levels 3, 4
 - c. Class C felonies generally equivalent to proposed Level 5
 - d. Class D felonies generally equivalent to proposed Level 6

B. Sentence Ranges (IC 35-50-2-4 to 7)

<u>Offense Level</u>	<u>Range</u>	<u>Advisory Sentence</u>
Murder	45-65 years	55 years
Level 1	20-40 years	30 years
Level 2	10-30 years	17.5 years
Level 3	3-16 years	9 years
Level 4	2-12 years	6 years
Level 5	1-6 years	3 years
Level 6	0.5-2.5 years	1 year

C. Advisory Sentences

1. Amends IC 35-38-1-1.3 to provide that a court does not need to issue a statement of reasons for the sentence imposed if the court imposes the advisory sentence for a felony.
2. Amends IC 35-50-2-1.3 to provide that “advisory sentence means a guideline that the court may voluntarily consider as the midpoint between the maximum sentence and the minimum when imposing a sentence.

D. Pretrial Diversion

1. Amends I.C. 33-39-1-8 to allow a prosecuting attorney to withhold prosecution against an accused person if the person is charged with a misdemeanor, a Level 6 felony, or a Level 5 felony.

E. Suspendibility of Sentences

1. General
 - a. IC 35-50-2-2 repealed.
 - b. Replaced by 35-50-2-2.2, which provides that a court may suspend any part of a sentence for a felony except:
 - (1) Murder & Level 1 felonies - may only suspend that part of a sentence in excess of the minimum sentence; and
 - (2) Level 2 & 3 felonies (except Level 2 & 3 controlled substance offenses under 35-48-4) - may only suspend that part of a sentence in excess of the minimum sentence if the person has a prior unrelated felony conviction.

F. Habitual Offender (IC 35-50-2-8)

1. All felonies qualify, including drug offenses, Title 9 offenses, and misdemeanors enhanced to a felony.
2. Three levels
 - a. Murder and Level 1-4 felonies
 - b. Level 5 felonies
 - c. Level 6 felonies
3. Murder through Level 4 felonies
 - a. 2 prior unrelated felonies
 - b. Limited to one Class D felony or Level 6 felony
4. Level 5 felonies
 - a. 2 prior unrelated felony convictions
 - b. Limited to one Class D felony or Level 6 felony
 - c. Not more than 10 years have elapsed since the defendant’s release from supervision of any sentence on a Class C or D felony or a Level 5 or 6 felony and the commission of the current offense.
5. Level 6 felonies
 - a. 3 prior unrelated felony offenses
 - b. Not more than 10 years have elapsed since the defendant’s release from supervision of any sentence on a Class C or D felony or a Level 5 or 6 felony and the commission of the current offense.
6. Sentences
 - a. Murder through Level 4 felony: 6 to 20 years

- b. Level 5 & 6 felony - 2 to 6 years
- 7. LWOP for Habitual Offender Repealed (IC 35-50-2-8-5)
- 8. Other issues.
 - a. No right to Voir Dire
 - b. Sentences attaches to the highest felony charged.
 - c. If the underlying conviction is set aside, the sentence applies to next highest felony.
 - d. Prior convictions may not be collaterally attacked as part of the Habitual Offender proceeding, "unless the conviction is constitutionally invalid."

G. Habitual Substance Offender Repealed (IC 35-50-2-10)

H. Other Enhancements

- 1. Amends 35-50-2-11 to increase the sentence for use of a firearm from 5 years to between 5 and 20 years

I. Use of Firearm Enhancement

- 1. Amends IC 35-50-2-15(b) to provide that that state may seek to have a person sentenced to an additional consecutive fixed term equal to the sentence imposed if the state shows that the person:

- (1) Knowingly or intentionally was a member of a criminal gang while committing the offense; and
- (2) Committed the felony offense:
 - (A) at the direction of or in affiliation with a criminal gang; or
 - (B) with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing the person's own standing or position with a criminal gang.**

- 2. Amends IC 35-50-2-15(g) to provide that . . . evidence that a person was a member of a criminal gang or committed a felony at the direction of or in affiliation with a criminal gang may include the following:

- (1) **An admission of criminal gang membership by the person.**
- (2) **A statement by:**
 - (A) **a member of the person's family;**
 - (B) **the person's guardian; or**
 - (C) **a reliable member of the criminal gang;****stating the person is a member of a criminal gang.**
- (3) **The person having tattoos identifying the person as a member of a criminal gang.**
- (4) **The person having a style of dress that is particular to members of a criminal gang.**
- (5) **The person associating with one (1) or more members of a criminal gang.**
- (6) **Physical evidence indicating the person is a member of a criminal gang.**
- (7) **An observation of the person in the company of a known criminal gang member on multiple occasions.**

(8) Communications authored by the person indicating criminal gang membership.

J. Credit Time Issues

1. Good Time Credit

- a. Current law: IC 35-50-6-3 (50% Credit Time)
 - (1) Class I: One day credit for each day served.
 - (2) Class II: One day credit for each two days served.
 - (3) Class III: No credit time earned.
- b. HEA 1006: IC 35-50-6-3.1 (25% Credit Time)
 - (1) Class A: 1 day credit for each day served.
 - (2) Class B: 1 day credit for each 3 days served.
 - (3) Class C: 1 day credit for each 6 days served
 - (4) Class D: No credit time earned.
- c. Credit time changed from 50% to 25% for all offenses, except Level 6 and misdemeanors which remain at 50%.
- d. Credit Restricted Felons are assigned to Class C and may not be re-assigned to Credit Class A or B.
- e. Provides that a person on home detention as a condition of probation is entitled to earn credit time.

2. Earned Credit Time (IC 35-50-6-3.3)

- a. Reduces the total amount of educational and programmatic credit available to any inmate to from the lesser of 4 years to 2 years, or 1/3 of the person's total applicable credit time.
- b. Limits the amount of educational credit obtainable from any one degree to:
 - (1) not more than 1 year for completion of an associate's degree; and
 - (2) not more than 2 years for completion of a bachelor's degree.
- c. Increases maximum credit time earned from 6 months to not more than 1 year for completion of one or more technical or vocational programs approved by DOC.
- d. Restrict the educational programs available to an inmate to those that the DOC in consultation with the Department of Workforce Development (DWD), believes likely to lead to gainful employment by enhancing the individual's skills.
- e. Provides that credit time earned must be proportional to the time served and course completed while incarcerated, and requires the DOC to adopt rules to implement this provision.
- f. Provides that educational credit time is deducted from the release date rather than the sentence imposed.

K. Sentence Modification: IC 35-38-1-17

- 1. Court may reduce or suspend the sentence and impose any sentence the court was authorized to impose at the time of sentencing. Prosecutor consent not required. Does not apply if binding plea agreement.
- 2. Defendant may not waive the right to a sentence modification in a plea agreement.

“(i) A person may not waive the right to sentence modification under this section as part of a plea agreement. Any purported waiver of the right to sentence

modification under this section in a plea agreement is invalid and unenforceable as against public policy.”

3. Limits the filing of petitions to modify a sentence to 1 per year and no more than 2 during sentence.
4. Removes the requirement that the court hold a hearing.

L. Commitments to DOC - Level 6 Offenders

1. Increases good time credit for Level 6 offenses to 50%.
2. After 6-30-14, a person convicted of a Level 6 felony may not be committed to the DOC if the person's earliest possible release date is less than 91 days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.
3. After 6-30-15, a person convicted of a Level 6 felony may not be committed to the DOC if the person's earliest possible release date is less than 366 days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.
4. After 6-30-14, a sheriff is entitled to a per diem and medical expense reimbursement for the cost of incarcerating a person convicted of a Level 6 felony whose earliest possible release date is less than 91 days.
5. After 6-30-15, a sheriff is entitled to a per diem and medical expense reimbursement for the cost of incarcerating a person convicted of a Level 6 felony whose earliest possible release date is less than 366 days; and (3) the reimbursement shall be reviewed by the budget committee and is subject to the approval of the budget agency.

III. Changes to Offenses

A. Crimes Against the Person

1. Battery:
 - a. Battery (35-42-2-1):
 - (1) Merges Battery and Battery by Body Waste
 - (2) Battery resulting in “moderate bodily injury” added as a Level 6 felony
2. Sex Offenses:
 - a. Rape/Criminal Deviate Conduct (35-42-4-1):
 - (1) Offense of Criminal Deviate Sexual Conduct (35-42-4-2) was deleted as a separate offense and merged into Rape by including “other sexual conduct” in Rape statute, which is defined in 35-31.5-2-221.5 as follows:

“Other sexual conduct” means an act involving:

 - (1) a sex organ or one (1) 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.”
 - b. Child Solicitation (35-42-4-6):
 - (1) Current: Class D felony; Class C if computer is used.

- (2) New: Child Solicitation starts as a Level 5 felony, and is increased to a Level 4 if a computer network is used and the person travels to meet the child or has a prior conviction for the same offense.
- c. Child Seduction (35-42-4-7)
 - (1) Current: all child solicitation is a Class D felony
 - (2) New: This statute contains an error. Level 5 and 6 offenses contain the same elements. Thus, a person may not be sentenced to more than a Level 6 offense.
 - (3) HEA 1006 (2014) adds a new Level 6 felony, if a law enforcement officer who is at least 5 years older than a child who is 16 or 17 years of age fondles or touches a child with the intent to arouse or satisfy the sexual desires of either the child or the law enforcement officer, if the law enforcement officer's contact with the child occurred in the course of the officer's official duties. Offense increased to a Level 5 felony if the law enforcement officer engages in sexual intercourse or other sexual conduct with the child.
- d. Sexual Battery (35-4-2-8):
 - (1) Current: class D felony; Class C if use or threat of force, deadly weapon, or drug.
 - (2) HEA 1006; Level 6 felony; Level 4 if use or threat of force, deadly weapon, or drug.
- e. Sexual Misconduct with a Minor (intercourse or "other sexual conduct") (35-42-4-9):
 - (1) Current: Class C; Class B if at least 21; Class A if use or threat of deadly force, while armed, use of drug, or SBI.
 - (2) HEA 1006: Level 5; Level 4 if at least 21; Level 1 if use or threat of deadly force, while armed, use of drug, or SBI.
- f. Sexual Misconduct with a Minor (fondling or touching) (35-42-4-9)
 - (1) Current: Class D; Class C if at least 21; Class B if use or threat of deadly force, while armed, use of drug, or SBI. no higher than Class B felony.
 - (2) HEA 1006: Level 6; Level 5 if at least 21; Level 2 if use or threat of deadly force, while armed, use of drug, or SBI.
- 3. Robbery (IC 35-42-5-1) and Carjacking (IC 35-42-5-2)

Enhancement factors	Current	New
Basic offense	Class C	Level 5
Deadly Weapon or Bodily Injury to person other than Def.	Class B	Level 3
Serious Bodily Injury to person other than D.	Class A	Level 2

- a. Carjacking was repealed because it is included in Robbery.

B. Crimes Against Property
 1. Arson (IC 35-43-1-1)

Enhancement factors	Current	HEA 1006
Basic offense	Class B	Level 4
Bodily Injury to person other than D	Class A	Level 3
Serious Bodily Injury to person other than D	Class A	Level 2

- a. HEA 1006 creates a separate offense for each person who suffers bodily or serious bodily injury.
 - b. Reduces the sentence for arson with intent to defraud from a Level 5 felony to a Level 6 felony.
2. Computer Tampering [IC 35-43-1-4 repealed and replaced by IC 35-43-1-7 (offense against intellectual property) and IC 35-43-1-8 (computer tampering)]
- a. HEA 1006: Modernizes statute, using significant portions of Florida statute.

Enhancement factors	Current	HEA 1006
Basic offense	Class D	Level 6
for purpose of terrorism	Class C	
for purpose of terrorism and SBI	Class B	
to defraud or obtain property		Level 5
if loss is \$5000 or >		Level 5
impairs govt. operation, public communication or service		Level 5
endangers human life		Level 4

3. Burglary (IC 35-43-2-1)

Enhancement factors	Current	HEA 1006
Basic offense	Class C	Level 5
dwelling	Class B	Level 4
bodily injury to any person other than Def.	Class A	Level 3
serious bodily injury to any person other than D	Class A	Level 2

dwelling & SBI to any person other than D	Class A	Level 1
w/ deadly weapon	Class B	Level 2

4. Theft/Receiving Stolen Property (IC 35-43-4-2)

Enhancement factors	Current	HEA 1006
Any value	Class D	
less than \$750		A misd.
value is \$750 - \$49,999; property is a firearm; or prior for theft or conversion		Level 6
\$50,000 or >		Level 5
\$100,000 or >	Class C	Level 5
valuable metal, relates to public safety, transportation, etc. +	Class C	Level 5

- a. Theft starts as an A misdemeanor. It is enhanced to a Level 6 felony if the value of the property is at least \$750, the property was a firearm, or the accused has a prior conviction for theft or conversion. Theft is enhanced to a Level 5 felony if the value of the property is at least \$50,000 or the property is a valuable metal.
- b. Measure value using fair market value; also, retain existing statute allowing use of retail price tag on a commercial item to ascertain value.
- c. Give prosecutors the option of aggregating multiple thefts to reach dollar threshold.
- d. The arrest statute (35-33-1-1) was not amended to authorize a law enforcement officer to make misdemeanor arrest for theft not committed in the officer's presence to preserve the ability of police to arrest and prosecutors to charge based on the proposed changes.
- e. Repeal "receiving stolen property" portion of statute (redundant; included in definition of Theft).
- f. Maintain Auto Theft and Receiving Stolen Auto Parts as a Level 6 felony in all cases despite dollar value, and one step higher (Level 5) upon second conviction, due to the threat posed by car theft rings and a recognition that most stolen cars have a value of at least \$750.
- g. Check deception (currently a misdemeanor, increased to Class D felony if amount at least \$2,500 and property acquired was motor vehicle) would track Theft (misdemeanor up to \$750; Level 6 felony up to \$50,000; then Level 5).

5. Forgery/Counterfeiting (IC 35-43-5-2)
 - a. Adds new offense of Making or Delivering a False Sales Document as a Level 6 felony. Section 488 of HEA 1006 repeals IC 35-43-5-17 which was former offense of delivery of a false sales document as a Class D felony.
 - b. Adds new offense of Possession of a Fraudulent Sales Document as an A misdemeanor, and a Level 6 felony if the person possesses at least 15 retail sales receipts, 15 labels containing a UPC, 15 labels containing another product identification code, or at least 15 of any combination of these items. Section 486 of HEA 1006 repeals IC 35-43-5-14 which was former offense.
 - c. Changes Forgery from a Class C felony to a Level 6 felony.
6. Deception (IC 35-43-5-3)
 - a. Keeps Deception an A misdemeanor.
 - b. Adds a new Level 6 felony if the offense results in financial loss to the governmental entity.
 - c. Adds a new Level 6 felony to knowingly or intentionally falsely represent an entity as a disadvantaged business enterprise or women-owned business enterprise in order to qualify for certification under a program conducted by a public agency. Section 483 of HEA 1006 repeals IC 35-43-5-9 which contained same offense.
7. Check Deception (IC 35-43-5-5)
 - a. Keeps Check Deception as an A misdemeanor.
 - b. Changes enhanced offense from Class D felony to a Level 6 felony and reduces the dollar amount from \$2500 to \$750 to enhance offense a Level 6 felony.
 - c. Adds new Level 5 felony if dollar amount is at least \$50,000.
8. Welfare Fraud (IC 35-43-5-7)
 - a. Keeps Welfare Fraud as A misdemeanor.
 - b. Changes enhanced offense from Class D felony to a Level 6 felony and increases the dollar amount from \$250 - \$2,499 to \$750 - \$49,000 to enhance offense to a Level 6 felony.
 - c. Changes enhanced offense from Class C felony to a Level 5 felony and increases the dollar amount from at least \$2500 to \$50,000 to enhance offense to a Level 5 felony.
9. Medicaid Fraud (IC 35-43-5-7.1)
 - a. Makes same changes as made to Welfare Fraud.
10. Insurance Fraud (IC 35-43-5-7.2)
 - a. Makes same changes as made to Welfare Fraud.
11. Check Fraud (IC 35-43-5-12)
 - a. Changes offense from a Class D felony to an A misdemeanor.
 - b. Offense enhanced to a Level 6 felony if amount is \$750 - \$49,999.
 - c. Offense is a Level 5 felony if amount is at least \$50,000.
12. Inmate Fraud (IC 35-43-5-20)
 - a. Changes offense from a Class C felony to a Level 6 felony if the inmate is a pretrial detainee.
 - b. Offense enhanced to a Level 5 felony if the inmate has been convicted of an offense or adjudicated a delinquent.
13. Legend Drug Deception (IC 35-43-10-3 and 4)
 - a. Changes offense from a Class D felony to a Level 6 felony.

- b. Enhanced sentence resulting in death changed from a Class A felony to a Level 2 felony.

C. Offenses Against Public Administration

- 1. Obstruction of Justice (IC 35-44.1-2-2)
 - a. Adds “or offer of goods, services, or anything of value” to types of inducements to a witness or informant to withhold or avoid testifying or providing evidence
- 2. Unlawful Manufacture or Sale of a Police or Fire Insignia (IC 35-44.1-2-8)
 - a. Changes the enhanced sentence from a Class B to a Level 4 felony for committing offense with knowledge or intent that badge or identification will be used for an act of terrorism under IC 35-47-12.
- 3. Obstruction of Traffic (IC 35-44.1-2-13)
 - a. Creates new offense as a B misdemeanor to recklessly, knowingly, or intentionally obstruct vehicular or pedestrian traffic.
 - b. Enhances offense to a Level 6 felony if offense results in serious bodily injury.
- 4. Trafficking (IC 35-44.1-3-5)
 - a. Deletes carrying a cellular telephone or other wireless or cellular communications device into a penal facility without authorization from the offense of trafficking with an inmate as a D felony.
 - b. Changes the name of the offense of carrying a deadly weapon into a penal facility without authorization to “carrying a deadly weapon in to a correctional facility” and enhances the offense to a Level 5 felony.
- 5. Sexual Misconduct by Service Provider (IC 35-44.1-3-10)
 - a. HEA 1269 amends this offense to provide that a service provider who knowingly or intentionally engages in sexual intercourse or other sexual conduct with a person who is subject to lawful detention or lawful supervision commits sexual misconduct, a Level 5 felony. Makes it a Level 4 felony if the person is less than 18 years of age.

D. Offenses Against Public Health, Order and Decency

- 1. Intimidation
 - a. Amends IC 35-45-2-1 to enhance the offense of intimidation from a Level 6 felony to a Level 5 if the person to whom the threat is communicated is a judge, bailiff, prosecuting attorney or deputy prosecuting attorney.
- 2. Criminal Gang Activity
 - a. Amends IC 35-45-9-3 to change the offense from “knowingly or intentionally participates in a criminal gang” to knowingly or intentionally commit an act;
 - (1) with the intent to benefit, promote, or further the interests of a criminal gang;
 - or
 - (2) for the purpose of increasing the person’s own standing or position within a criminal gang.
 - b. Amends IC 35-45-9-3 to add the following definitions:
 - (1) "benefit, promote, or further the interests of a criminal gang" means to commit a felony or misdemeanor that would cause a reasonable person to believe results in:
 - (a) a benefit to a criminal gang;
 - (b) the promotion of a criminal gang; or

- (c) furthering the interests of a criminal gang.
- (2) "purpose of increasing a person's own standing or position within a criminal gang" means committing a felony or misdemeanor that would cause a reasonable person to believe results in increasing the person's standing or position within a criminal gang.
- c. Amends IC 35-45-9-3 to add the following:

“In determining whether a person committed an offense under this section, the trier of fact may consider a person's association with a criminal gang, including, but not limited to:

 - (1) an admission of criminal gang membership by the person;
 - (2) a statement by:
 - (A) a member of the person's family;
 - (B) the person's guardian; or
 - (C) a reliable member of the criminal gang;
 stating the person is a member of a criminal gang;
 - (3) the person having tattoos identifying the person as a member of a criminal gang;
 - (4) the person having a style of dress that is particular to members of a criminal gang;
 - (5) the person associating with one (1) or more members of a criminal gang;
 - (6) physical evidence indicating the person is a member of a criminal gang;
 - (7) an observation of the person in the company of a known criminal gang member on multiple occasions; and
 - (8) communications authored by the person indicating criminal gang membership.”

E. Miscellaneous Offenses

- 1. Reckless supervision (IC 35-46-1-4.1)
 - a. Creates a new offense as a B misdemeanor for a person who provides child care on behalf of a child care center or home to recklessly supervise a child.
 - b. Offense is an A misdemeanor if the offense results in serious bodily injury to a child and a Level 6 felony if the offense results in the death of a child.

F. Regulation of Weapons and Instruments of Violence

- 1. Handguns (IC 35-47-2)
 - a. Carrying a handgun without a license remains an A misdemeanor.
 - b. Offense is a Level 5 felony if committed on school property, within 500' of school property, on a school bus, or if person has a prior conviction for same offense or a felony conviction with 15 years of current offense.
 - c. Prohibits a handgun license from being issued to any person who has been arrested for a Class A or B felony before 7-1-14 or a Level 1-4 felony after 6-30-14 or for any felony while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

- d. SEA 169 creates new enhancement to prohibited sale or transfer of handgun (IC 35-47-2-7) from Level 5 to Level 3 felony if other person uses handgun to commit murder.
 - e. SEA 169 amends IC 35-47-2-7 adding subsection (c) prohibiting straw purchase of handgun, a Level 5 felony enhanced to Level 3 if the other person uses the handgun to commit murder.
 - f. SEA 169 adds IC 35-47-2.5-16, criminal transfer of a firearm a Level 5 felony; Level 3.
2. Serious Violent Felon in Possession of a Firearm (IC 35-47-4-5)
- a. Changes offense from a Class B felony to a Level 4 felony.

G. Drug Offenses:

1. Drug Free Zones and Enhancing Circumstances (IC 35-48-1-18)
- a. Current: Many drug offenses are enhanced if the offense was committed on a school bus or within 1,000' of school property, a public park, a family housing complex, or a youth program center.
 - b. HEA 1006 changes "drug free zones" as follows:
 - (1) reduces 1,000' to 500';
 - (2) eliminates "family housing complex" and "youth program center; and
 - (3) adds "while a person under 18 was reasonably expected to be present" to "school property" or "public park;"
 - (4) adds possession of a firearm;
 - (5) adds committing offense in presence of a child.
 - c. HEA 1006 eliminates enhancements for individual offenses and adds IC 35-48-1-16.5 to provide "enhancing circumstances" for all offenses that means one or more of the following:
 - (1) a prior conviction for dealing in a controlled substance other than marijuana, hashish, hash oil, or salvia;
 - (2) commission of the offense while in possession of a firearm;
 - (3) the offense was committed
 - (a) on a school bus, or
 - (b) within 500' of school property or a public park while a person < 18 was reasonably expected to be present;
 - (4) the person delivered or financed the delivery of a drug to a person < 18 at least 3 years junior to the person;
 - (5) the person manufactured or financed the manufacture of the drug, or
 - (6) the person committed the offense in the physical presence of a child less than 18 years of age, knowing that the child was present and might be able to see or hear the offense.
2. Dealing Cocaine or Narcotic Drug (IC 35-48-4-1), and Dealing in Methamphetamine (IC 35-48-4-1.1)

Enhancement factors	Current	HEA 1006
less than 1g	Class B	Level 5
1 to 5g, or < 1 g & 1 EC	Class A	Level 4

5 to 10g, or 1 to 5g & 1 EC	Class A	Level 3
10g or >, or 5 to 10g & 1 EC	Class A	Level 2

3. Dealing in Controlled Substance Schedule I-III (IC 35-48-4-2)

Enhancement factors	Current	HEA 1006
less than 1g	Class A or B	Level 6
1 to 5g, or < 1g & 1 EC	Class A or B	Level 5
5 to 10g, or < 5g & 1 EC	Class A or B	Level 3
10-28g or >, or < 10g & 1 EC.	Class A or B	Level 2
28g or > or 10-28g + EC	Class A or B	Level 2

- Class B was any amount
- Class A was any amount if to a person < 18 at least 3 yrs junior or w/i 1000' of school property, public park, family housing complex, or youth program center.

4. Dealing in Controlled Substance Schedule IV (IC 35-48-4-3)

Enhancement factors	Current	HEA 1006
less than 5g	Class B or C	A misd
5 to 10 g, or < 3 g & 1 EC	Class B or C	Level 6
5 to 10 g, or < 5 to 10 g & 1 EC	Class B or C	Level 5
28 g or >, or 10 to 28 g & 1 EC.	Class B or C	Level 4

5. Dealing in Controlled Substance Schedule V (IC 35-48-4-4)

Enhancement factors	Current	HEA 1006
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less than 5 g	Class D	B Misd., A Misd. if 5g or < 1 g + EC.
5 to 10 g, or < 5 g & 1 EC	Class B	Level 6
10 to 28 g, or 5 to 10 g & 1 EC	Class B	Level 5
28 g or >, or 10 to 28 g & 1 EC.	Class B	Level 4

6. Possession of Cocaine or Narcotic Drug (IC 35-48-4-6)

Enhancement factors	Current	HEA 1006
less than 5 g	Class D	Level 6
5 to 10 g, or < 5 g & 1 EC	Class B	Level 5
10 to 28 g, or 5 to 10 g & 1 EC	Class B	Level 4
28 g or >, or 10 to 28 g & 1 EC.	Class B	Level 3

7. Possession of Methamphetamine (IC 35-48-4-6.1)

Enhancement factors	Current	HEA 1006
less than 5 g	Class D	Level 6
5 to 10 g, or < 5 g & 1 EC	Class B	Level 5
10 to 28 g, or 5 to 10 g & 1 EC	Class B	Level 4
28 grms or >, or 10 to 28 grms & 1 EC.	Class B	Level 3

8. Possession of Marijuana (IC 35-48-4-7)

Enhancement factors	Current	HEA 1006
less than 3 g	Class D	A Misd.
on a school bus, or	Class C	

within 1000' of school property, public park, family housing complex, or youth program center.		
any amount and 1 EC		Level 6

9. Possession of Schedule V Drug (IC 35-48-4-7)

Enhancement factors	Current	HEA 1006
	Class D	A Misd.

10. Paraphernalia (IC 35-48-4-8.3 and 8.5)

a. Repeals reckless possession and reckless dealing in paraphernalia.

11. Marijuana Dealing (IC 35-48-4-10):

Enhancement factors	Current	HEA 1006
<30 grms	A Misd.	A Misd.
recipient < 18, or amt is >30 g but <10 pounds of MJ, >2g but <300 grms of hash, salvia, >2g of synthetic drug, or (3) prior conviction for MJ, hash, or salvia	Class D	
prior conviction for drug offense & amt is <30 g of MJ or < 5 g of hash, hash oil, salvia, or amt is 30 g or > but < 10 pounds of MJ, or (B) 5 grms or > but < 300 grms of hash, or salvia,		Level 6
prior conviction for drug dealing offense & amt is 30 g > but < 10 pounds of MJ, or 2 g but < 300 g of hash, or salvia, (2) amt is 10 pounds or > of MJ, or 300 g or > of hash or salvia, or (3) sale to a minor.		Level 5

12. Possession of Marijuana, Hash Oil, Hashish, Salvia, or Synthetic Drug (IC 35-48-4-11):

Enhancement factors	Current	HEA 1006
< 30g	A Misd.	B Misd.
30 g of MJ, or > 2 g of hash oil, hashish, or salvia	Class D	
prior conviction for a drug offense		A Misd.
prior conviction for drug offense & > 30 g of MJ or 2 g or > of hash, hash oil, or salvia in any 30 day period.		Level 6

IV. Money to counties:

A. Operational Cost Savings by DOC

1. Provides that before 3-1-15, the DOC shall estimate the amount of any operational cost savings that will be realized in the state fiscal year ending 6-30-15, from a reduction in the number of individuals who are in the custody of the DOC that is attributable to the sentencing changes made under the bill.
2. Specifies that if the DOC estimates that such operational cost savings will be realized, the DOC, after review by the budget committee and approval by the budget agency, do the following: (1) make additional grants to counties for community corrections programs from funds appropriated to the department for the department's operating expenses; and (2) transfer funds (from funds appropriated to the DOC for its operating expenses) to the judicial conference of Indiana to be used to provide additional financial aid for the support of court probation services.

B. Maximum of \$11million

1. Provides that the maximum aggregate amount of these additional grants and transfers may not exceed the lesser of the amount of operational cost savings or \$11,000,000.

