Reprinted
March 1, 2016

ENGROSSED
HOUSE BILL No. 1069

DIGEST OF HB 1069 (Updated February 29, 2016 4:14 pm - DI 106)

Citations Affected: IC 5-2; IC 8-1; IC 11-12; IC 12-7; IC 12-10; IC 16-41; IC 20-19; IC 20-26; IC 20-33; IC 31-19; IC 31-34; IC 31-37; IC 33-37; IC 35-31.5; IC 35-36; IC 35-37; IC 35-38; IC 35-42; IC 35-45; IC 35-46; IC 35-47; IC 35-50; noncode.

Synopsis: No contact orders and domestic battery. Allows a petition to be filed with the juvenile court to order a person to refrain from contact with a member of a foster family home. Removes the sentencing enhancement for battery committed against a family or household member in the presence of a child from the battery statute and places it in the domestic battery statute. Specifies that numerous provisions in the battery statute constitute domestic battery if they are committed against a family or household member. Makes conforming amendments. Urges the legislative council to assign to a study committee the topic of the appropriate penalty for battery.

Effective: July 1, 2016.

Zent, Washburne, McNamara, Lawson L

(SENATE SPONSORS — GLICK, CRIDER, HOLDMAN, BRODEN)

January 5, 2016, read first time and referred to Committee on Courts and Criminal Code.
January 28, 2016, amended, reported — Do Pass.
February 1, 2016, read second time, ordered engrossed. Engrossed.
February 2, 2016, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 8, 2016, read first time and referred to Committee on Judiciary.
February 25, 2016, amended, reported favorably — Do Pass.
February 29, 2016, read second time, amended, ordered engrossed.

Reprinted
March 1, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED
HOUSE BILL No. 1069

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 5-2-6.1-8, AS AMENDED BY P.L.238-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. As used in this chapter, "violent crime" means the following:

(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:

(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.

(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).

(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).

(D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using

the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(F) **A** battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age. ~~(IC 35-42-2-1).~~

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

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

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 2. IC 5-2-6.1-16, AS AMENDED BY P.L.238-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) Except as provided in subsection (e), the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in subsection (e), the division may not accept an application that is received more than two (2) years after the date the

crime was committed.

(c) The application must be filed in the office of the division in person, through the division's web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age.

(f) An alleged victim of a battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age ~~under IC 35-42-2-1~~ may submit an application to the division not later than five (5) years after the commission of the offense.

SECTION 3. IC 8-1-34-30, AS ADDED BY P.L.241-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 30. (a) As used in this section, "designated employee" means a holder's:

(1) employee; or

(2) authorized agent;

whom the holder designates or will designate to receive direct marketing authority.

(b) As used in this section, "direct marketing authority" means the authority granted by the commission to a holder to market any service or product offered by the holder directly to all households in a service area served by the holder.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) A holder may apply to the commission, in the manner and form prescribed by the commission, for direct marketing authority. An application must include the following information with respect to each designated employee of the holder:

(1) Name.

(2) Home address.

(3) Driver's license number.

(4) A certification described in subsection (e)(1).

(e) In an application under subsection (d), a holder shall include the following:

(1) A certification by the holder that each designated employee satisfies the following requirements:

(A) The employee is at least eighteen (18) years of age.

(B) The employee has a high school diploma or the equivalent

of a high school diploma.

(C) The employee has not been convicted of a felony within the seven (7) years immediately preceding the date of the application.

(D) Within the seven (7) years immediately preceding the date of the application, the employee has not been released from incarceration after serving time for a felony conviction.

(E) The employee has not been convicted of:

(i) a misdemeanor involving fraud, deceit, or dishonesty;

(ii) **a** battery **offense included in IC 35-42-2** as a misdemeanor; or

(iii) two (2) or more misdemeanors involving the illegal use of alcohol or the illegal sale, use, or possession of a controlled substance;

within the five (5) years immediately preceding the date of the application.

(F) The employee has a valid driver's license.

(2) Proof of financial responsibility.

(f) A holder may comply with subsection (e)(1) by submitting to the commission a document signed by the holder in which the holder:

(1) identifies each designated employee by name, home address, and driver's license number;

(2) certifies that each designated employee has been the subject of a criminal history background check for each jurisdiction in the United States in which the designated employee has lived or worked within the seven (7) years immediately preceding the date of the application; and

(3) affirms that the background check described in subdivision (2) for each designated employee indicates that the designated employee satisfies the requirements set forth in subsection (e)(1), as applicable.

(g) Not more than fifteen (15) days after the commission receives an application under subsection (d), the commission shall determine whether the application is complete and properly verified. If the commission determines that the application is incomplete or not properly verified, the commission shall notify the applicant holder of the deficiency and allow the holder to resubmit the application after correcting the deficiency. If the commission determines that the application is complete and properly verified, the commission shall issue an order granting the holder direct marketing authority. The order must contain the following:

(1) The name of the holder.

(2) The names of designated employees of the holder.

(3) A grant of direct marketing authority to the holder and designated employees of the holder.

(4) The date on which the order takes effect.

The commission shall provide public notice of an order granting direct marketing authority under this subsection by posting the order on the commission's Internet web site.

(h) A holder that has direct marketing authority shall notify the commission in a timely manner of any changes to the holder's list of designated employees. A designated employee may exercise direct marketing authority immediately upon the holder's submission to the commission of all information required under subsection (e)(1) with respect to the designated employee.

(i) Only the commission is authorized to grant direct marketing authority to a holder under this section. However, subject to subsection (j), with respect to direct marketing activities in a holder's service area within a political subdivision, this section does not prohibit a holder from electing to:

(1) apply for marketing or solicitation authority directly from the political subdivision; and

(2) exercise any marketing or solicitation authority under a license, permit, or other authority granted by the political subdivision before, on, or after June 30, 2013;

instead of applying for and exercising direct marketing authority granted by the commission under this section.

(j) A political subdivision may not do any of the following:

(1) Require a holder that is granted direct marketing authority from the commission under this section to also obtain marketing or solicitation authority from the political subdivision in order to engage in direct marketing in the holder's service area within the political subdivision.

(2) Impose any licensing requirement or fee on a holder in connection with any direct marketing authority granted to the holder by the commission under this section with respect to the holder's service area within the political subdivision.

(3) Except as provided in subsection (k), otherwise regulate a holder that is granted direct marketing authority from the commission under this section and that engages in direct marketing in the holder's service area within the political subdivision.

(k) A political subdivision may enforce any ordinance or regulation that:

(1) imposes restrictions as to the hours or manner in which direct marketing activities may be performed in the political subdivision; and

(2) applies uniformly to all persons engaging in direct marketing or other soliciting in the political subdivision, regardless of:

(A) the product or service being marketed; or

(B) the type of business engaged in by the person engaging in the direct marketing or other soliciting.

SECTION 4. IC 11-12-3.7-6, AS AMENDED BY P.L.158-2013, SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. As used in this chapter, "violent offense" means one (1) or more of the following offenses:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

(5) Reckless homicide (IC 35-42-1-5).

(6) Aggravated battery (IC 35-42-2-1.5).

(7) Battery (IC 35-42-2-1) as a:

(A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 2 felony, Level 3 felony, or Level 5 felony (for a crime committed after June 30, 2014).

(8) Kidnapping (IC 35-42-3-2).

(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that is a:

(A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony (for a crime committed after June 30, 2014).

(10) Sexual misconduct with a minor (IC 35-42-4-9) as a:

(A) Class A felony or Class B felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, or Level 4 felony (for a crime committed after June 30, 2014).

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

(12) Robbery (IC 35-42-5-1) as a:

(A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or

(B) Level 2 felony or Level 3 felony (for a crime committed after June 30, 2014).

(13) Burglary (IC 35-43-2-1) as a:
(A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or
(B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (for a crime committed after June 30, 2014).
(14) Carjacking (IC 35-42-5-2) (repealed).
(15) Assisting a criminal (IC 35-44.1-2-5) as a:
(A) Class C felony (for a crime committed before July 1, 2014); or
(B) Level 5 felony (for a crime committed after June 30, 2014).
(16) Escape (IC 35-44.1-3-4) as a:
(A) Class B felony or Class C felony (for a crime committed before July 1, 2014); or
(B) Level 4 felony or Level 5 felony (for a crime committed after June 30, 2014).
(17) Trafficking with an inmate (IC 35-44.1-3-5) as a:
(A) Class C felony (for a crime committed before July 1, 2014); or
(B) Level 5 felony (for a crime committed after June 30, 2014).
(18) Causing death when operating a vehicle (IC 9-30-5-5).
(19) Criminal confinement (IC 35-42-3-3) as a:
(A) Class B felony (for a crime committed before July 1, 2014); or
(B) Level 3 felony (for a crime committed after June 30, 2014).
(20) Arson (IC 35-43-1-1) as a:
(A) Class A or Class B felony (for a crime committed before July 1, 2014); or
(B) Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014).
(21) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(22) Terroristic mischief (IC 35-47-12-3) as a:
(A) Class B felony (for a crime committed before July 1, 2014); or
(B) Level 4 felony (for a crime committed after June 30, 2014).
(23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(24) A violation of IC 35-47.5 (controlled explosives) as a:
(A) Class A or Class B felony (for a crime committed before

July 1, 2014); or

(B) Level 2 or Level 4 felony (for a crime committed after June 30, 2014).

(25) Domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, or Level 5 felony.

~~(25)~~ **(26)** A crime under the laws of another jurisdiction, including a military court, that is substantially similar to any of the offenses listed in this subdivision.

~~(26)~~ **(27)** Any other crimes evidencing a propensity or history of violence.

SECTION 5. IC 12-7-2-20.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 20.8. "Battery", for purposes of IC 12-10-3, includes battery (IC 35-42-2-1), domestic battery (IC 35-42-2-1.3), and aggravated battery (IC 35-42-2-1.5).**

SECTION 6. IC 12-10-3-2, AS AMENDED BY P.L.117-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except as provided in subsection (b), as used in this chapter, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, intellectual disability, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect;

(B) **a** battery **offense included in IC 35-42-2;** or

(C) exploitation of the individual's personal services or property.

(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, **IC 35-42-2-1.3,** and IC 35-46-1-13, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, intellectual disability, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect; or

(B) battery.

(c) An individual is not an endangered adult solely:

(1) for the reason that the individual is being provided spiritual

treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment; or

(2) on the basis of being physically unable to provide self care when appropriate care is being provided.

SECTION 7. IC 16-41-8-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

(1) Battery ~~(IC 35-42-2-1(b)(2)).~~ **(IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person.**

(2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.

(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for

recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

SECTION 8. IC 16-41-8-5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been

charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery ~~(IC 35-42-2-1(b)(2)),~~ **(IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person,** the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

(1) the defendant has committed an offense; and

(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery ~~(IC 35-42-2-1(b)(2)),~~ **(IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing bodily fluid or waste on another person,** the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction or the penal facility, juvenile

detention facility, or secure private facility where the defendant is housed.

(4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the alleged victim;

(2) the alleged victim's sexual partner; or

(3) the alleged victim's family.

(j) The court shall order a petition filed and any order entered under this section sealed.

(k) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

SECTION 9. IC 20-19-3-4, AS AMENDED BY P.L.213-2015, SECTION 152, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The department shall:

(1) perform the duties required by statute;

(2) implement the policies and procedures established by the state board;

(3) conduct analytical research to assist the state board in determining the state's educational policy;

(4) compile statistics concerning the ethnicity, gender, and disability status of students in Indiana schools, including statistics for all information that the department receives from school

corporations on enrollment, number of suspensions, and number of expulsions; and

(5) provide technical assistance to school corporations.

(b) In compiling statistics by gender, ethnicity, and disability status under subsection (a)(4), the department shall also categorize suspensions and expulsions by cause as follows:

(1) Alcohol.

(2) Drugs.

(3) Deadly weapons (other than firearms).

(4) Handguns.

(5) Rifles or shotguns.

(6) Other firearms.

(7) Tobacco.

(8) Attendance.

(9) Destruction of property.

(10) Legal settlement (under IC 20-33-8-17).

(11) Fighting (incident does not rise to the level of battery).

(12) **A** battery **offense included in IC 35-42-2.** ~~(IC 35-42-2-1).~~

(13) Intimidation (IC 35-45-2-1).

(14) Verbal aggression or profanity.

(15) Defiance.

(16) Other.

(c) The department shall provide the state board any data, including fiscal data, as determined by the state board, in a reasonable time frame established by the state board after consultation with the department, necessary to conduct an audit or evaluation of any federal or state supported program principally engaged in the provision of education, including, but not limited to:

(1) early childhood education;

(2) elementary and secondary education;

(3) postsecondary education;

(4) special education;

(5) job training;

(6) career and technical education; and

(7) adult education;

or for the enforcement of or compliance with federal legal requirements related to those education programs as determined by the state board. The state board and the department are considered state educational authorities within the meaning of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99) for the purpose of allowing the free exchange of information between the department and the state board.

(d) The department shall develop guidelines necessary to implement this section.

SECTION 10. IC 20-26-5-11, AS AMENDED BY P.L.233-2015, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) This section applies to:

(1) a school corporation;

(2) a charter school; and

(3) an entity:

(A) with which the school corporation contracts for services; and

(B) that has employees who are likely to have direct, ongoing contact with children within the scope of the employees' employment.

(b) A school corporation, charter school, or entity may use information obtained under section 10 of this chapter concerning an individual's conviction for one (1) of the following offenses as grounds to not employ or contract with the individual:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2) (repealed).

(12) Arson (IC 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

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

(14) Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (IC 35-46-1-4(b)(2)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(15) Child selling (IC 35-46-1-4(d)).

(16) Contributing to the delinquency of a minor (IC 35-46-1-8),

unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(17) An offense involving a weapon under IC 35-47 or IC 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(18) An offense relating to controlled substances under IC 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(20) An offense relating to operating a motor vehicle while intoxicated under IC 9-30-5, unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(21) Domestic battery (IC 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is latest.

~~(21)~~ **(22)** An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

(c) An individual employed by a school corporation, charter school, or an entity described in subsection (a) shall notify the governing body of the school corporation, if during the course of the individual's employment, the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

SECTION 11. IC 20-33-9-1.3, AS ADDED BY P.L.72-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.3. As used in this chapter, "battery" refers to:

(1) battery under IC 35-42-2-1;

(2) domestic battery under IC 35-42-2-1.3; and

(3) aggravated battery under IC 35-42-2-1.5.

SECTION 12. IC 31-19-9-10, AS AMENDED BY P.L.168-2014, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. A court shall determine that consent to adoption is not required from a parent if:

(1) the parent is convicted of and incarcerated at the time of the filing of a petition for adoption for:

(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);
(C) voluntary manslaughter (IC 35-42-1-3);
(D) rape (IC 35-42-4-1);
(E) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
(F) child molesting (IC 35-42-4-3) as a:
(i) Class A or Class B felony, for a crime committed before July 1, 2014; or
(ii) Level 1, Level 2, Level 3, or Level 4 felony, for a crime committed after June 30, 2014;
(G) incest (IC 35-46-1-3) as a:
(i) Class B felony, for a crime committed before July 1, 2014; or
(ii) Level 4 felony, for a crime committed after June 30, 2014;
(H) neglect of a dependent (IC 35-46-1-4) as a:
(i) Class B felony, for a crime committed before July 1, 2014; or
(ii) Level 1 or Level 3 felony, for a crime committed after June 30, 2014;
(I) battery (IC 35-42-2-1) of a child as a:
(i) Class C felony, for a crime committed before July 1, 2014; or
(ii) Level 5 felony, for a crime committed after June 30, 2014;
(J) battery (IC 35-42-2-1) as a:
(i) Class A or Class B felony, for a crime committed before July 1, 2014; or
(ii) Level 2, ~~or~~ Level 3, **or Level 4** felony, for a crime committed after June 30, 2014; ~~or~~
(K) domestic battery (IC 35-42-2-1.3) as a Level 5, Level 4, Level 3, or Level 2 felony;
(L) aggravated battery (IC 35-42-2-1.5) as a Level 3 or Level 1 felony; or
~~(K)~~ **(M)** an attempt under IC 35-41-5-1 to commit an offense described in ~~clauses (A) through (J);~~ **this subdivision;**
(2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and
(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the child's best interests.

SECTION 13. IC 31-34-4-2, AS AMENDED BY P.L.123-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter and the court orders out-of-home placement, the department is responsible for that placement and care and must consider placing the child with a:

(1) suitable and willing relative; or

(2) de facto custodian;

before considering any other out-of-home placement.

(b) The department shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child.

(c) Before the department places a child in need of services with a relative or a de facto custodian, the department shall complete an evaluation based on a home visit of the relative's home.

(d) Except as provided in subsection (f), before placing a child in need of services in an out-of-home placement, the department shall conduct a criminal history check of each person who is currently residing in the location designated as the out-of-home placement.

(e) Except as provided in subsection (g), the department may not make an out-of-home placement if a person described in subsection (d) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 31-27-4-13 or had a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult.

(f) The department is not required to conduct a criminal history check under subsection (d) if the department makes an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(g) A court may order or the department may approve an out-of-home placement if:

(1) a person described in subsection (d) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;
(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;
(vi) a felony relating to controlled substances under IC 35-48-4;
(vii) a felony under IC 9-30-5; or
(viii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vii)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the placement is in the best interest of the child.

However, a court or the department may not make an out-of-home placement if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B).

(h) In considering the placement under subsection (g), the court or the department shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.
(2) The severity of the offense, delinquent act, or abuse or neglect.
(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 14. IC 31-34-20-1.5, AS AMENDED BY P.L.158-2013, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving or ordering placement of a child in another home under section 1(a)(3) of this chapter or awarding wardship to the department that will place the child in another home under section 1(a)(4) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3) or 1(a)(4) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The department or caseworker who prepared the predispositional

report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department or caseworker is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13(a) if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13(a).

(c) The department or caseworker is not required to conduct a criminal history check under this section if:

(1) the department or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) A juvenile court may enter a dispositional decree that approves placement of a child in another home or award wardship to the department that will place the child in a home with a person described in subsection (a) if:

(1) the person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vii)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or
(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and placing a child in another home or awarding wardship to the department is in the best interest of the child.

However, a court may not enter a dispositional decree that approves placement of a child in another home or awards wardship to the department if the person has been convicted of a felony listed in IC 31-27-4-13(a) that is not specifically excluded under subdivision (1)(B).

(e) In considering the placement under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 15. IC 31-34-21-7.5, AS AMENDED BY P.L.104-2015, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) Before requesting juvenile court approval of a permanency plan, the department shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or

IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the department or the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle;

(v) a custodial parent of a sibling of the child; or

(vi) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) A supervised independent living arrangement or foster care for the child with a permanency plan of another planned, permanent living arrangement. However, a child less than sixteen (16) years of age may not have another planned, permanent living arrangement as the child's permanency plan.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vii)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of

abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 16. IC 31-34-25-1, AS AMENDED BY P.L.146-2008, SECTION 614, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require a person to refrain from direct or indirect contact with a child **or a member of a foster family home (as defined in IC 31-9-2-46.9):**

(1) The attorney for the department.

(2) The guardian ad litem or court appointed special advocate.

SECTION 17. IC 31-37-4-3, AS AMENDED BY SEA 141-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

(5) Reckless homicide (IC 35-42-1-5).

(6) Aggravated battery (IC 35-42-2-1.5).

(7) Battery (IC 35-42-2-1).

(8) Kidnapping (IC 35-42-3-2).

(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.

(10) Sexual misconduct with a minor (IC 35-42-4-9).

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

(12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).

(13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).

(14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).

(15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5 felony.

(16) Trafficking with an inmate as a Level 5 felony (IC 35-44.1-3-5).

(17) Causing death when operating a vehicle (IC 9-30-5-5).

(18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level 3 felony.

(19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or Level 4 felony.

(20) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3 felony.
(22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(23) A violation of IC 35-47.5 (controlled explosives) as a Level 2 felony, Level 3 felony, or Level 4 felony.
(24) A controlled substances offense under IC 35-48.
(25) A criminal organization offense under IC 35-45-9.
(26) Domestic battery (IC 35-42-2-1.3).

(b) If a child is taken into custody under this chapter for a crime or act listed in subsection (a) or a situation to which IC 12-26-4-1 applies, the law enforcement agency that employs the law enforcement officer who takes the child into custody shall notify the chief administrative officer of the primary or secondary school, including a public or nonpublic school, in which the child is enrolled or, if the child is enrolled in a public school, the superintendent of the school district in which the child is enrolled:

(1) that the child was taken into custody; and
(2) of the reason why the child was taken into custody.

(c) The notification under subsection (b) must occur within forty-eight (48) hours after the child is taken into custody.

(d) A law enforcement agency may not disclose information that is confidential under state or federal law to a school or school district under this section.

(e) A law enforcement agency shall include in its training for law enforcement officers training concerning the notification requirements under subsection (b).

SECTION 18. IC 31-37-19-6.5, AS AMENDED BY P.L.158-2013, SECTION 329, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving placement of a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility that results in a placement with a person under section 1(a)(4) or 6(b)(2)(E) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3), 1(a)(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The juvenile probation officer who prepared the predispositional report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the probation officer is not required to conduct a criminal history check under this section if criminal history information obtained under IC 31-37-17-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) The juvenile probation officer is not required to conduct a criminal history check under this section if:

(1) the probation officer is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) The juvenile court may enter a dispositional decree approving placement of a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility that results in a placement with a person under section 1(a)(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4; or

(vii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vi)~~ **this clause** for which the

conviction was entered in another ~~state;~~ **jurisdiction;** if the conviction did not occur within the past five (5) years; or (C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility under this subsection if a person with whom the child is or will be placed has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B).

(e) In considering the placement under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 19. IC 33-37-5-12, AS AMENDED BY P.L.214-2013, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) reckless homicide (IC 35-42-1-5);

(E) battery (IC 35-42-2-1);

(F) domestic battery (IC 35-42-2-1.3);

(G) aggravated battery (IC 35-42-2-1.5);

~~(G)~~ **(H)** rape (IC 35-42-4-1);

~~(H)~~ **(I)** criminal deviate conduct (IC 35-42-4-2) (repealed);

~~(I)~~ **(J)** child molesting (IC 35-42-4-3);

~~(J)~~ **(K)** child exploitation (IC 35-42-4-4);

~~(K)~~ **(L)** vicarious sexual gratification (IC 35-42-4-5);

~~(L)~~ **(M)** child solicitation (IC 35-42-4-6);

~~(M)~~ **(N)** incest (IC 35-46-1-3);
~~(N)~~ **(O)** neglect of a dependent (IC 35-46-1-4);
~~(O)~~ **(P)** child selling (IC 35-46-1-4); or
~~(P)~~ **(Q)** child seduction (IC 35-42-4-7); and
(2) the victim of the offense is less than eighteen (18) years of age.

SECTION 20. IC 35-31.5-2-67 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 67. "Correctional professional", for purposes of IC 35-42-2-1, has the meaning set forth in IC 35-42-2-1(b)(2).~~

SECTION 21. IC 35-36-7-3, AS AMENDED BY P.L.169-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) This section applies to criminal actions for:
(1) an offense listed in IC 11-8-8-4.5(a);
(2) neglect of a dependent (IC 35-46-1-4);
(3) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ if the victim is:
(A) less than eighteen (18) years of age; or
(B) an endangered adult (as defined in IC 12-10-3-2); and
(4) attempts of the crimes listed in subdivisions (1) through (3).

(b) If a motion is made to postpone a trial or other court proceeding that involves an offense listed in subsection (a), the court shall consider whether a postponement will have an adverse impact upon an endangered adult (as defined in IC 12-10-3-2) or a child who is less than sixteen (16) years of age and who:
(1) is the alleged victim of an offense listed in subsection (a); or
(2) will be a witness in the trial.

SECTION 22. IC 35-37-4-6, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):
(1) Sex crimes (IC 35-42-4).
(2) **A** battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age. ~~(IC 35-42-2-1).~~
(3) Kidnapping and confinement (IC 35-42-3).
(4) Incest (IC 35-46-1-3).
(5) Neglect of a dependent (IC 35-46-1-4).
(6) Human and sexual trafficking crimes (IC 35-42-3.5).
(7) An attempt under IC 35-41-5-1 ~~for~~ **to commit** an offense listed in ~~subdivisions (1) through (6).~~ **this subsection.**

(b) This section applies to a criminal action involving the following

offenses where the victim is a protected person under subsection (c)(3):

(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).

(2) A sex crime (IC 35-42-4).

(3) **A** battery **offense included in IC 35-42-2.** ~~(IC 35-42-2-1).~~

(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).

(5) Home improvement fraud (IC 35-43-6).

(6) Fraud (IC 35-43-5).

(7) Identity deception (IC 35-43-5-3.5).

(8) Synthetic identity deception (IC 35-43-5-3.8).

(9) Theft (IC 35-43-4-2).

(10) Conversion (IC 35-43-4-3).

(11) Neglect of a dependent (IC 35-46-1-4).

(12) Human and sexual trafficking crimes (IC 35-42-3.5).

(c) As used in this section, "protected person" means:

(1) a child who is less than fourteen (14) years of age;

(2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(A) is manifested before the individual is eighteen (18) years of age;

(B) is likely to continue indefinitely;

(C) constitutes a substantial impairment of the individual's ability to function normally in society; and

(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or

(3) an individual who is:

(A) at least eighteen (18) years of age; and

(B) incapable by reason of mental illness, ~~*mental retardation,*~~ *intellectual disability,* dementia, or other physical or mental incapacity of:

(i) managing or directing the management of the individual's property; or

(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:

(1) is made by a person who at the time of trial is a protected person;

(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the

person; and

(3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:

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

(B) attended by the protected person in person or by using closed circuit television testimony as described in section 8(f) and 8(g) of this chapter;

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

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

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

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

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

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

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

(2) when the statement or videotape was made.

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

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

(2) the content of the statement or videotape.

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

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

(2) The nature of the statement or videotape.

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

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 23. IC 35-37-4-8, AS AMENDED BY P.L.238-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) This section applies to a criminal action under the following:

(1) Sex crimes (IC 35-42-4).

(2) **A** battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age. ~~(IC 35-42-2-1).~~

(3) Kidnapping and confinement (IC 35-42-3).

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

(5) Neglect of a dependent (IC 35-46-1-4).

(6) Human and sexual trafficking crimes (IC 35-42-3.5).

(7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (6).

(b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.

(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:

(1) allows the protected person to see the accused and the trier of fact; and

(2) allows the accused and the trier of fact to see and hear the protected person.

(d) On the motion of the prosecuting attorney or the defendant, the

court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).

(e) The court may not make an order under subsection (c) or (d) unless:

(1) the testimony to be taken is the testimony of a protected person who:

(A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and

(B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:

(i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person's testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact;

(ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;

(2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person testify outside the courtroom; and

(3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.

(f) If the court makes an order under subsection (c), only the following persons may be in the same room as the protected person during the protected person's testimony:

(1) A defense attorney if:

(A) the defendant is represented by the defense attorney; and

(B) the prosecuting attorney is also in the same room.

(2) The prosecuting attorney if:

(A) the defendant is represented by a defense attorney; and

(B) the defense attorney is also in the same room.

(3) Persons necessary to operate the closed circuit television equipment.

(4) Persons whose presence the court finds will contribute to the protected person's well-being.

(5) A court bailiff or court representative.

(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:

(1) The judge.

(2) The prosecuting attorney.

(3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the protected person's well-being.

(7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.

(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:

(1) The prosecuting attorney.

(2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(3) The judge.

SECTION 24. IC 35-37-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) This section applies even if no criminal charges were filed concerning the act that is the basis of the evidence of a previous battery.

(b) As used in this section, "evidence of a previous battery" means evidence that a person charged with a crime described in subsection (c)(1) through ~~(c)(3)~~ **(c)(5)** committed a prior unrelated act of battery or attempted battery on the victim of a crime described in subsection (c)(1) through ~~(c)(3)~~ **(c)(5)** within five (5) years before the person allegedly committed the crime described in subsection (c)(1) through (c)(3).

(c) In a prosecution for:

(1) battery (IC 35-42-2-1);

(2) domestic battery (IC 35-42-2-1.3);

~~(2)~~ **(3)** aggravated battery (IC 35-42-2-1.5);
~~(3)~~ **(4)** murder (IC 35-42-1-1); or
~~(4)~~ **(5)** voluntary manslaughter (IC 35-42-1-3);

evidence of a previous battery is admissible into evidence in the state's case-in-chief for purposes of proving motive, intent, identity, or common scheme and design.

(d) If the state proposes to offer evidence described in subsection (b), the following procedure must be followed:

(1) The state shall file a written motion not less than ten (10) days before trial stating that the state has an offer of proof concerning evidence described in subsection (b) and the relevancy of the evidence to the case. The motion must be accompanied by an affidavit in which the offer of proof is stated.

(2) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury. At the hearing, the court shall allow the questioning of the victim or witness regarding the offer of proof made by the state.

At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the state is admissible, the court shall make an order stating what evidence may be introduced by the state and the nature of the questions to be permitted. The state may then offer evidence under the order of the court.

(e) This section shall not be construed to limit the admissibility of evidence of a previous battery in any civil or criminal proceeding.

SECTION 25. IC 35-38-2.6-1, AS AMENDED BY P.L.185-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the sentencing of a person convicted of a felony whenever any part of the sentence may not be suspended under IC 35-50-2-2.1 or IC 35-50-2-2.2.

(b) This chapter does not apply to persons convicted of any of the following:

(1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

(2) Any of the following felonies:

(A) Murder (IC 35-42-1-1).

(B) **A** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ with a deadly weapon or ~~battery~~ causing death.

(C) Kidnapping (IC 35-42-3-2).

(D) Criminal confinement (IC 35-42-3-3) with a deadly weapon.

(E) Robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon.

(F) Arson (IC 35-43-1-1) for hire resulting in serious bodily injury.
(G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.
(H) Resisting law enforcement (IC 35-44.1-3-1) with a deadly weapon.
(I) Escape (IC 35-44.1-3-4) with a deadly weapon.
(J) Rioting (IC 35-45-1-2) with a deadly weapon.
(K) Aggravated battery (IC 35-42-2-1.5).
(L) Disarming a law enforcement officer (IC 35-44.1-3-2).
(3) An offense under IC 9-30-5-4.
(4) An offense under IC 9-30-5-5.

SECTION 26. IC 35-42-1-4, AS AMENDED BY P.L.158-2013, SECTION 414, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) As used in this section, "fetus" means a fetus that has attained viability (as defined in IC 16-18-2-365).

(b) A person who kills another human being while committing or attempting to commit:
(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;
(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or
(3) battery;
commits involuntary manslaughter, a Level 5 felony.

(c) A person who kills a fetus while committing or attempting to commit:
(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;
(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury;
(3) **a** battery **offense included in IC 35-42-2;** or
(4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated);
commits involuntary manslaughter, a Level 5 felony.

SECTION 27. IC 35-42-2-1, AS AMENDED BY P.L.147-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) As used in this section, "public safety official" means:
(1) a law enforcement officer, including an alcoholic beverage enforcement officer;
(2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);

(3) an employee of the department of correction;
(4) a probation officer;
(5) a parole officer;
(6) a community corrections worker;
(7) a home detention officer;
(8) a department of child services employee;
(9) a firefighter;
(10) an emergency medical services provider; or
(11) a judicial officer.

(b) Except as provided in subsections (c) through (j), a person who knowingly or intentionally:

(1) touches another person in a rude, insolent, or angry manner; or
(2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(c) The offense described in subsection (b)(1) or (b)(2) is a Class A misdemeanor if it results in bodily injury to any other person.

(d) The offense described in subsection (b)(1) or (b)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The offense results in moderate bodily injury to any other person.
(2) The offense is committed against a public safety official while the official is engaged in the official's official duty.
(3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.
(4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.
(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).
~~(6) The offense is committed against a family or household member (as defined in IC 35-31.5-2-128) if the person who committed the offense:~~
~~(A) is at least eighteen (18) years of age; and~~
~~(B) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.~~

(e) The offense described in subsection (b)(2) is a Level 6 felony if

the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(f) The offense described in subsection (b)(1) or (b)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for **a** battery **offense included in this chapter** against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).

(g) The offense described in subsection (b)(2) is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official.

(h) The offense described in subsection (b)(1) or (b)(2) is a Level 4 felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(i) The offense described in subsection (b)(1) or (b)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(j) The offense described in subsection (b)(1) or (b)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) An endangered adult (as defined in IC 12-10-3-2).

SECTION 28. IC 35-42-2-1.3, AS AMENDED BY P.L.158-2013, SECTION 421, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2016]: Sec. 1.3. (a) **Except as provided in subsections (b) through (f),** a person who knowingly or intentionally: ~~touches an individual who:~~

~~(1) is or was a spouse of the other person;~~

~~(2) is or was living as if a spouse of the other person as provided in subsection (c); or~~

~~(3) has a child in common with the other person;~~

~~in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3)~~

(1) touches a family or household member in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member;

commits domestic battery, a Class A misdemeanor.

(b) ~~However,~~ The offense under subsection ~~(a)~~ **(a)(1) or (a)(2)** is a Level 6 felony if one (1) or more of the following apply: ~~the person who committed the offense:~~

(1) **The person who committed the offense** has a previous, unrelated conviction:

(A) ~~under this section (or IC 35-42-2-1(a)(2)(E) before that provision was removed by P.L.188-1999, SECTION 5);~~ **for a battery offense included in this chapter;** or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements ~~described in this section.~~ **of a battery offense included in this chapter.** ~~or~~

(2) **The person who committed the offense is at least eighteen (18) years of age and** committed the offense **against a family or household member** in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(3) The offense results in moderate bodily injury to a family or household member.

(4) The offense is committed against a family or household member who is less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(5) The offense is committed against a family or household member of any age who has a mental or physical disability and is committed by a person having the care of the family or household member with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(6) The offense is committed against a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

~~(c) In considering whether a person is or was living as a spouse of another individual for purposes of subsection (a)(2), the court shall review:~~

~~(1) the duration of the relationship;~~

~~(2) the frequency of contact;~~

~~(3) the financial interdependence;~~

~~(4) whether the two (2) individuals are raising children together;~~

~~(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and~~

~~(6) other factors the court considers relevant.~~

(c) The offense described in subsection (a)(1) or (a)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to a family or household member.

(2) The offense is committed with a deadly weapon against a family or household member.

(3) The offense results in bodily injury to a pregnant family or household member if the person knew of the pregnancy.

(4) The person has a previous conviction for a battery offense included in IC 35-42-2 against the same family or household member.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(B) A family or household member who has a mental or physical disability if the offense is committed by an individual having care of the family or household member with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(C) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(d) The offense described in subsection (a)(1) or (a)(2) is a Level 4 felony if it results in serious bodily injury to a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(e) The offense described in subsection (a)(1) or (a)(2) is a Level 3 felony if it results in serious bodily injury to a family or

household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(f) The offense described in subsection (a)(1) or (a)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

SECTION 29. IC 35-45-9-1, AS AMENDED BY SEA 141-2016, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. As used in this chapter, "criminal organization" means a formal or informal group with at least three (3) members that specifically:

(1) either:

(A) promotes, sponsors, or assists in;

(B) participates in; or

(C) has as one (1) of its goals; or

(2) requires as a condition of membership or continued membership;

the commission of a felony, an act that would be a felony if committed by an adult, or ~~the~~ **a battery** offense ~~of battery (IC 35-42-2-1).~~ **included in IC 35-42-2.**

SECTION 30. IC 35-46-1-14, AS AMENDED BY P.L.238-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. Any person acting in good faith who:

(1) makes or causes to be made a report of neglect, **a** battery **offense included in IC 35-42-2,** or exploitation under this chapter ~~or IC 35-42-2-1~~ concerning an endangered adult or person of any age who has a mental or physical disability;

(2) makes or causes to be made photographs or x-rays of a victim of suspected neglect or **a** battery **offense included in IC 35-42-2** of an endangered adult or a dependent eighteen (18) years of age or older; or

(3) participates in any official proceeding or a proceeding resulting from a report of neglect, **a** battery **offense included in IC 35-42-2,** or exploitation of an endangered adult or a dependent eighteen (18) years of age or older relating to the subject matter of that report;

is immune from any civil or criminal liability that might otherwise be imposed because of these actions. However, this section does not apply to a person accused of neglect, **a** battery **offense,** or exploitation of an

endangered adult or a dependent eighteen (18) years of age or older.

SECTION 31. IC 35-47-4-5, AS AMENDED BY SEA 141-2016, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

(1) murder (IC 35-42-1-1);

(2) voluntary manslaughter (IC 35-42-1-3);

(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);

(4) battery (IC 35-42-2-1) as a:

(A) Class A felony, Class B felony, or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony, for a crime committed after June 30, 2014;

(5) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony;

~~(5)~~ **(6)** aggravated battery (IC 35-42-2-1.5);

~~(6)~~ **(7)** kidnapping (IC 35-42-3-2);

~~(7)~~ **(8)** criminal confinement (IC 35-42-3-3);

~~(8)~~ **(9)** rape (IC 35-42-4-1);

~~(9)~~ **(10)** criminal deviate conduct (IC 35-42-4-2) (before its repeal);

~~(10)~~ **(11)** child molesting (IC 35-42-4-3);

~~(11)~~ **(12)** sexual battery (IC 35-42-4-8) as a:

(A) Class C felony, for a crime committed before July 1, 2014; or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(12)~~ **(13)** robbery (IC 35-42-5-1);

~~(13)~~ **(14)** carjacking (IC 5-42-5-2) (before its repeal);
~~(14)~~ **(15)** arson (IC 35-43-1-1(a)) as a:
(A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or
(B) Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;
~~(15)~~ **(16)** burglary (IC 35-43-2-1) as a:
(A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or
(B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;
~~(16)~~ **(17)** assisting a criminal (IC 35-44.1-2-5) as a:
(A) Class C felony, for a crime committed before July 1, 2014; or
(B) Level 5 felony, for a crime committed after June 30, 2014;
~~(17)~~ **(18)** resisting law enforcement (IC 35-44.1-3-1) as a:
(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or
(B) Level 2 felony, Level 3 felony, or Level 5 felony, for a crime committed after June 30, 2014;
~~(18)~~ **(19)** escape (IC 35-44.1-3-4) as a:
(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or
(B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;
~~(19)~~ **(20)** trafficking with an inmate (IC 35-44.1-3-5) as a:
(A) Class C felony, for a crime committed before July 1, 2014; or
(B) Level 5 felony, for a crime committed after June 30, 2014;
~~(20)~~ **(21)** criminal organization intimidation (IC 35-45-9-4);
~~(21)~~ **(22)** stalking (IC 35-45-10-5) as a:
(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or
(B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;
~~(22)~~ **(23)** incest (IC 35-46-1-3);
~~(23)~~ **(24)** dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
~~(24)~~ **(25)** dealing in methamphetamine (IC 35-48-4-1.1);
~~(25)~~ **(26)** dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
~~(26)~~ **(27)** dealing in a schedule IV controlled substance

(IC 35-48-4-3); or

~~(27)~~ **(28)** dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Level 4 felony.

SECTION 32. IC 35-50-2-9, AS AMENDED BY SEA 141-2016, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

(A) Arson (IC 35-43-1-1).

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

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

(D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(E) Kidnapping (IC 35-42-3-2).

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

(G) Robbery (IC 35-42-5-1).

(H) Carjacking (IC 35-42-5-2) (before its repeal).

(I) Criminal organization activity (IC 35-45-9-3).

(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(K) Criminal confinement (IC 35-42-3-3).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee,

probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

(A) the victim was acting in the course of duty; or

(B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

(A) under the custody of the department of correction;

(B) under the custody of a county sheriff;

(C) on probation after receiving a sentence for the commission of a felony; or

(D) on parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The defendant:

(A) burned, mutilated, or tortured the victim; or

(B) decapitated or attempted to decapitate the victim;

while the victim was alive.

(12) The victim of the murder was less than twelve (12) years of age.

(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

(A) **A** battery **offense included in IC 35-42-2** committed before July 1, 2014, as a Class D felony or as a Class C felony, ~~under IC 35-42-2-1~~ or **a** battery **offense included in IC 35-42-2** committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.

(B) Kidnapping (IC 35-42-3-2).

(C) Criminal confinement (IC 35-42-3-3).

(D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(17) The defendant knowingly or intentionally:

(A) committed the murder:

(i) in a building primarily used for an educational purpose;

(ii) on school property; and

(iii) when students are present; or

(B) committed the murder:

(i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and

(ii) at a time when classes are in session.

(18) The murder is committed:

(A) in a building that is primarily used for religious worship; and

(B) at a time when persons are present for religious worship or education.

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall

conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The

supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If

necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.

SECTION 33. [EFFECTIVE JULY 1, 2016] **(a) The general assembly urges the legislative council to assign to the interim study committee on corrections and criminal code the topic of the appropriate penalty for battery, with particular emphasis on those cases where the battery:**

(1) results in:

(A) bodily injury;

(B) moderate bodily injury;

(C) serious bodily injury; or

(D) extreme bodily injury; or

(2) is committed against a:

(A) public safety official; or

(B) particularly vulnerable individual.

(b) As part of the study described in subsection (a), the interim study committee shall review the:

(1) existing definitions of:

(A) bodily injury;

(B) moderate bodily injury; and

(C) serious bodily injury; and

(2) class of persons granted protected status in the battery statute because they are:

(A) public safety officials; or

(B) particularly vulnerable individuals.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1069, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 10, after "IC 35-31.5-2-139.3)" insert "**by a person who is not a resident of the foster family home**".

and when so amended that said bill do pass.

(Reference is to HB 1069 as introduced.)

WASHBURNE

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1069, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6.1-8, AS AMENDED BY P.L.238-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. As used in this chapter, "violent crime" means the following:

(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:

(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.

(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).

(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).

(D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the

driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(F) **A** battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age. ~~(IC 35-42-2-1).~~

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

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

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 2. IC 5-2-6.1-16, AS AMENDED BY P.L.238-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) Except as provided in subsection (e), the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in subsection (e), the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in

person, through the division's web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age.

(f) An alleged victim of a battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age ~~under IC 35-42-2-1~~ may submit an application to the division not later than five (5) years after the commission of the offense.

SECTION 3. IC 8-1-34-30, AS ADDED BY P.L.241-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 30. (a) As used in this section, "designated employee" means a holder's:

(1) employee; or

(2) authorized agent;

whom the holder designates or will designate to receive direct marketing authority.

(b) As used in this section, "direct marketing authority" means the authority granted by the commission to a holder to market any service or product offered by the holder directly to all households in a service area served by the holder.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) A holder may apply to the commission, in the manner and form prescribed by the commission, for direct marketing authority. An application must include the following information with respect to each designated employee of the holder:

(1) Name.

(2) Home address.

(3) Driver's license number.

(4) A certification described in subsection (e)(1).

(e) In an application under subsection (d), a holder shall include the following:

(1) A certification by the holder that each designated employee satisfies the following requirements:

(A) The employee is at least eighteen (18) years of age.

(B) The employee has a high school diploma or the equivalent of a high school diploma.

(C) The employee has not been convicted of a felony within

the seven (7) years immediately preceding the date of the application.

(D) Within the seven (7) years immediately preceding the date of the application, the employee has not been released from incarceration after serving time for a felony conviction.

(E) The employee has not been convicted of:

(i) a misdemeanor involving fraud, deceit, or dishonesty;

(ii) **a** battery **offense included in IC 35-42-2** as a misdemeanor; or

(iii) two (2) or more misdemeanors involving the illegal use of alcohol or the illegal sale, use, or possession of a controlled substance;

within the five (5) years immediately preceding the date of the application.

(F) The employee has a valid driver's license.

(2) Proof of financial responsibility.

(f) A holder may comply with subsection (e)(1) by submitting to the commission a document signed by the holder in which the holder:

(1) identifies each designated employee by name, home address, and driver's license number;

(2) certifies that each designated employee has been the subject of a criminal history background check for each jurisdiction in the United States in which the designated employee has lived or worked within the seven (7) years immediately preceding the date of the application; and

(3) affirms that the background check described in subdivision (2) for each designated employee indicates that the designated employee satisfies the requirements set forth in subsection (e)(1), as applicable.

(g) Not more than fifteen (15) days after the commission receives an application under subsection (d), the commission shall determine whether the application is complete and properly verified. If the commission determines that the application is incomplete or not properly verified, the commission shall notify the applicant holder of the deficiency and allow the holder to resubmit the application after correcting the deficiency. If the commission determines that the application is complete and properly verified, the commission shall issue an order granting the holder direct marketing authority. The order must contain the following:

(1) The name of the holder.

(2) The names of designated employees of the holder.

(3) A grant of direct marketing authority to the holder and

designated employees of the holder.

(4) The date on which the order takes effect.

The commission shall provide public notice of an order granting direct marketing authority under this subsection by posting the order on the commission's Internet web site.

(h) A holder that has direct marketing authority shall notify the commission in a timely manner of any changes to the holder's list of designated employees. A designated employee may exercise direct marketing authority immediately upon the holder's submission to the commission of all information required under subsection (e)(1) with respect to the designated employee.

(i) Only the commission is authorized to grant direct marketing authority to a holder under this section. However, subject to subsection (j), with respect to direct marketing activities in a holder's service area within a political subdivision, this section does not prohibit a holder from electing to:

(1) apply for marketing or solicitation authority directly from the political subdivision; and

(2) exercise any marketing or solicitation authority under a license, permit, or other authority granted by the political subdivision before, on, or after June 30, 2013;

instead of applying for and exercising direct marketing authority granted by the commission under this section.

(j) A political subdivision may not do any of the following:

(1) Require a holder that is granted direct marketing authority from the commission under this section to also obtain marketing or solicitation authority from the political subdivision in order to engage in direct marketing in the holder's service area within the political subdivision.

(2) Impose any licensing requirement or fee on a holder in connection with any direct marketing authority granted to the holder by the commission under this section with respect to the holder's service area within the political subdivision.

(3) Except as provided in subsection (k), otherwise regulate a holder that is granted direct marketing authority from the commission under this section and that engages in direct marketing in the holder's service area within the political subdivision.

(k) A political subdivision may enforce any ordinance or regulation that:

(1) imposes restrictions as to the hours or manner in which direct marketing activities may be performed in the political

subdivision; and

(2) applies uniformly to all persons engaging in direct marketing or other soliciting in the political subdivision, regardless of:

(A) the product or service being marketed; or

(B) the type of business engaged in by the person engaging in the direct marketing or other soliciting.

SECTION 4. IC 11-12-3.7-6, AS AMENDED BY P.L.158-2013, SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. As used in this chapter, "violent offense" means one (1) or more of the following offenses:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

(5) Reckless homicide (IC 35-42-1-5).

(6) Aggravated battery (IC 35-42-2-1.5).

(7) Battery (IC 35-42-2-1) as a:

(A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 2 felony, Level 3 felony, or Level 5 felony (for a crime committed after June 30, 2014).

(8) Kidnapping (IC 35-42-3-2).

(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that is a:

(A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony (for a crime committed after June 30, 2014).

(10) Sexual misconduct with a minor (IC 35-42-4-9) as a:

(A) Class A felony or Class B felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, or Level 4 felony (for a crime committed after June 30, 2014).

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

(12) Robbery (IC 35-42-5-1) as a:

(A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or

(B) Level 2 felony or Level 3 felony (for a crime committed after June 30, 2014).

(13) Burglary (IC 35-43-2-1) as a:

(A) Class A felony or a Class B felony (for a crime committed

before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (for a crime committed after June 30, 2014).

(14) Carjacking (IC 35-42-5-2) (repealed).

(15) Assisting a criminal (IC 35-44.1-2-5) as a:

(A) Class C felony (for a crime committed before July 1, 2014); or

(B) Level 5 felony (for a crime committed after June 30, 2014).

(16) Escape (IC 35-44.1-3-4) as a:

(A) Class B felony or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 4 felony or Level 5 felony (for a crime committed after June 30, 2014).

(17) Trafficking with an inmate (IC 35-44.1-3-5) as a:

(A) Class C felony (for a crime committed before July 1, 2014); or

(B) Level 5 felony (for a crime committed after June 30, 2014).

(18) Causing death when operating a vehicle (IC 9-30-5-5).

(19) Criminal confinement (IC 35-42-3-3) as a:

(A) Class B felony (for a crime committed before July 1, 2014); or

(B) Level 3 felony (for a crime committed after June 30, 2014).

(20) Arson (IC 35-43-1-1) as a:

(A) Class A or Class B felony (for a crime committed before July 1, 2014); or

(B) Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014).

(21) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).

(22) Terroristic mischief (IC 35-47-12-3) as a:

(A) Class B felony (for a crime committed before July 1, 2014); or

(B) Level 4 felony (for a crime committed after June 30, 2014).

(23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).

(24) A violation of IC 35-47.5 (controlled explosives) as a:

(A) Class A or Class B felony (for a crime committed before July 1, 2014); or

(B) Level 2 or Level 4 felony (for a crime committed after

June 30, 2014).

(25) Domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, or Level 5 felony.

~~(25)~~ **(26)** A crime under the laws of another jurisdiction, including a military court, that is substantially similar to any of the offenses listed in this subdivision.

~~(26)~~ **(27)** Any other crimes evidencing a propensity or history of violence.

SECTION 5. IC 12-7-2-20.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 20.8. "Battery", for purposes of IC 12-10-3, includes battery (IC 35-42-2-1), domestic battery (IC 35-42-2-1.3), and aggravated battery (IC 35-42-2-1.5).**

SECTION 6. IC 12-10-3-2, AS AMENDED BY P.L.117-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except as provided in subsection (b), as used in this chapter, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, intellectual disability, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect;

(B) **a** battery **offense included in IC 35-42-2;** or

(C) exploitation of the individual's personal services or property.

(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, **IC 35-42-2-1.3,** and IC 35-46-1-13, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, intellectual disability, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect; or

(B) battery.

(c) An individual is not an endangered adult solely:

(1) for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual

would not be considered to be an endangered adult if the individual were receiving the medical treatment; or

(2) on the basis of being physically unable to provide self care when appropriate care is being provided.".

Page 1, line 6, delete "involving" and insert "**(IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving**".

Page 1, line 7, delete "person (IC 35-42-2-1)." and insert "**person.**".

Page 4, line 1, delete "involving" and insert "**(IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving**".

Page 4, line 2, delete "person (IC 35-42-2-1)," and insert "**person,**".

Page 4, line 36, delete "involving" and insert "**(IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving**".

Page 4, line 37, delete "person (IC 35-42-2-1)," and insert "**person,**".

Page 6, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 9. IC 20-19-3-4, AS AMENDED BY P.L.213-2015, SECTION 152, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The department shall:

(1) perform the duties required by statute;

(2) implement the policies and procedures established by the state board;

(3) conduct analytical research to assist the state board in determining the state's educational policy;

(4) compile statistics concerning the ethnicity, gender, and disability status of students in Indiana schools, including statistics for all information that the department receives from school corporations on enrollment, number of suspensions, and number of expulsions; and

(5) provide technical assistance to school corporations.

(b) In compiling statistics by gender, ethnicity, and disability status under subsection (a)(4), the department shall also categorize suspensions and expulsions by cause as follows:

(1) Alcohol.

(2) Drugs.

(3) Deadly weapons (other than firearms).

(4) Handguns.

(5) Rifles or shotguns.

(6) Other firearms.

(7) Tobacco.

(8) Attendance.

(9) Destruction of property.

(10) Legal settlement (under IC 20-33-8-17).

(11) Fighting (incident does not rise to the level of battery).
(12) **A** battery **offense included in IC 35-42-2.** ~~(IC 35-42-2-1).~~
(13) Intimidation (IC 35-45-2-1).
(14) Verbal aggression or profanity.
(15) Defiance.
(16) Other.

(c) The department shall provide the state board any data, including fiscal data, as determined by the state board, in a reasonable time frame established by the state board after consultation with the department, necessary to conduct an audit or evaluation of any federal or state supported program principally engaged in the provision of education, including, but not limited to:

(1) early childhood education;
(2) elementary and secondary education;
(3) postsecondary education;
(4) special education;
(5) job training;
(6) career and technical education; and
(7) adult education;

or for the enforcement of or compliance with federal legal requirements related to those education programs as determined by the state board. The state board and the department are considered state educational authorities within the meaning of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99) for the purpose of allowing the free exchange of information between the department and the state board.

(d) The department shall develop guidelines necessary to implement this section.

SECTION 10. IC 20-26-5-11, AS AMENDED BY P.L.233-2015, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) This section applies to:

(1) a school corporation;
(2) a charter school; and
(3) an entity:
    (A) with which the school corporation contracts for services; and
    (B) that has employees who are likely to have direct, ongoing contact with children within the scope of the employees' employment.

(b) A school corporation, charter school, or entity may use information obtained under section 10 of this chapter concerning an individual's conviction for one (1) of the following offenses as grounds

to not employ or contract with the individual:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2) (repealed).

(12) Arson (IC 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

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

(14) Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (IC 35-46-1-4(b)(2)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(15) Child selling (IC 35-46-1-4(d)).

(16) Contributing to the delinquency of a minor (IC 35-46-1-8), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(17) An offense involving a weapon under IC 35-47 or IC 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(18) An offense relating to controlled substances under IC 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(20) An offense relating to operating a motor vehicle while

intoxicated under IC 9-30-5, unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(21) Domestic battery (IC 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is latest.

~~(21)~~ **(22)** An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

(c) An individual employed by a school corporation, charter school, or an entity described in subsection (a) shall notify the governing body of the school corporation, if during the course of the individual's employment, the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

SECTION 11. IC 20-33-9-1.3, AS ADDED BY P.L.72-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.3. As used in this chapter, "battery" refers to:

(1) battery under IC 35-42-2-1;

(2) domestic battery under IC 35-42-2-1.3; and

(3) aggravated battery under IC 35-42-2-1.5.

SECTION 12. IC 31-19-9-10, AS AMENDED BY P.L.168-2014, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. A court shall determine that consent to adoption is not required from a parent if:

(1) the parent is convicted of and incarcerated at the time of the filing of a petition for adoption for:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) rape (IC 35-42-4-1);

(E) criminal deviate conduct (IC 35-42-4-2) (before its repeal);

(F) child molesting (IC 35-42-4-3) as a:

(i) Class A or Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 1, Level 2, Level 3, or Level 4 felony, for a crime committed after June 30, 2014;

(G) incest (IC 35-46-1-3) as a:

(i) Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 4 felony, for a crime committed after June 30, 2014;

(H) neglect of a dependent (IC 35-46-1-4) as a:

(i) Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 1 or Level 3 felony, for a crime committed after June 30, 2014;

(I) battery (IC 35-42-2-1) of a child as a:

(i) Class C felony, for a crime committed before July 1, 2014; or

(ii) Level 5 felony, for a crime committed after June 30, 2014;

(J) battery (IC 35-42-2-1) as a:

(i) Class A or Class B felony, for a crime committed before July 1, 2014; or

(ii) Level 2, ~~or~~ Level 3, **or Level 4** felony, for a crime committed after June 30, 2014; ~~or~~

(K) domestic battery (IC 35-42-2-1.3) as a Level 5, Level 4, Level 3, or Level 2 felony;

(L) aggravated battery (IC 35-42-2-1.5) as a Level 3 or Level 1 felony; or

~~(K)~~ **(M)** an attempt under IC 35-41-5-1 to commit an offense described in ~~clauses (A) through (J);~~ **this subdivision;**

(2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and

(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the child's best interests.

SECTION 13. IC 31-34-4-2, AS AMENDED BY P.L.123-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter and the court orders out-of-home placement, the department is responsible for that placement and care and must consider placing the child with a:

(1) suitable and willing relative; or

(2) de facto custodian;

before considering any other out-of-home placement.

(b) The department shall consider placing a child described in subsection (a) with a relative related by blood, marriage, or adoption before considering any other placement of the child.

(c) Before the department places a child in need of services with a relative or a de facto custodian, the department shall complete an evaluation based on a home visit of the relative's home.

(d) Except as provided in subsection (f), before placing a child in need of services in an out-of-home placement, the department shall conduct a criminal history check of each person who is currently residing in the location designated as the out-of-home placement.

(e) Except as provided in subsection (g), the department may not make an out-of-home placement if a person described in subsection (d) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 31-27-4-13 or had a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult.

(f) The department is not required to conduct a criminal history check under subsection (d) if the department makes an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(g) A court may order or the department may approve an out-of-home placement if:

(1) a person described in subsection (d) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vii)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the placement

is in the best interest of the child.

However, a court or the department may not make an out-of-home placement if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B).

(h) In considering the placement under subsection (g), the court or the department shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 14. IC 31-34-20-1.5, AS AMENDED BY P.L.158-2013, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving or ordering placement of a child in another home under section 1(a)(3) of this chapter or awarding wardship to the department that will place the child in another home under section 1(a)(4) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3) or 1(a)(4) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The department or caseworker who prepared the predispositional report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department or caseworker is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13(a) if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13(a).

(c) The department or caseworker is not required to conduct a criminal history check under this section if:

(1) the department or caseworker is considering only an

out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) A juvenile court may enter a dispositional decree that approves placement of a child in another home or award wardship to the department that will place the child in a home with a person described in subsection (a) if:

(1) the person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vii)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and placing a child in another home or awarding wardship to the department is in the best interest of the child.

However, a court may not enter a dispositional decree that approves placement of a child in another home or awards wardship to the department if the person has been convicted of a felony listed in IC 31-27-4-13(a) that is not specifically excluded under subdivision (1)(B).

(e) In considering the placement under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 15. IC 31-34-21-7.5, AS AMENDED BY P.L.104-2015, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) Before requesting juvenile court approval of a permanency plan, the department shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the department or the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle;

(v) a custodial parent of a sibling of the child; or

(vi) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) A supervised independent living arrangement or foster care for the child with a permanency plan of another planned, permanent living arrangement. However, a child less than sixteen (16) years of age may not have another planned, permanent living arrangement as the child's permanency plan.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4;

(vii) a felony under IC 9-30-5; or

(viii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vii)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.".

Page 6, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 17. IC 31-37-4-3, AS AMENDED BY P.L.168-2014, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

(5) Reckless homicide (IC 35-42-1-5).

(6) Aggravated battery (IC 35-42-2-1.5).

(7) Battery (IC 35-42-2-1).
(8) Kidnapping (IC 35-42-3-2).
(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
(10) Sexual misconduct with a minor (IC 35-42-4-9).
(11) Incest (IC 35-46-1-3).
(12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
(13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
(14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
(15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5 felony.
(16) Trafficking with an inmate as a Level 5 felony (IC 35-44.1-3-5).
(17) Causing death when operating a vehicle (IC 9-30-5-5).
(18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level 3 felony.
(19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or Level 4 felony.
(20) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3 felony.
(22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(23) A violation of IC 35-47.5 (controlled explosives) as a Level 2 felony, Level 3 felony, or Level 4 felony.
(24) A controlled substances offense under IC 35-48.
(25) A criminal gang offense under IC 35-45-9.
(26) Domestic battery (IC 35-42-2-1.3).

(b) If a child is taken into custody under this chapter for a crime or act listed in subsection (a) or a situation to which IC 12-26-4-1 applies, the law enforcement agency that employs the law enforcement officer who takes the child into custody shall notify the chief administrative officer of the primary or secondary school, including a public or nonpublic school, in which the child is enrolled or, if the child is enrolled in a public school, the superintendent of the school district in which the child is enrolled:

(1) that the child was taken into custody; and
(2) of the reason why the child was taken into custody.

(c) The notification under subsection (b) must occur within forty-eight (48) hours after the child is taken into custody.

(d) A law enforcement agency may not disclose information that is

confidential under state or federal law to a school or school district under this section.

(e) A law enforcement agency shall include in its training for law enforcement officers training concerning the notification requirements under subsection (b).

SECTION 18. IC 31-37-19-6.5, AS AMENDED BY P.L.158-2013, SECTION 329, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving placement of a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility that results in a placement with a person under section 1(a)(4) or 6(b)(2)(E) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3), 1(a)(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The juvenile probation officer who prepared the predispositional report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the probation officer is not required to conduct a criminal history check under this section if criminal history information obtained under IC 31-37-17-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) The juvenile probation officer is not required to conduct a criminal history check under this section if:

(1) the probation officer is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) The juvenile court may enter a dispositional decree approving

placement of a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility that results in a placement with a person under section 1(a)(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect;

(B) been convicted of:

(i) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

(iii) carjacking (IC 35-42-5-2) (repealed) as a felony;

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

(vi) a felony relating to controlled substances under IC 35-48-4; or

(vii) a felony that is substantially equivalent to a felony listed in ~~items (i) through (vi)~~ **this clause** for which the conviction was entered in another ~~state;~~ **jurisdiction;**

if the conviction did not occur within the past five (5) years; or

(C) had a juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony; and

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(a)(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person or facility under this subsection if a person with whom the child is or will be placed has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B).

(e) In considering the placement under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 19. IC 33-37-5-12, AS AMENDED BY P.L.214-2013, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) reckless homicide (IC 35-42-1-5);

(E) battery (IC 35-42-2-1);

(F) domestic battery (IC 35-42-2-1.3);

(G) aggravated battery (IC 35-42-2-1.5);

~~(G)~~ **(H)** rape (IC 35-42-4-1);

~~(H)~~ **(I)** criminal deviate conduct (IC 35-42-4-2) (repealed);

~~(I)~~ **(J)** child molesting (IC 35-42-4-3);

~~(J)~~ **(K)** child exploitation (IC 35-42-4-4);

~~(K)~~ **(L)** vicarious sexual gratification (IC 35-42-4-5);

~~(L)~~ **(M)** child solicitation (IC 35-42-4-6);

~~(M)~~ **(N)** incest (IC 35-46-1-3);

~~(N)~~ **(O)** neglect of a dependent (IC 35-46-1-4);

~~(O)~~ **(P)** child selling (IC 35-46-1-4); or

~~(P)~~ **(Q)** child seduction (IC 35-42-4-7); and

(2) the victim of the offense is less than eighteen (18) years of age.".

Page 6, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 21. IC 35-36-7-3, AS AMENDED BY P.L.169-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) This section applies to criminal actions for:

(1) an offense listed in IC 11-8-8-4.5(a);

(2) neglect of a dependent (IC 35-46-1-4);

(3) **a** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ if the victim is:

(A) less than eighteen (18) years of age; or

(B) an endangered adult (as defined in IC 12-10-3-2); and

(4) attempts of the crimes listed in subdivisions (1) through (3).

(b) If a motion is made to postpone a trial or other court proceeding that involves an offense listed in subsection (a), the court shall consider whether a postponement will have an adverse impact upon an endangered adult (as defined in IC 12-10-3-2) or a child who is less than sixteen (16) years of age and who:

(1) is the alleged victim of an offense listed in subsection (a); or

(2) will be a witness in the trial.

SECTION 22. IC 35-37-4-6, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

(1) Sex crimes (IC 35-42-4).

(2) **A** battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age. ~~(IC 35-42-2-1).~~

(3) Kidnapping and confinement (IC 35-42-3).

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

(5) Neglect of a dependent (IC 35-46-1-4).

(6) Human and sexual trafficking crimes (IC 35-42-3.5).

(7) An attempt under IC 35-41-5-1 ~~for~~ **to commit** an offense listed in ~~subdivisions (1) through (6).~~ **this subsection.**

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).

(2) A sex crime (IC 35-42-4).

(3) **A** battery **offense included in IC 35-42-2.** ~~(IC 35-42-2-1).~~

(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).

(5) Home improvement fraud (IC 35-43-6).

(6) Fraud (IC 35-43-5).

(7) Identity deception (IC 35-43-5-3.5).

(8) Synthetic identity deception (IC 35-43-5-3.8).

(9) Theft (IC 35-43-4-2).

(10) Conversion (IC 35-43-4-3).

(11) Neglect of a dependent (IC 35-46-1-4).

(12) Human and sexual trafficking crimes (IC 35-42-3.5).

(c) As used in this section, "protected person" means:

(1) a child who is less than fourteen (14) years of age;

(2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(A) is manifested before the individual is eighteen (18) years of age;

(B) is likely to continue indefinitely;

(C) constitutes a substantial impairment of the individual's ability to function normally in society; and

(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or

(3) an individual who is:

(A) at least eighteen (18) years of age; and

(B) incapable by reason of mental illness, ~~*mental retardation,*~~ *intellectual disability,* dementia, or other physical or mental incapacity of:

(i) managing or directing the management of the individual's property; or

(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:

(1) is made by a person who at the time of trial is a protected person;

(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and

(3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:

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

(B) attended by the protected person in person or by using closed circuit television testimony as described in section 8(f) and 8(g) of this chapter;

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

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

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

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

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

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

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

(2) when the statement or videotape was made.

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

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

(2) the content of the statement or videotape.

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

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

(2) The nature of the statement or videotape.

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

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 23. IC 35-37-4-8, AS AMENDED BY P.L.238-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) This section applies to a criminal action under the following:

(1) Sex crimes (IC 35-42-4).

(2) **A** battery **offense included in IC 35-42-2** upon a child less than fourteen (14) years of age. ~~(IC 35-42-2-1).~~

(3) Kidnapping and confinement (IC 35-42-3).

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

(5) Neglect of a dependent (IC 35-46-1-4).

(6) Human and sexual trafficking crimes (IC 35-42-3.5).

(7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (6).

(b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.

(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:

(1) allows the protected person to see the accused and the trier of fact; and

(2) allows the accused and the trier of fact to see and hear the protected person.

(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).

(e) The court may not make an order under subsection (c) or (d) unless:

(1) the testimony to be taken is the testimony of a protected person who:

(A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and

(B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:

(i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person's testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact;

(ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical

presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;

(2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person testify outside the courtroom; and

(3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.

(f) If the court makes an order under subsection (c), only the following persons may be in the same room as the protected person during the protected person's testimony:

(1) A defense attorney if:

(A) the defendant is represented by the defense attorney; and

(B) the prosecuting attorney is also in the same room.

(2) The prosecuting attorney if:

(A) the defendant is represented by a defense attorney; and

(B) the defense attorney is also in the same room.

(3) Persons necessary to operate the closed circuit television equipment.

(4) Persons whose presence the court finds will contribute to the protected person's well-being.

(5) A court bailiff or court representative.

(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:

(1) The judge.

(2) The prosecuting attorney.

(3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the protected person's well-being.

(7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.

(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:

(1) The prosecuting attorney.

(2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).

(3) The judge.

SECTION 24. IC 35-37-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) This section applies even if no criminal charges were filed concerning the act that is the basis of the evidence of a previous battery.

(b) As used in this section, "evidence of a previous battery" means evidence that a person charged with a crime described in subsection (c)(1) through ~~(c)(3)~~ **(c)(5)** committed a prior unrelated act of battery or attempted battery on the victim of a crime described in subsection (c)(1) through ~~(c)(3)~~ **(c)(5)** within five (5) years before the person allegedly committed the crime described in subsection (c)(1) through (c)(3).

(c) In a prosecution for:

(1) battery (IC 35-42-2-1);

(2) domestic battery (IC 35-42-2-1.3);

~~(2)~~ **(3)** aggravated battery (IC 35-42-2-1.5);

~~(3)~~ **(4)** murder (IC 35-42-1-1); or

~~(4)~~ **(5)** voluntary manslaughter (IC 35-42-1-3);

evidence of a previous battery is admissible into evidence in the state's case-in-chief for purposes of proving motive, intent, identity, or common scheme and design.

(d) If the state proposes to offer evidence described in subsection (b), the following procedure must be followed:

(1) The state shall file a written motion not less than ten (10) days before trial stating that the state has an offer of proof concerning evidence described in subsection (b) and the relevancy of the evidence to the case. The motion must be accompanied by an affidavit in which the offer of proof is stated.

(2) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury. At the hearing, the court shall allow the questioning of the victim or witness regarding the offer of proof made by the state.

At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the state is admissible, the court shall make an order stating what evidence may be introduced by the state and the nature of the questions to be permitted. The state may then offer evidence under the order of the court.

(e) This section shall not be construed to limit the admissibility of evidence of a previous battery in any civil or criminal proceeding.

SECTION 25. IC 35-38-2.6-1, AS AMENDED BY P.L.185-2014,

SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the sentencing of a person convicted of a felony whenever any part of the sentence may not be suspended under IC 35-50-2-2.1 or IC 35-50-2-2.2.

(b) This chapter does not apply to persons convicted of any of the following:

(1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

(2) Any of the following felonies:

(A) Murder (IC 35-42-1-1).

(B) **A** battery **offense included in IC 35-42-2** ~~(IC 35-42-2-1)~~ with a deadly weapon or ~~battery~~ causing death.

(C) Kidnapping (IC 35-42-3-2).

(D) Criminal confinement (IC 35-42-3-3) with a deadly weapon.

(E) Robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon.

(F) Arson (IC 35-43-1-1) for hire resulting in serious bodily injury.

(G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.

(H) Resisting law enforcement (IC 35-44.1-3-1) with a deadly weapon.

(I) Escape (IC 35-44.1-3-4) with a deadly weapon.

(J) Rioting (IC 35-45-1-2) with a deadly weapon.

(K) Aggravated battery (IC 35-42-2-1.5).

(L) Disarming a law enforcement officer (IC 35-44.1-3-2).

(3) An offense under IC 9-30-5-4.

(4) An offense under IC 9-30-5-5.

SECTION 26. IC 35-42-1-4, AS AMENDED BY P.L.158-2013, SECTION 414, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) As used in this section, "fetus" means a fetus that has attained viability (as defined in IC 16-18-2-365).

(b) A person who kills another human being while committing or attempting to commit:

(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or

(3) battery;

commits involuntary manslaughter, a Level 5 felony.

(c) A person who kills a fetus while committing or attempting to

commit:

(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury;

(3) **a** battery **offense included in IC 35-42-2;** or

(4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated);

commits involuntary manslaughter, a Level 5 felony.".

Page 8, strike lines 2 through 8.

Page 8, line 9, delete "(7)" and insert "**(6)**".

Page 8, line 24, after "for" insert "**a**".

Page 8, line 24, after "battery" insert "**offense included in this chapter**".

Page 9, after line 14, begin a new paragraph and insert:

"SECTION 28. IC 35-42-2-1.3, AS AMENDED BY P.L.158-2013, SECTION 421, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.3. (a) **Except as provided in subsections (b) through (f),** a person who knowingly or intentionally: ~~touches an individual who:~~

~~(1) is or was a spouse of the other person;~~

~~(2) is or was living as if a spouse of the other person as provided in subsection (c); or~~

~~(3) has a child in common with the other person;~~

~~in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3)~~

(1) touches a family or household member in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member;

commits domestic battery, a Class A misdemeanor.

(b) ~~However,~~ The offense under subsection ~~(a)~~ **(a)(1) or (a)(2)** is a Level 6 felony if one (1) or more of the following apply: ~~the person who committed the offense:~~

(1) **The person who committed the offense** has a previous, unrelated conviction:

(A) ~~under this section (or IC 35-42-2-1(a)(2)(E) before that provision was removed by P.L.188-1999, SECTION 5);~~ **for a battery offense included in this chapter;** or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements ~~described in~~

~~this section.~~ **of a battery offense included in this chapter.** ~~or~~

(2) **The person who committed the offense is at least eighteen (18) years of age and** committed the offense **against a family or household member** in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(3) The offense results in moderate bodily injury to a family or household member.

(4) The offense is committed against a family or household member who is less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(5) The offense is committed against a family or household member of any age who has a mental or physical disability and is committed by a person having the care of the family or household member with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(6) The offense is committed against a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

~~(c) In considering whether a person is or was living as a spouse of another individual for purposes of subsection (a)(2), the court shall review:~~

~~(1) the duration of the relationship;~~

~~(2) the frequency of contact;~~

~~(3) the financial interdependence;~~

~~(4) whether the two (2) individuals are raising children together;~~

~~(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and~~

~~(6) other factors the court considers relevant.~~

(c) The offense described in subsection (a)(1) or (a)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to a family or household member.

(2) The offense is committed with a deadly weapon against a family or household member.

(3) The offense results in bodily injury to a pregnant family or household member if the person knew of the pregnancy.

(4) The person has a previous conviction for a battery offense included in IC 35-42-2 against the same family or household member.

(5) The offense results in bodily injury to one (1) or more of

the following:

(A) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(B) A family or household member who has a mental or physical disability if the offense is committed by an individual having care of the family or household member with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(C) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(d) The offense described in subsection (a)(1) or (a)(2) is a Level 4 felony if it results in serious bodily injury to a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(e) The offense described in subsection (a)(1) or (a)(2) is a Level 3 felony if it results in serious bodily injury to a family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(f) The offense described in subsection (a)(1) or (a)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

SECTION 29. IC 35-45-9-1, AS AMENDED BY P.L.192-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. As used in this chapter, "criminal gang" means a group with at least three (3) members that specifically:

(1) either:

(A) promotes, sponsors, or assists in; or

(B) participates in; or

(2) requires as a condition of membership or continued membership;

the commission of a felony or an act that would be a felony if committed by an adult or ~~the~~ **a battery** offense ~~of battery (IC 35-42-2-1)~~ **included in IC 35-42-2.**

SECTION 30. IC 35-46-1-14, AS AMENDED BY P.L.238-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. Any person acting in good faith who:

(1) makes or causes to be made a report of neglect, **a** battery

offense included in IC 35-42-2, or exploitation under this chapter ~~or IC 35-42-2-1~~ concerning an endangered adult or person of any age who has a mental or physical disability;

(2) makes or causes to be made photographs or x-rays of a victim of suspected neglect or **a** battery **offense included in IC 35-42-2** of an endangered adult or a dependent eighteen (18) years of age or older; or

(3) participates in any official proceeding or a proceeding resulting from a report of neglect, **a** battery **offense included in IC 35-42-2,** or exploitation of an endangered adult or a dependent eighteen (18) years of age or older relating to the subject matter of that report;

is immune from any civil or criminal liability that might otherwise be imposed because of these actions. However, this section does not apply to a person accused of neglect, **a** battery **offense,** or exploitation of an endangered adult or a dependent eighteen (18) years of age or older.

SECTION 31. IC 35-47-4-5, AS AMENDED BY P.L.168-2014, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

(1) murder (IC 35-42-1-1);

(2) voluntary manslaughter (IC 35-42-1-3);

(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);

(4) battery (IC 35-42-2-1) as a:

(A) Class A felony, Class B felony, or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5

felony, for a crime committed after June 30, 2014;

(5) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony;

~~(5)~~ **(6)** aggravated battery (IC 35-42-2-1.5);

~~(6)~~ **(7)** kidnapping (IC 35-42-3-2);

~~(7)~~ **(8)** criminal confinement (IC 35-42-3-3);

~~(8)~~ **(9)** rape (IC 35-42-4-1);

~~(9)~~ **(10)** criminal deviate conduct (IC 35-42-4-2) (before its repeal);

~~(10)~~ **(11)** child molesting (IC 35-42-4-3);

~~(11)~~ **(12)** sexual battery (IC 35-42-4-8) as a:

(A) Class C felony, for a crime committed before July 1, 2014; or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(12)~~ **(13)** robbery (IC 35-42-5-1);

~~(13)~~ **(14)** carjacking (IC 5-42-5-2) (before its repeal);

~~(14)~~ **(15)** arson (IC 35-43-1-1(a)) as a:

(A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;

~~(15)~~ **(16)** burglary (IC 35-43-2-1) as a:

(A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or

(B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;

~~(16)~~ **(17)** assisting a criminal (IC 35-44.1-2-5) as a:

(A) Class C felony, for a crime committed before July 1, 2014; or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(17)~~ **(18)** resisting law enforcement (IC 35-44.1-3-1) as a:

(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, or Level 5 felony, for a crime committed after June 30, 2014;

~~(18)~~ **(19)** escape (IC 35-44.1-3-4) as a:

(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;

~~(19)~~ **(20)** trafficking with an inmate (IC 35-44.1-3-5) as a:

(A) Class C felony, for a crime committed before July 1, 2014;

or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(20)~~ **(21)** criminal gang intimidation (IC 35-45-9-4);

~~(21)~~ **(22)** stalking (IC 35-45-10-5) as a:

(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;

~~(22)~~ **(23)** incest (IC 35-46-1-3);

~~(23)~~ **(24)** dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);

~~(24)~~ **(25)** dealing in methamphetamine (IC 35-48-4-1.1);

~~(25)~~ **(26)** dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

~~(26)~~ **(27)** dealing in a schedule IV controlled substance (IC 35-48-4-3); or

~~(27)~~ **(28)** dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Level 4 felony.

SECTION 32. IC 35-50-2-9, AS AMENDED BY P.L.187-2015, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

(A) Arson (IC 35-43-1-1).

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

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

(D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(E) Kidnapping (IC 35-42-3-2).
(F) Rape (IC 35-42-4-1).
(G) Robbery (IC 35-42-5-1).
(H) Carjacking (IC 35-42-5-2) (before its repeal).
(I) Criminal gang activity (IC 35-45-9-3).
(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
(K) Criminal confinement (IC 35-42-3-3).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

(A) the victim was acting in the course of duty; or
(B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

(A) under the custody of the department of correction;
(B) under the custody of a county sheriff;
(C) on probation after receiving a sentence for the commission of a felony; or
(D) on parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The defendant:

(A) burned, mutilated, or tortured the victim; or
(B) decapitated or attempted to decapitate the victim;

while the victim was alive.

(12) The victim of the murder was less than twelve (12) years of age.

(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

(A) **A** battery **offense included in IC 35-42-2** committed

before July 1, 2014, as a Class D felony or as a Class C felony, ~~under IC 35-42-2-1~~ or **a** battery **offense included in IC 35-42-2** committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.

(B) Kidnapping (IC 35-42-3-2).

(C) Criminal confinement (IC 35-42-3-3).

(D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(17) The defendant knowingly or intentionally:

(A) committed the murder:

(i) in a building primarily used for an educational purpose;

(ii) on school property; and

(iii) when students are present; or

(B) committed the murder:

(i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and

(ii) at a time when classes are in session.

(18) The murder is committed:

(A) in a building that is primarily used for religious worship; and

(B) at a time when persons are present for religious worship or education.

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a

statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1069 as printed January 29, 2016.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1069 be amended to read as follows:

Page 24, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 17. IC 31-37-4-3, AS AMENDED BY SEA 141-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

(1) Murder (IC 35-42-1-1).
(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Aggravated battery (IC 35-42-2-1.5).
(7) Battery (IC 35-42-2-1).
(8) Kidnapping (IC 35-42-3-2).
(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
(10) Sexual misconduct with a minor (IC 35-42-4-9).
(11) Incest (IC 35-46-1-3).
(12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
(13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
(14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
(15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5 felony.
(16) Trafficking with an inmate as a Level 5 felony (IC 35-44.1-3-5).
(17) Causing death when operating a vehicle (IC 9-30-5-5).
(18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level 3 felony.
(19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or Level 4 felony.
(20) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3 felony.
(22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(23) A violation of IC 35-47.5 (controlled explosives) as a Level

2 felony, Level 3 felony, or Level 4 felony.

(24) A controlled substances offense under IC 35-48.

(25) A criminal organization offense under IC 35-45-9.

(26) Domestic battery (IC 35-42-2-1.3).

(b) If a child is taken into custody under this chapter for a crime or act listed in subsection (a) or a situation to which IC 12-26-4-1 applies, the law enforcement agency that employs the law enforcement officer who takes the child into custody shall notify the chief administrative officer of the primary or secondary school, including a public or nonpublic school, in which the child is enrolled or, if the child is enrolled in a public school, the superintendent of the school district in which the child is enrolled:

(1) that the child was taken into custody; and

(2) of the reason why the child was taken into custody.

(c) The notification under subsection (b) must occur within forty-eight (48) hours after the child is taken into custody.

(d) A law enforcement agency may not disclose information that is confidential under state or federal law to a school or school district under this section.

(e) A law enforcement agency shall include in its training for law enforcement officers training concerning the notification requirements under subsection (b).".

Page 25, delete lines 1 through 28.

Page 40, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 31. IC 35-45-9-1, AS AMENDED BY SEA 141-2016, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. As used in this chapter, "criminal organization" means a formal or informal group with at least three (3) members that specifically:

(1) either:

(A) promotes, sponsors, or assists in;

(B) participates in; or

(C) has as one (1) of its goals; or

(2) requires as a condition of membership or continued membership;

the commission of a felony, an act that would be a felony if committed by an adult, or ~~the~~ **a battery** offense ~~of battery (IC 35-42-2-1).~~ **included in IC 35-42-2.**".

Page 41, delete lines 1 through 10.

Page 41, delete lines 31 through 42, begin a new paragraph and insert:

"SECTION 33. IC 35-47-4-5, AS AMENDED BY SEA 141-2016, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

(1) murder (IC 35-42-1-1);

(2) voluntary manslaughter (IC 35-42-1-3);

(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);

(4) battery (IC 35-42-2-1) as a:

(A) Class A felony, Class B felony, or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony, for a crime committed after June 30, 2014;

(5) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony;

~~(5)~~ **(6)** aggravated battery (IC 35-42-2-1.5);

~~(6)~~ **(7)** kidnapping (IC 35-42-3-2);

~~(7)~~ **(8)** criminal confinement (IC 35-42-3-3);

~~(8)~~ **(9)** rape (IC 35-42-4-1);

~~(9)~~ **(10)** criminal deviate conduct (IC 35-42-4-2) (before its repeal);

~~(10)~~ **(11)** child molesting (IC 35-42-4-3);

~~(11)~~ **(12)** sexual battery (IC 35-42-4-8) as a:

(A) Class C felony, for a crime committed before July 1, 2014; or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(12)~~ **(13)** robbery (IC 35-42-5-1);

~~(13)~~ **(14)** carjacking (IC 5-42-5-2) (before its repeal);

~~(14)~~ **(15)** arson (IC 35-43-1-1(a)) as a:

(A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;

~~(15)~~ **(16)** burglary (IC 35-43-2-1) as a:

(A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or

(B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;

~~(16)~~ **(17)** assisting a criminal (IC 35-44.1-2-5) as a:

(A) Class C felony, for a crime committed before July 1, 2014; or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(17)~~ **(18)** resisting law enforcement (IC 35-44.1-3-1) as a:

(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 2 felony, Level 3 felony, or Level 5 felony, for a crime committed after June 30, 2014;

~~(18)~~ **(19)** escape (IC 35-44.1-3-4) as a:

(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;

~~(19)~~ **(20)** trafficking with an inmate (IC 35-44.1-3-5) as a:

(A) Class C felony, for a crime committed before July 1, 2014; or

(B) Level 5 felony, for a crime committed after June 30, 2014;

~~(20)~~ **(21)** criminal organization intimidation (IC 35-45-9-4);

~~(21)~~ **(22)** stalking (IC 35-45-10-5) as a:

(A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or

(B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;

~~(22)~~ **(23)** incest (IC 35-46-1-3);

~~(23)~~ **(24)** dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);

~~(24)~~ **(25)** dealing in methamphetamine (IC 35-48-4-1.1);

~~(25)~~ **(26)** dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

~~(26)~~ **(27)** dealing in a schedule IV controlled substance (IC 35-48-4-3); or

~~(27)~~ **(28)** dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Level 4 felony.".

Delete pages 42 through 49, begin a new paragraph and insert:

"SECTION 34. IC 35-50-2-9, AS AMENDED BY SEA 141-2016, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

(A) Arson (IC 35-43-1-1).

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

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

(D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(E) Kidnapping (IC 35-42-3-2).

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

(G) Robbery (IC 35-42-5-1).

(H) Carjacking (IC 35-42-5-2) (before its repeal).

(I) Criminal organization activity (IC 35-45-9-3).

(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(K) Criminal confinement (IC 35-42-3-3).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee,

probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

(A) the victim was acting in the course of duty; or

(B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

(A) under the custody of the department of correction;

(B) under the custody of a county sheriff;

(C) on probation after receiving a sentence for the commission of a felony; or

(D) on parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The defendant:

(A) burned, mutilated, or tortured the victim; or

(B) decapitated or attempted to decapitate the victim;

while the victim was alive.

(12) The victim of the murder was less than twelve (12) years of age.

(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

(A) **A** battery **offense included in IC 35-42-2** committed before July 1, 2014, as a Class D felony or as a Class C felony, ~~under IC 35-42-2-1~~ or **a** battery **offense included in IC 35-42-2** committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.

(B) Kidnapping (IC 35-42-3-2).

(C) Criminal confinement (IC 35-42-3-3).

(D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(17) The defendant knowingly or intentionally:

(A) committed the murder:

(i) in a building primarily used for an educational purpose;

(ii) on school property; and

(iii) when students are present; or

(B) committed the murder:

(i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and

(ii) at a time when classes are in session.

(18) The murder is committed:

(A) in a building that is primarily used for religious worship; and

(B) at a time when persons are present for religious worship or education.

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall

conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The

supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If

necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1069 as printed February 26, 2016.)

GLICK

SENATE MOTION

Madam President: I move that Engrossed House Bill 1069 be amended to read as follows:

Page 28, delete lines 10 through 14.

Page 35, delete lines 40 through 42.

Delete pages 36 through 37.

Page 38, delete lines 1 through 29, begin a new paragraph and insert:

"SECTION 29. IC 35-42-2-1, AS AMENDED BY P.L.147-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) As used in this section, "public safety official" means:

(1) a law enforcement officer, including an alcoholic beverage enforcement officer;

(2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);

(3) an employee of the department of correction;

(4) a probation officer;

(5) a parole officer;

(6) a community corrections worker;
(7) a home detention officer;
(8) a department of child services employee;
(9) a firefighter;
(10) an emergency medical services provider; or
(11) a judicial officer.

(b) Except as provided in subsections (c) through (j), a person who knowingly or intentionally:

(1) touches another person in a rude, insolent, or angry manner; or
(2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(c) The offense described in subsection (b)(1) or (b)(2) is a Class A misdemeanor if it results in bodily injury to any other person.

(d) The offense described in subsection (b)(1) or (b)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The offense results in moderate bodily injury to any other person.
(2) The offense is committed against a public safety official while the official is engaged in the official's official duty.
(3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.
(4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.
(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).
~~(6) The offense is committed against a family or household member (as defined in IC 35-31.5-2-128) if the person who committed the offense:~~
~~(A) is at least eighteen (18) years of age; and~~
~~(B) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.~~

(e) The offense described in subsection (b)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(f) The offense described in subsection (b)(1) or (b)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for **a** battery **offense included in this chapter** against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).

(g) The offense described in subsection (b)(2) is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official.

(h) The offense described in subsection (b)(1) or (b)(2) is a Level 4 felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(i) The offense described in subsection (b)(1) or (b)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(j) The offense described in subsection (b)(1) or (b)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) An endangered adult (as defined in IC 12-10-3-2).".

Page 49, after line 2, begin a new paragraph and insert:

"SECTION 34. [EFFECTIVE JULY 1, 2016] **(a) The general assembly urges the legislative council to assign to the interim study committee on corrections and criminal code the topic of the appropriate penalty for battery, with particular emphasis on those**

cases where the battery:

(1) results in:

(A) bodily injury;

(B) moderate bodily injury;

(C) serious bodily injury; or

(D) extreme bodily injury; or

(2) is committed against a:

(A) public safety official; or

(B) particularly vulnerable individual.

(b) As part of the study described in subsection (a), the interim study committee shall review the:

(1) existing definitions of:

(A) bodily injury;

(B) moderate bodily injury; and

(C) serious bodily injury; and

(2) class of persons granted protected status in the battery statute because they are:

(A) public safety officials; or

(B) particularly vulnerable individuals."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1069 as printed February 26, 2016.)

YOUNG R MICHAEL