Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1006

AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

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

SECTION 1. IC 2-8.2-4-6, AS ADDED BY P.L.205-2013, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. A delegate or alternate delegate who knowingly or intentionally votes or attempts to vote outside the scope of:

(1) the instructions established by a joint resolution adopted under section 1 of this chapter; or

(2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

commits a ~~Class D~~ **Level 6** felony.

SECTION 2. IC 3-14-1-17, AS ADDED BY P.L.219-2013, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) As used in this section, "government employee" refers to any of the following:

(1) An employee of the state.

(2) An employee of a political subdivision.

(3) A special state appointee (as defined in IC 4-2-6-1).

(4) An employee of a charter school (as defined in IC 20-24-1-4).

(b) As used in this section, "government employer" refers to the

state or a political subdivision.

(c) As used in this section, "property" refers only to the following:

(1) Equipment, goods, and materials, including mail and messaging systems.

(2) Money.

(d) A government employee may not knowingly or intentionally use the property of the employee's government employer to do any of the following:

(1) Solicit a contribution.

(2) Advocate the election or defeat of a candidate.

(3) Advocate the approval or defeat of a public question.

(e) A government employee may not knowingly or intentionally distribute campaign materials advocating:

(1) the election or defeat of a candidate; or

(2) the approval or defeat of a public question;

on the government employer's real property during regular working hours.

(f) This section does not prohibit the following:

(1) Activities permitted under IC 6-1.1-20.

(2) A government employee from carrying out administrative duties under the direction of an elected official who is the government employee's supervisor.

(g) A government employee who knowingly or intentionally performs several actions described in subsection (d) or (e) in a connected series that are closely related in time, place, and circumstance may be charged with only one (1) violation of this section for that connected series of actions.

(h) A government employee who violates this section commits a Class A misdemeanor. However, the offense is a ~~Class D~~ **Level 6** felony if the person has a prior unrelated conviction under this section.

SECTION 3. IC 3-14-2-3, AS AMENDED BY P.L.194-2013, SECTION 94, AND AS AMENDED BY P.L.158-2013, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. A person who:

(1) subscribes the name of another person to an affidavit of registration, *a petition of nomination, a declaration of candidacy,* or application for an absentee ballot knowing that the *affidavit, petition, declaration, or* application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration, *a petition of nomination, a declaration of candidacy,* or application for an absentee ballot without writing on it the person's own name and address as an attesting witness;

commits a ~~*Class D*~~ *Level 6* felony.

SECTION 4. IC 3-14-2-11, AS AMENDED BY P.L.194-2013, SECTION 96, AND AS AMENDED BY P.L.158-2013, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. ~~*Except as provided by IC 3-10-10, IC 3-10-11, or IC 3-10-12,*~~ *(a) A* person who knowingly votes or offers to vote in a precinct except the one in which the person is registered and resides commits a ~~*Class D*~~ *Level 6* felony*, except when permitted under IC 3-10-10, IC 3-10-11, or IC 3-10-12.*

(b) A person who knowingly makes a false statement concerning the name, address, or voter identification number of the person by:

(1) signing a person's signature on a poll list to affirm false information concerning a voter printed on the poll list; or

(2) making a written or oral affirmation under IC 3-7-39-7, IC 3-10-1-24, or IC 3-11-8-25.1 to provide false information concerning a voter in addition to the information concerning the voter printed on the poll list;

commits a ~~*Class D*~~ *Level 6 felony.*

SECTION 5. IC 3-14-2-29, AS AMENDED BY P.L.194-2013, SECTION 97, AND AS AMENDED BY P.L.158-2013, SECTION 28, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 29. A person who knowingly inspects a voting system under IC 3-12-4-18 without: ~~*obtaining authorization from the state recount commission:*~~

(1) the adoption of an order under IC 3-12-4-18 to conduct the inspection; *or*

(2) the filing of an order adopted under IC 3-12-4-18 with the secretary of state;

commits a ~~*Class D*~~ *Level* 6 felony.

SECTION 6. IC 4-13-2-14.7, AS AMENDED BY P.L.214-2013, SECTION 1, AND AS AMENDED BY P.L.158-2013, SECTION 59, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14.7. A person employed, appointed, or under contract with a state agency, who works with or around children, shall be dismissed (after the appropriate pre-deprivation procedure has occurred) if that person is, or has ever been, convicted of any of the following:

(1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(2) Criminal deviate conduct (IC 35-42-4-2) ~~*(for an act committed before its IC 35-42-4-2 repeal on July 1, 2014), was repealed),*~~ **(before its repeal),** if the victim is less than eighteen (18) years

of age.

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

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

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

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

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

(8) Sexual misconduct with a minor **(IC 35-42-4-9)** as a Class A or *Class* B *felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, or Level 4* felony *(for a crime committed after June 30, 2014)*. ~~(IC 35-42-4-9).~~

(9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

SECTION 7. IC 5-2-6-3, AS AMENDED BY HEA 1141, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex or violent offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform

retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Develop and manage the gang crime witness protection program established by section 21 of this chapter.

(14) Identify grants and other funds that can be used to fund the gang crime witness protection program.

(15) Administer any sexual offense services.

(16) Administer domestic violence programs.

(17) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

(18) Administer the domestic violence prevention and treatment fund under IC 5-2-6.7.

(19) Administer the family violence and victim assistance fund under IC 5-2-6.8.

(21) Monitor and evaluate criminal code reform under IC 5-2-6-24.

SECTION 8. IC 5-2-6-24, IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 24. (a) As used in this section, "criminal code reform" refers to statutory provisions relating to criminal law enacted by P.L.158-2013 and HEA 1006-2014.**

(b) The institute shall monitor and evaluate criminal code reform as described in this section.

(c) The institute shall annually gather data and analyze the impact of criminal code reform on:

(1) local units of government;

(2) the department of correction; and

(3) the judicial center.

(d) The institute shall prepare an annual report containing the results of its analysis before July 1 of each year. The report shall be provided to the governor and the legislative council. The report provided to the legislative council must be in an electronic format under IC 5-14-6.

(e) The report required under this section must:

(1) include an analysis of:

(A) the effect of criminal code reform on:

(i) county jails;

(ii) community corrections programs;

(iii) probation departments; and

(iv) courts;

(B) recidivism rates;

(C) reentry court programs; and

(D) data relevant to the availability and effectiveness of mental health and addiction programs for persons who are at risk of entering the criminal justice system, who are in the criminal justice system, and who have left the criminal justice system; and

(2) track the number of requests for sentence modification that are set for hearing by the court, including the relief granted by the court, if any. The report must include whether the grant or denial of a request for sentence modification was discretionary or mandatory, and whether the prosecuting attorney opposed the request for sentence modification, agreed to the request for sentence modification, or took no position on the request for sentence modification.

(f) All local units of government and local elected officials, including sheriffs, prosecuting attorneys, judges, and county fiscal bodies, shall cooperate with the institute by providing data as requested by the institute.

(g) State agencies, including the department of correction, the Indiana prosecuting attorneys council, the Indiana public defender council, and the judicial center, shall assist the institute by providing requested data in a timely manner.

(h) Based on its analysis, the institute shall include recommendations to improve the criminal justice system in Indiana, with particular emphasis being placed on recommendations that relate to sentencing policies and reform.

(i) The institute shall include research data relevant to its analysis and recommendations in the report.

SECTION 9. IC 5-14-3-4, AS AMENDED BY SEA 208-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not

consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, the Indiana state department of agriculture, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of

first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the

acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems;

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of

the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)"; and

(L) the home address, home telephone number, and emergency contact information for any:

(i) emergency management worker (as defined in IC 10-14-3-3);

(ii) public safety officer (as defined in IC 35-47-4.5-3);

(iii) emergency medical responder (as defined in ~~IC 35-42-2-6);~~ **IC 16-18-2-109.8);** or

(iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone

number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a law enforcement officer (as defined in IC 35-31.5-2-185);

(iii) a judge (as defined in IC 33-38-12-3);

(iv) the victim of a crime; or

(v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

(A) Name.

(B) Address.

(C) Telephone number.

(D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

(A) date of birth;

(B) driver's license number;

(C) taxpayer identification number;

(D) employer identification number; or

(E) account number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an

exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 10. IC 6-6-13-13, AS ADDED BY P.L.288-2013, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) A person who knowingly fails to collect or timely remit tax otherwise required to be paid to the department under section 9 of this chapter is liable for the uncollected tax plus a penalty equal to one hundred percent (100%) of the uncollected tax.

(b) A person who recklessly, knowingly, or intentionally fails or refuses to pay over to the state the aviation fuel excise tax at the time required in this chapter or who fraudulently withholds or appropriates or otherwise uses the money or any part thereof belonging to the state commits a ~~Class D~~ **Level 6** felony.

(c) A person who negligently disregards any provision of this chapter is subject to a civil penalty of five hundred dollars ($500) for each separate occurrence of negligent disregard as determined by the department.

SECTION 11. IC 8-10-1-29, AS AMENDED BY P.L.156-2013, SECTION 2, AND AS AMENDED BY P.L.158-2013, SECTION 133, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 29. (a) *The ports of Indiana may declare an emergency:*

(1) in the case of fire, flood, windstorm, casualty, or other extraordinary emergency, including mechanical failure of any part of a building or structure; and

(2) if the health, safety, or welfare of the public or necessary governmental operations are endangered by loss or damage.

The ports of Indiana shall declare an emergency by recording the declaration and grounds for the emergency in the minutes of the commission.

(b) Unless the ports of Indiana declares an emergency, the ports of Indiana may not during any six (6) month period make separate contracts with another party for similar construction projects or the purchase of similar equipment, materials, or supplies under IC 8-10-1-7(5) without advertising for and accepting public bids, if the aggregate cost of the separate contracts is more than ~~twenty-five~~ *one hundred fifty* thousand dollars ~~($25,000).~~ *($150,000).*

~~(b)~~ *(c)* A commission member or an employee of the ports of Indiana who knowingly violates subsection ~~(a)~~ *(b)* commits a ~~Class D~~ *Level 6* felony.

~~(c)~~ *(d)* A person who accepts a contract with the ports of Indiana knowing that subsection ~~(a)~~ *(b)* was violated in connection with the contract commits a ~~Class D~~ *Level 6* felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of the person's conviction.

(e) If the ports of Indiana declares an emergency, the ports of Indiana may:

(1) contract for a construction project or the purchase of equipment, materials, or supplies without advertising for bids, if bids or quotes are invited from at least three (3) persons known to deal in:

(A) the public work required to be done; or

(B) the equipment, materials, or supplies sought to be purchased; and

(2) either:

(A) reject all bids or quotes submitted; or

(B) contract with the lowest and best bidder or quoter for the construction project or purchase.

The total amount of all contracts the ports of Indiana may award with respect to an emergency declared under subsection (a) may not exceed one million dollars ($1,000,000), unless an executive order is issued by the governor authorizing the ports of Indiana to exceed this limit.

(f) When awarding a contract with respect to an emergency declared under subsection (a), the ports shall list in the minutes of the next commission meeting the names of all the entities invited to bid.

SECTION 12. IC 9-17-4-14, AS ADDED BY P.L.262-2013, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. A person who owns or possesses a motor vehicle that the person knows violates section 7 or 8 of this chapter commits a ~~Class D~~ **Level 6** felony.

SECTION 13. IC 9-17-4-15, AS ADDED BY P.L.262-2013, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2014]: Sec. 15. (a) A person who knowingly:

(1) damages;

(2) removes; or

(3) alters;

an original or a special identification number commits a ~~Class C~~ **Level 5** felony.

(b) A person who, with the intent to conceal evidence of the commission of a crime, covers an original or special identification number commits a ~~Class C~~ **Level 5** felony.

SECTION 14. IC 9-17-4-16, AS ADDED BY P.L.262-2013, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. A person who knowingly sells or offers for sale a motor vehicle with an original or a special identification number that is:

(1) destroyed;

(2) removed;

(3) altered;

(4) covered; or

(5) defaced;

commits a ~~Class D~~ **Level 6** felony.

SECTION 15. IC 9-17-4-17, AS ADDED BY P.L.262-2013, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. A person who knowingly or intentionally sells or offers for sale a motor vehicle part with an identification number that is:

(1) destroyed;

(2) removed;

(3) altered;

(4) covered; or

(5) defaced;

commits a ~~Class D~~ **Level 6** felony.

SECTION 16. IC 9-17-4-18, AS ADDED BY P.L.262-2013, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) For purposes of this section, "identification number" means a set of numbers, letters, or both numbers and letters that is assigned to a motor vehicle or motor vehicle part by:

(1) a manufacturer of motor vehicles or motor vehicle parts; or

(2) a governmental entity to replace an original identification number that is destroyed, removed, altered, or defaced.

(b) Subsection (c) does not apply to a person who manufactures or installs a plate or label containing an identification number:

(1) in a program authorized by a manufacturer of motor vehicles

or motor vehicle parts; or

(2) as authorized by the bureau under this chapter.

(c) A person who knowingly or intentionally possesses a plate or label that:

(1) contains an identification number; and

(2) is not attached to the motor vehicle or motor vehicle part to which the identification number was assigned by the manufacturer or a governmental entity;

commits a ~~Class D~~ **Level 6** felony.

(d) A person who knowingly or intentionally possesses a plate or label on which the identification number is altered or removed commits a ~~Class D~~ **Level 6** felony.

(e) A person who, with intent to defraud, possesses a plate or label containing a set of numbers, letters, or both numbers and letters that purports to be an identification number commits a ~~Class D~~ **Level 6** felony.

SECTION 17. IC 9-22-3-33, AS AMENDED BY P.L.92-2013, SECTION 49, AND AS AMENDED BY P.L.158-2013, SECTION 151, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 33. *(a)* A person who *recklessly,* knowingly*, or intentionally* violates section 4, 5, 6, 7, or 8 of this chapter (or section 9 of this chapter before its repeal) commits a ~~*Class D*~~ *Level 6* felony.

(b) A person who recklessly, knowingly, or intentionally violates section 18.5 or 30 of this chapter commits a Class A misdemeanor.

SECTION 18. IC 9-30-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least five (5) days; or

(B) the person to perform at least one hundred eighty (180) hours of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has one (1) previous conviction of operating while intoxicated.

(b) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least ten (10) days; or

(B) the person to perform at least three hundred sixty (360) hours of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding ~~IC 35-50-2-2~~ **IC 35-50-2-2.2** and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

(1) at least forty-eight (48) hours of the sentence must be served consecutively; and

(2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section.

SECTION 19. IC 9-32-17-2, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as provided in ~~subsections~~ **subsection** (b), ~~and (c),~~ a person who violates IC 9-32-4 commits a Class C infraction.

(b) A person who knowingly or intentionally violates IC 9-32-4-1(a)(1), IC 9-32-4-1(a)(2), ~~IC 9-32-4-1(a)(4), IC 9-32-4-1(a)(5),~~ or IC 9-32-4-1(d) commits a Class B misdemeanor.

~~(c) A person who knowingly or intentionally violates IC 9-32-4-1(a)(3) commits a:~~

~~(1) Class A misdemeanor for the first violation; and~~

~~(2) Class D felony for a second or subsequent unrelated violation.~~

SECTION 20. IC 11-8-8-4.5, AS AMENDED BY HEA 1269, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

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

(2) Criminal deviate conduct (IC 35-42-4-2) ~~(repealed).~~ ~~*(before its repeal on July 1, 2014).*~~ **(before its repeal).**

(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual misconduct with a minor **(IC 35-42-4-9)** as a Class A, Class B, or Class C *felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5* felony *(for a crime committed after June 30, 2014),* ~~(IC 35-42-4-9),~~ unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C *felony (for a crime committed before July 1, 2014) or a Level 5* felony *(for a crime committed after June 30, 2014);*

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).
(10) Sexual battery (IC 35-42-4-8).
(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
(13) Possession of child pornography (IC 35-42-4-4(c)).
(14) Promoting prostitution (IC 35-45-4-4) as a Class B *felony (for a crime committed before July 1, 2014) or a Level 4* felony *(for a crime committed after June 30, 2014).*
(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.
(16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
(17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age.
(18) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).
(19) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (18).

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

(b) The term includes:

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

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

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

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

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

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

SECTION 21. IC 11-8-8-5, AS AMENDED BY HEA 1269, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

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

(2) Criminal deviate conduct (IC 35-42-4-2) *(before its repeal).* ~~*on July 1, 2014 (repealed).*~~

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

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

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

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

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

(8) Sexual misconduct with a minor **(IC 35-42-4-9)** as a Class A, Class B, or Class C *felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5* felony *(for a crime committed after June 30, 2014),* ~~(IC 35-42-4-9),~~ unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony *(for a crime committed before July 1, 2014) or a Level 5* felony *(for a crime committed after June*

30, 2014);

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

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

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

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony *(for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).*

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

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

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

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

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

(20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(21) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (20).

(22) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (21).

(b) The term includes:

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

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

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

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged

from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

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

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

SECTION 22. IC 11-8-8-15, AS AMENDED BY P.L.214-2013, SECTION 11, AND AS AMENDED BY P.L.158-2013, SECTION 173, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) A sex or violent offender who is a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

(1) a valid Indiana driver's license; or

(2) a valid Indiana identification card (as described in IC 9-24-16);

that contains the offender's current address and current physical description.

(b) A sex or violent offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

(1) a valid driver's license issued by the state in which the sex or violent offender resides; or

(2) a valid state issued identification card issued by the state in which the sex or violent offender resides;

that contains the offender's current address and current physical description.

(c) A person who knowingly or intentionally violates this section commits failure of a sex or violent offender to possess identification, a Class A misdemeanor. However, the offense is a ~~*Class D*~~ *Level 6* felony if the person:

(1) is a sexually violent predator; or

(2) has a prior unrelated conviction:

(A) under this section; or

(B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

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

(1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days

have passed since the person's release from incarceration; ~~or~~

(2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b); *or*

(3) the person possesses a valid driver's license or state issued identification card, but the card does not reflect the person's current address or current physical description because fewer than thirty (30) days have passed since the person changed the person's current address or physical characteristics.

SECTION 23. IC 11-8-8-19, AS AMENDED BY P.L.214-2013, SECTION 12, AND AS AMENDED BY P.L.158-2013, SECTION 176, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex or violent offender is required to register under this chapter until the expiration of ten (10) years after the date the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-31.5-2-232) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

(3) is placed in a community corrections program;

(4) is placed on parole; or

(5) is placed on probation;

for the sex or violent offense requiring registration, whichever occurs last. The registration period is tolled during any period that the sex or violent offender is incarcerated. The registration period does not restart if the offender is convicted of a subsequent offense. However, if the subsequent offense is a sex or violent offense, a new registration period may be imposed in accordance with this chapter. The department shall ensure that an offender who is no longer required to register as a sex or violent offender is notified that the obligation to register has expired, *and shall ensure that the offender's information is no longer published to the public portal of the sex and violent offender registry Internet web site established under IC 36-2-13-5.5.*

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

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

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

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

(1) proximately caused serious bodily injury or death to the victim;

(2) used force or the threat of force against the victim or a member of the victim's family, unless the offense is sexual battery as a Class D *felony (for an offense committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014);* or

(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

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

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

SECTION 24. IC 11-12-2-1, AS AMENDED BY P.L.105-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter and any financial aid payments suspended under section 6 of this chapter do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) Before March 1, 2015, the department shall estimate the amount of any operational cost savings that will be realized in the state fiscal year ending June 30, 2015, from a reduction in the number of individuals who are in the custody or made a ward of the department of correction (as described in IC 11-8-1-5) that is attributable to the sentencing changes made in HEA 1006-2014 as enacted in the 2014 session of the general assembly. The department shall make the estimate under this subsection based on the best available information. If the department estimates that

operational cost savings described in this subsection will be realized in the state fiscal year ending June 30, 2015, the following apply to the department:

(1) The department shall certify the estimated amount of operational cost savings that will be realized to the budget agency and to the auditor of state.

(2) The department may, after review by the budget committee and approval by the budget agency, make additional grants as provided in this chapter to counties for the establishment and operation of community corrections programs from funds appropriated to the department for the department's operating expenses for the state fiscal year.

(3) The department may, after review by the budget committee and approval by the budget agency, transfer funds appropriated to the department for the department's operating expenses for the state fiscal year to the judicial conference of Indiana to be used by the judicial conference of Indiana to provide additional financial aid for the support of court probation services under the program established under IC 11-13-2.

(4) The maximum aggregate amount of additional grants and transfers that may be made by the department under subdivisions (2) and (3) for the state fiscal year may not exceed the lesser of:

(A) the amount of operational cost savings certified under subdivision (1); or

(B) eleven million dollars ($11,000,000).

Notwithstanding P.L.205-2013 (HEA 1001-2013), the amount of funds necessary to make any additional grants authorized and approved under this subsection and for any transfers authorized and approved under this subsection, and for providing the additional financial aid to courts from transfers authorized and approved under this subsection, is appropriated for those purposes for the state fiscal year ending June 30, 2015, and the amount of the department's appropriation for operating expenses for the state fiscal year ending June 30, 2015, is reduced by a corresponding amount. This subsection expires June 30, 2015.

~~(b)~~ **(c)** The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 25. IC 11-12-3.7-11, AS AMENDED BY P.L.192-2007,

SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) A person is eligible to participate in a pre-conviction forensic diversion program only if the person meets the following criteria:

(1) The person has a mental illness, an addictive disorder, or both a mental illness and an addictive disorder.

(2) The person has been charged with an offense that is:

(A) not a violent offense; and

(B) a Class A, B, or C misdemeanor, or a ~~Class D~~ **Level 6** felony that may be reduced to a Class A misdemeanor in accordance with IC 35-50-2-7.

(3) The person does not have a conviction for a violent offense in the previous ten (10) years.

(4) The court has determined that the person is an appropriate candidate to participate in a pre-conviction forensic diversion program.

(5) The person has been accepted into a pre-conviction forensic diversion program.

(b) Before an eligible person is permitted to participate in a pre-conviction forensic diversion program, the court shall advise the person of the following:

(1) Before the individual is permitted to participate in the program, the individual will be required to enter a guilty plea to the offense with which the individual has been charged.

(2) The court will stay entry of the judgment of conviction during the time in which the individual is successfully participating in the program. If the individual stops successfully participating in the program, or does not successfully complete the program, the court will lift its stay, enter a judgment of conviction, and sentence the individual accordingly.

(3) If the individual participates in the program, the individual may be required to remain in the program for a period not to exceed three (3) years.

(4) During treatment the individual may be confined in an institution, be released for treatment in the community, receive supervised aftercare in the community, or may be required to receive a combination of these alternatives.

(5) If the individual successfully completes the forensic diversion program, the court will waive entry of the judgment of conviction and dismiss the charges.

(6) The court shall determine, after considering a report from the forensic diversion program, whether the individual is successfully

participating in or has successfully completed the program.

(c) Before an eligible person may participate in a pre-conviction forensic diversion program, the person must plead guilty to the offense with which the person is charged.

(d) Before an eligible person may be admitted to a facility under the control of the division of mental health and addiction, the individual must be committed to the facility under IC 12-26.

(e) After the person has pleaded guilty, the court shall stay entry of judgment of conviction and place the person in the pre-conviction forensic diversion program for not more than:

(1) two (2) years, if the person has been charged with a misdemeanor; or

(2) three (3) years, if the person has been charged with a felony.

(f) If, after considering the report of the forensic diversion program, the court determines that the person has:

(1) failed to successfully participate in the forensic diversion program, or failed to successfully complete the program, the court shall lift its stay, enter judgment of conviction, and sentence the person accordingly; or

(2) successfully completed the forensic diversion program, the court shall waive entry of the judgment of conviction and dismiss the charges.

SECTION 26. IC 11-14-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. "Youthful offender" means an offender (as defined in IC 11-8-1-9) who:

(1) is less than twenty-one (21) years of age;

(2) has been committed to the department to serve a maximum sentence of not more than eight (8) years;

(3) has received a suspendible sentence under IC 35-50-2-2 **(before its repeal),** ~~or~~ IC 35-50-2-2.1, **or IC 35-50-2-2.2;**

(4) has been sentenced by a court having criminal jurisdiction;

(5) has never been confined in a state or federal adult correctional facility; and

(6) has not previously participated in a military or correctional boot camp program.

SECTION 27. IC 12-7-2-53.2, AS ADDED BY P.L.287-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 53.2. "Dangerous felony", for purposes of IC 12-17.2, means one (1) or more of the following felonies:

(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) Kidnapping (IC 35-42-3-2).
(8) Rape (IC 35-42-4-1).
(9) Criminal deviate conduct (IC 35-42-4-2) **(before its repeal).**
(10) Child molesting (IC 35-42-4-3).
(11) Sexual misconduct with a minor as a Class A felony **(for a crime committed before July 1, 2014) or a Level 1 felony (for a crime committed after June 30, 2014)** under IC 35-42-4-9(a)(2) or a Class B felony **(for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014)** under IC 35-42-4-9(b)(2).
(12) Robbery as a Class A or Class B felony **(for a crime committed before July 1, 2014) or a Level 2 or Level 3 felony (for a crime committed after June 30, 2014)** (IC 35-42-5-1).
(13) Burglary as a Class A or Class B felony **(for a crime committed before July 1, 2014) or a Level 2 or Level 3 felony (for a crime committed after June 30, 2014)** (IC 35-43-2-1).
(14) Battery as a felony (IC 35-42-2-1).
(15) Domestic battery (IC 35-42-2-1.3).
(16) Strangulation (IC 35-42-2-9).
(17) Criminal confinement (IC 35-42-3-3).
(18) Sexual battery (IC 35-42-4-8).
(19) A felony committed in another jurisdiction that is substantially similar to a felony in this section.
(20) An attempt to commit or a conspiracy to commit an offense listed in subdivisions (1) through (19).

SECTION 28. IC 12-17.2-6-14, AS AMENDED BY P.L.287-2013, SECTION 16, AND AS AMENDED BY P.L.158-2013, SECTION 179, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. ~~*The*~~ *(a) A* child care ministry must do the following:

(1) ~~*Conduct a*~~ *Subject to subsection (c), require, at no expense to the state, an employee or a volunteer who has direct contact with a child who is receiving child care from the child care ministry to submit fingerprints for* a *national* criminal history *background* check ~~*of the child care ministry's employees and volunteers.*~~ *by the Federal Bureau of Investigation.*

(2) Report to the division any:

(A) police investigations;

(B) arrests; and

(C) criminal convictions;

of which the operator or director of the child care ministry is aware regarding an employee or volunteer described in subdivision (1).

~~(2)~~ *(3)* Refrain from employing, or allowing to serve as a volunteer, an individual who *has direct contact with a child who is receiving child care from the child care ministry and who:*

(A) has been convicted of ~~*any of the following felonies:*~~

~~*(i) Murder (IC 35-42-1-1).*~~

~~*(ii) Causing suicide (IC 35-42-1-2).*~~

~~*(iii) Assisting suicide (IC 35-42-1-2.5).*~~

~~*(iv) Voluntary manslaughter (IC 35-42-1-3).*~~

~~*(v) Reckless homicide (IC 35-42-1-5).*~~

~~*(vi) Battery (IC 35-42-2-1).*~~

~~*(vii) Aggravated battery (IC 35-42-2-1.5).*~~

~~*(viii) Kidnapping (IC 35-42-3-2).*~~

~~*(ix) Criminal confinement (IC 35-42-3-3).*~~

~~*(x) A felony sex offense under IC 35-42-4.*~~

~~*(xi) Carjacking (IC 35-42-5-2) (repealed) (for a crime committed before July 1, 2014).*~~

~~*(xii) Arson (IC 35-43-1-1).*~~

~~*(xiii) Incest (IC 35-46-1-3).*~~

~~*(xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).*~~

~~*(xv) Child selling (IC 35-46-1-4(d)).*~~

~~*(xvi) A felony involving a weapon under IC 35-47 or IC 35-47.5.*~~

~~*(xvii) A felony relating to controlled substances under IC 35-48-4.*~~

~~*(xviii) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.*~~

~~*(xix) A felony that is substantially equivalent to a felony listed in items (i) through (xviii) for which the conviction was entered in another state.*~~ *a felony:*

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) has been convicted of a misdemeanor related to the health

or safety of a child;

(C) has been convicted of a misdemeanor under IC 12-17.2-4-35 for operating a child care center without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

(D) has been convicted of a misdemeanor under IC 12-17.2-5-35 for operating a child care home without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

~~*(C)*~~ *(E)* is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33, *or under a substantially similar provision in another jurisdiction.*

~~*(3) Maintain records of each criminal history check.*~~

(b) A child care ministry shall require an individual described in subsection (a)(1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(c) A child care ministry that is registered under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a)(1) not later than July 1, 2014.

SECTION 29. IC 12-24-3-2, AS AMENDED BY P.L.214-2013, SECTION 14, AND AS AMENDED BY P.L.158-2013, SECTION 183, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. To provide greater security for patients, visitors, and employees, the division may not employ in a state institution an individual who has been convicted of any of the following offenses:

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

(2) Criminal deviate conduct (IC 35-42-4-2) ~~*(before its repeal on July 1, 2014).*~~ ~~*(repealed).*~~ **(before its repeal).**

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

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

(5) Sexual misconduct with a minor *(IC 35-42-4-9)* as a Class A or *Class* B *felony (for a crime committed before July 1, 2014) or a Level 1 felony, Level 2 felony, or Level 4* felony ~~*(IC 35-42-4-9)*~~ *(for a crime committed after June 30, 2014).*

SECTION 30. IC 16-31-3-14, AS AMENDED BY P.L.196-2013, SECTION 4, AND AS AMENDED BY P.L.158-2013, SECTION 234, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2014]: Sec. 14. (a) A person holding a certificate or license issued under this article must comply with the applicable standards and rules established under this article. A certificate holder or license holder is subject to disciplinary sanctions under subsection (b) if the department of homeland security determines that the certificate holder or license holder:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate or license, including cheating on a certification or licensure examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;

(5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder or license holder should be entrusted to provide emergency medical services;

(6) is convicted of violating IC 9-19-14.5;

(7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;

(8) continues to practice if the certificate holder or license holder becomes unfit to practice due to:

(A) professional incompetence that includes the undertaking of professional activities that the certificate holder or license holder is not qualified by training or experience to undertake;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's or license holder's ability to practice safely;

(9) engages in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(10) allows the certificate holder's or license holder's name or a certificate or license issued under this article to be used in connection with a person who renders services beyond the scope of that person's training, experience, or competence;

(11) is subjected to disciplinary action in another state or

jurisdiction on grounds similar to those contained in this chapter. For purposes of this subdivision, a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction;

(12) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(13) allows a certificate or license issued by the commission to be:

(A) used by another person; or

(B) displayed to the public when the certificate or license is expired, inactive, invalid, revoked, or suspended.

(b) The department of homeland security may issue an order under IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if the department of homeland security determines that a certificate holder or license holder is subject to disciplinary sanctions under subsection (a):

(1) Revocation of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.

(2) Suspension of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.

(3) Censure of a certificate holder or license holder.

(4) Issuance of a letter of reprimand.

(5) Assessment of a civil penalty against the certificate holder or license holder in accordance with the following:

(A) The civil penalty may not exceed five hundred dollars ($500) per day per violation.

(B) If the certificate holder or license holder fails to pay the civil penalty within the time specified by the department of homeland security, the department of homeland security may suspend the certificate holder's certificate or license holder's license without additional proceedings.

(6) Placement of a certificate holder or license holder on probation status and requirement of the certificate holder or license holder to:

(A) report regularly to the department of homeland security upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department of homeland security;

(C) continue or renew professional education approved by the department of homeland security until a satisfactory degree of skill has been attained in those areas that are the basis of the

probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department of homeland security considers appropriate to the public interest or to the rehabilitation or treatment of the certificate holder or license holder.

The department of homeland security may withdraw or modify this probation if the department of homeland security finds after a hearing that the deficiency that required disciplinary action is remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a certificate holder or license holder has engaged in or knowingly cooperated in fraud or material deception to obtain a certificate or license, including cheating on the certification or licensure examination, the department of homeland security may rescind the certificate or license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the certificate or license for a length of time established by the department of homeland security.

(d) The department of homeland security may deny certification or licensure to an applicant who would be subject to disciplinary sanctions under subsection (b) if that person were a certificate holder or license holder, has had disciplinary action taken against the applicant or the applicant's certificate or license to practice in another state or jurisdiction, or has practiced without a certificate or license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department of homeland security may order a certificate holder or license holder to submit to a reasonable physical or mental examination if the certificate holder's or license holder's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department of homeland security order to submit to a physical or mental examination makes a certificate holder or license holder liable to temporary suspension under subsection (i).

(f) Except as provided under subsection (a), subsection (g), and section 14.5 of this chapter, a certificate or license may not be denied, revoked, or suspended because the applicant, certificate holder, or license holder has been convicted of an offense. The acts from which the applicant's, certificate holder's, or license holder's conviction resulted may be considered as to whether the applicant or certificate holder or license holder should be entrusted to serve the public in a

specific capacity.

(g) The department of homeland security may deny, suspend, or revoke a certificate or license issued under this article if the individual who holds or is applying for the certificate or license is convicted of any of the following:

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

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under ~~*IC 35-48-4-7(b)*~~ *IC 35-48-4-7(c)*.

(5) Manufacture of paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, *or* salvia ~~*or a synthetic drug*~~ as a Class D *felony* (*for a crime committed before July 1, 2014) or Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony **(for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014)** *under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013).*

~~*(9)*~~ *(10)* Maintaining a common nuisance under IC 35-48-4-13.

~~*(10)*~~ *(11)* An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

~~*(11)*~~ *(12)* Conspiracy under IC 35-41-5-2 to commit an offense listed in ~~*subdivisions (1) through (10)*~~ *this section.*

~~*(12)*~~ *(13)* Attempt under IC 35-41-5-1 to commit an offense listed in ~~*subdivisions (1) through (10)*~~ *this section.*

~~*(13)*~~ *(14)* An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described ~~*by subdivisions (1) through (12)*~~ *in this section.*

(h) A decision of the department of homeland security under subsections (b) through (g) may be appealed to the commission under IC 4-21.5-3-7.

(i) The department of homeland security may temporarily suspend a certificate holder's certificate or license holder's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department of homeland security finds that a certificate holder or license holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder or license holder were allowed to continue to practice.

(j) On receipt of a complaint or information alleging that a person certified or licensed under this chapter or IC 16-31-3.5 has engaged in or is engaging in a practice that is subject to disciplinary sanctions under this chapter, the department of homeland security must initiate an investigation against the person.

(k) The department of homeland security shall conduct a factfinding investigation as the department of homeland security considers proper in relation to the complaint.

(l) The department of homeland security may reinstate a certificate or license that has been suspended under this section if the department of homeland security is satisfied that the applicant is able to practice with reasonable skill, competency, and safety to the public. As a condition of reinstatement, the department of homeland security may impose disciplinary or corrective measures authorized under this chapter.

(m) The department of homeland security may not reinstate a certificate or license that has been revoked under this chapter.

(n) The department of homeland security must be consistent in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department of homeland security's findings or orders.

(o) A certificate holder may not surrender the certificate holder's certificate, and a license holder may not surrender the license holder's license, without the written approval of the department of homeland security, and the department of homeland security may impose any conditions appropriate to the surrender or reinstatement of a surrendered certificate or license.

(p) For purposes of this section, "certificate holder" means a person who holds:

(1) an unlimited certificate;

(2) a limited or probationary certificate; or

(3) an inactive certificate.

(q) For purposes of this section, "license holder" means a person who holds:

(1) an unlimited license;

(2) a limited or probationary license; or

(3) an inactive license.

SECTION 31. IC 16-41-12-15, AS AMENDED BY P.L.213-2013, SECTION 14, AND AS AMENDED BY P.L.158-2013, SECTION 243, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) A blood center shall require a blood donor to provide to the blood center the following information:

(1) Name.

(2) Address.

(3) Date of birth.

(4) The blood donor's Social Security number, if the blood donor is receiving monetary compensation for the donation.

~~*(b) A blood center shall request a blood donor to provide the blood donor's Social Security number.*~~

~~*(c)*~~ *(b)* A blood center shall report the name and address of a blood donor to the state department when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

~~*(d)*~~ *(c)* A blood center shall provide to a blood donor information to enable the blood donor to give informed consent to the procedures required by this chapter or IC 16-36. The information required by this subsection must be in the following form:

NOTICE

(1) This blood center performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.

(2) This blood center reports to the state department of health the name and address of a blood donor when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(3) A person who recklessly, knowingly, or intentionally donates (excluding self-donations for stem cell transplantation, *other autologous donations, or donations not intended by the blood center for distribution or use),* sells, or transfers blood ~~*or a blood component*~~ that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated blood, a ~~*Class C*~~ *Level 5* felony. The offense is a ~~*Class A*~~ *Level 4* felony if the offense results in the transmission of the virus to another person.

SECTION 32. IC 20-28-5-8, AS AMENDED BY P.L.158-2013, SECTION 250, AND AS AMENDED BY P.L.214-2013, SECTION 20, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) This section applies when a

prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

(1) The state superintendent.

(2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.

(3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

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

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

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

(4) Criminal deviate conduct (IC 35-42-4-2) ~~(repealed).~~ **(before its repeal).**

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

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

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

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

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

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

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

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

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

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

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

(16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(17) Dealing in a counterfeit substance (IC 35-48-4-5).
(18) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10(b)).
(19) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its amendment in 2013).
(20) Possession of child pornography (IC 35-42-4-4(c)).
(21) Homicide (IC 35-42-1).
(22) Voluntary manslaughter (IC 35-42-1-3).
(23) Reckless homicide (IC 35-42-1-5).
(24) Battery as any of the following:
(A) A Class A *felony (for a crime committed before July 1, 2014) or a Level 2* felony *(for a crime committed after June 30, 2014).* ~~*(IC 35-42-2-1(a)(5)).*~~
(B) A Class B *felony (for a crime committed before July 1, 2014) or a Level 3* felony *(for a crime committed after June 30, 2014).* ~~*(IC 35-42-2-1(a)(4)).*~~
(C) A Class C *felony (for a crime committed before July 1, 2014) or a Level 5* felony *(for a crime committed after June 30, 2014).* ~~*(IC 35-42-2-1(a)(3)).*~~
(25) Aggravated battery (IC 35-42-2-1.5).
(26) Robbery (IC 35-42-5-1).
(27) Carjacking (IC 35-42-5-2) ~~*(repealed).*~~ **(before its repeal).**
(28) Arson as a Class A felony or ~~*a*~~ Class B *felony (for a crime committed before July 1, 2014) or as a Level 2, Level 3, or Level 4* felony *(for a crime committed after June 30, 2014)* (IC 35-43-1-1(a)).
(29) Burglary as a Class A felony or ~~*a*~~ Class B felony *(for a crime committed before July 1, 2014) or as a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014)* (IC 35-43-2-1).
(30) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.
(31) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(d) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony listed in subsection (c).

(e) A license may be suspended by the state superintendent as specified in IC 20-28-7.5.

(f) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

SECTION 33. IC 22-15-5-16, AS AMENDED BY P.L.196-2013, SECTION 7, AND AS AMENDED BY P.L.158-2013, SECTION 261, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;

(5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(7) continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(12) allowed a license issued by the department to be:

(A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

(1) Permanent revocation of a practitioner's license.

(2) Suspension of a practitioner's license.

(3) Censure of a practitioner.

(4) Issuance of a letter of reprimand.

(5) Assess a civil penalty against the practitioner in accordance with the following:

(A) The civil penalty may not be more than one thousand dollars ($1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or mental disability.

(B) When imposing a civil penalty, the department shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(6) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the department upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department;

(C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

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

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) *(for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).*

(5) Manufacture of paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D *felony (for a crime*

committed before July 1, 2014) or a Level 6 felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, *or* salvia ~~*or a synthetic drug*~~ as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a:

(A) *Class D felony* ~~*under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013)*~~ **for a crime committed before July 1, 2014, under:**

(i) IC 35-48-4-11, before its amendment in 2013; or

(ii) IC 35-48-4-11.5; or

(B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.

~~*(9)*~~ *(10)* Maintaining a common nuisance under IC 35-48-4-13.

~~*(10)*~~ *(11)* An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

~~*(11)*~~ *(12)* Conspiracy under IC 35-41-5-2 to commit an offense listed in ~~*subdivisions (1) through (10).*~~ *this subsection.*

~~*(12)*~~ *(13)* Attempt under IC 35-41-5-1 to commit an offense listed in ~~*subdivisions (1) through (10).*~~ *this subsection.*

~~*(13)*~~ *(14)* An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in ~~subdivisions (1) through (12).~~ *this subsection.*

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

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

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

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

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

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, *or* salvia ~~*or a synthetic drug*~~ under IC 35-48-4-10(b).

(10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

~~*(10)*~~ *(11)* Conspiracy under IC 35-41-5-2 to commit an offense listed in ~~*subdivisions (1) through (9).*~~ *this subsection.*

~~*(11)*~~ *(12)* Attempt under IC 35-41-5-1 to commit an offense listed in ~~*subdivisions (1) through (9).*~~ *this subsection.*

~~(12)~~ *(13)* An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in ~~*subdivisions (1) through (11).*~~ *this subsection.*

~~(13)~~ *(14)* A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended under this section if, after a hearing, the department is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the

department may impose disciplinary or corrective measures authorized under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

(1) Court reporters.
(2) Transcripts.
(3) Certification of documents.
(4) Photo duplication.
(5) Witness attendance and mileage fees.
(6) Postage.
(7) Expert witnesses.
(8) Depositions.
(9) Notarizations.

SECTION 34. IC 23-19-5-8, AS AMENDED BY P.L.146-2013, SECTION 2, AND AS AMENDED BY P.L.158-2013, SECTION 267, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) A person who knowingly violates this article, or a rule adopted under this article, except ~~*section*~~ *sections* 4 *and 11* of this chapter or the notice filing requirements of IC 23-19-3-2 or IC 23-19-4-5, commits a ~~*Class C*~~ *Level 5* felony.

(b) A person who knowingly violates section 1 of this chapter commits a ~~*Class B*~~ *Level 4* felony if the person harmed, defrauded, misled, or deceived by the violation is at least sixty (60) years of age.

(c) A person who knowingly violates section 1 of this chapter:

(1) while using or taking advantage of; or

(2) in connection with;

a relationship that is based on religious affiliation or worship commits a ~~*Class B*~~ *Level 4* felony.

(d) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this article. If the commissioner determines that an action based on the securities division's investigations is meritorious:

(1) the commissioner or a designee empowered by the commissioner shall refer the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed;

(2) the commissioner and the securities division shall assist the prosecuting attorney in prosecuting an action under this section, which may include a securities division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney;

(3) a prosecuting attorney to whom facts concerning fraud are referred under subdivision (1) may refer the matter to the attorney general;

(4) if a matter has been referred to the attorney general under subdivision (3), the attorney general may:

(A) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(B) prosecute the alleged offense; and

(5) if a matter has been referred to the attorney general under subdivision (3), the commissioner and the securities division shall assist the attorney general in prosecuting an action under this section, which may include a securities division attorney serving as a special deputy attorney general appointed by the attorney general.

(e) This article does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

SECTION 35. IC 24-4-18-6, AS AMENDED BY P.L.112-2013, SECTION 4, AND AS AMENDED BY P.L.158-2013, SECTION 273, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. ~~(a) *A criminal history provider may provide only criminal history information that relates to a conviction.*~~

~~*(b)*~~ **(a)** *Except as provided in subsection (b),* a criminal history

provider may not *knowingly* provide ~~*information*~~ *a criminal history report that provides criminal history information* relating to the following:

~~*(1) An infraction, an arrest, or a charge that did not result in a conviction.*~~

~~*(2)*~~ *(1)* A record that has been expunged *by:*

(A) marking the record as expunged; or

(B) removing the record from public access.

~~*(3)*~~ *(2)* A record that is restricted by a court or the rules of a court *and is marked as restricted from public disclosure or removed from public access.*

~~*(4)*~~ *(3)* A record indicating a conviction of a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* if the Class D *felony or Level 6* felony conviction:

(A) has been entered as a Class A misdemeanor conviction; or

(B) has been converted to a Class A misdemeanor conviction.

~~*(5)*~~ *(4)* A record that the criminal history provider knows is inaccurate.

(b) A criminal history provider may provide information described in subsection (a)(1) through (a)(3) if the person requesting the criminal history report is:

(1) required by state or federal law to obtain the information; or

(2) the state or a political subdivision, and the information will be used solely in connection with the issuance of a public bond.

SECTION 36. IC 25-1-1.1-2, AS AMENDED BY P.L.196-2013, SECTION 9, AND AS AMENDED BY P.L.158-2013, SECTION 277, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Notwithstanding IC 25-1-7, a board, a commission, or a committee may suspend, deny, or revoke a license or certificate issued under this title by the board, the commission, or the committee without an investigation by the office of the attorney general if the individual who holds the license or certificate is convicted of any of the following and the board, commission, or committee determines, after the individual has appeared in person, that the offense affects the individual's ability to perform the duties of the profession:

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

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under ~~*IC 35-48-4-7(b).*~~ *IC 35-48-4-7(c).*

(5) Manufacture of paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.1(b).
(6) Dealing in paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.5(b).
(7) Possession of paraphernalia as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-8.3(b).
(8) Possession of marijuana, hash oil, hashish, *or* salvia ~~*or a synthetic drug*~~ as a Class D *felony (for a crime committed before July 1, 2014) or a Level 6* felony *(for a crime committed after June 30, 2014)* under IC 35-48-4-11.
(9) Possession of a synthetic drug or synthetic drug lookalike substance as a:
(A) *Class D felony* ~~*under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013)*~~ **for a crime committed before July 1, 2014, under:**
(i) IC 35-48-4-11, before its amendment in 2013; or
(ii) IC 35-48-4-11.5; or
(B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.
~~*(9)*~~ *(10)* Maintaining a common nuisance under IC 35-48-4-13.
~~*(10)*~~ *(11)* An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
~~*(11)*~~ *(12)* Conspiracy under IC 35-41-5-2 to commit an offense listed in ~~*subdivisions (1) through (10).*~~ *this section.*
~~*(12)*~~ *(13)* Attempt under IC 35-41-5-1 to commit an offense listed in ~~*subdivisions (1) through (10).*~~ *this section.*
~~*(13)*~~ *(14)* A sex crime under IC 35-42-4.
~~*(14)*~~ *(15)* A felony that reflects adversely on the individual's fitness to hold a professional license.
~~*(15)*~~ *(16)* An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

SECTION 37. IC 29-3-7-7, AS AMENDED BY P.L.158-2013, SECTION 303, AND AS AMENDED BY P.L.214-2013, SECTION 22, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. A court may not appoint a person to serve as the guardian or permit a person to continue to serve as a guardian if the person:

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);
(2) was at least eighteen (18) years of age at the time of the offense and was convicted of child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:
(A) by using or threatening the use of deadly force;
(B) while armed with a deadly weapon; or
(C) that resulted in serious bodily injury; or
(3) was less than eighteen (18) years of age at the time of the offense and was convicted as an adult of:
(A) an offense described in:
(i) IC 35-42-4-1;
(ii) IC 35-42-4-2 ~~*(repealed);*~~ *(before its repeal);*
(iii) IC 35-42-4-3 as a Class A or Class B felony *(for crimes committed before July 1, 2014) or as a Level 2 or Level 4 felony (for crimes committed after June 30, 2014);*
(iv) IC 35-42-4-5(a)(1);
(v) IC 35-42-4-5(a)(2);
(vi) IC 35-42-4-5(a)(3);
(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony *(for crimes committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for crimes committed after June 30, 2014);*
(viii) IC 35-42-4-5(b)(2); or
(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony *(for crimes committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for crimes committed after June 30, 2014);*
(B) an attempt or conspiracy to commit a crime listed in clause (A); or
(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 38. IC 31-19-9-10, AS AMENDED BY P.L.158-2013, SECTION 310, AND AS AMENDED BY P.L.214-2013, SECTION 23, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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) ~~(repealed);~~ **(before its repeal);**
(F) child molesting *(IC 35-42-4-3)* as a:
(i) Class A or Class B felony, ~~*(IC 35-42-4-3);*~~ *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, ~~*(IC 35-46-1-3);*~~ *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, ~~*(IC 35-46-1-4);*~~ *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, ~~*(IC 35-42-2-1(a)(3));*~~ *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 ~~*felony*~~ ~~*(IC 35-42-2-1(a)(5))*~~ or Class B felony, ~~*(IC 35-42-2-1(a)(4));*~~ *for a crime committed before July 1, 2014; or*
(ii) Level 2 or Level 3 felony, for a crime committed after June 30, 2014; or
(K) an attempt under IC 35-41-5-1 to commit an offense described in clauses (A) through (J);

(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 39. IC 31-30-1-2.5, AS AMENDED BY P.L.158-2013, SECTION 314, AND AS AMENDED BY P.L.214-2013, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. A juvenile court may not

appoint a person to serve as the guardian or custodian of a child or permit a person to continue to serve as a guardian or custodian of a child if the person:

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);

(2) was at least eighteen (18) years of age at the time of the offense and committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; or

(3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2 *(before its repeal);* ~~*(repealed);*~~

(iii) IC 35-42-4-3 as a Class A or Class B felony *(for crimes committed before July 1, 2014) or as a Level 1, Level 2, or Level 3 felony (for crimes committed after June 30, 2014);*

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony *(for crimes committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for crimes committed after June 30, 2014);*

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony *(for crimes committed before July 1, 2014) or as a Level 1, Level 2, or Level 3 felony (for crimes committed after June 30, 2014);*

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 40. IC 31-30-1-4, AS AMENDED BY P.L.158-2013, SECTION 315, AND AS AMENDED BY P.L.214-2013, SECTION 25, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

(1) IC 35-41-5-1(a) (attempted murder);

(2) IC 35-42-1-1 (murder);
(3) IC 35-42-3-2 (kidnapping);
(4) IC 35-42-4-1 (rape);
(5) IC 35-42-4-2 (criminal deviate conduct) ~~(repealed);~~ **(before its repeal);**
(6) IC 35-42-5-1 (robbery) if:
(A) the robbery was committed while armed with a deadly weapon; or
(B) the robbery results in bodily injury or serious bodily injury;
(7) IC 35-42-5-2 (carjacking) ~~*(repealed);*~~ **(before its repeal);**
~~(8) IC 35-45-9-3 (criminal gang activity);~~
~~(9) IC 35-45-9-4 (criminal gang intimidation);~~
~~(10)~~ **(8)** IC 35-47-2-1 (carrying a handgun without a license), if charged as a felony;
~~(11)~~ **(9)** IC 35-47-10 (children and firearms), if charged as a felony;
~~(12)~~ **(10)** IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
~~(13)~~ **(11)** any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through ~~(12);~~ **(10);**
if the individual was at least sixteen (16) years of age at the time of the alleged violation.

~~(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:~~
~~(1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or~~
~~(2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;~~
~~and the individual was at least sixteen (16) years of age at the time of the alleged violation.~~

~~(c)~~ **(b)** Once an individual described in subsection (a) ~~or (b)~~ has been charged with any crime listed in subsection (a), ~~or (b),~~ the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

SECTION 41. IC 31-30-4-2, AS ADDED BY P.L.104-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2014]: Sec. 2. (a) Subject to subsection (c), if:

(1) an offender is:

(A) less than eighteen (18) years of age;

(B) waived to a court with criminal jurisdiction under IC 31-30-3 because the offender committed an act that would be a felony if committed by an adult; and

(C) convicted of committing the felony or enters a plea of guilty to committing the felony; or

(2) an offender is:

(A) less than eighteen (18) years of age;

(B) charged with a felony over which a juvenile court does not have jurisdiction under IC 31-30-1-4; and

(C) convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court;

the court may, upon its own motion, a motion of the prosecuting attorney, or a motion of the offender's legal representative, impose a sentence upon the conviction of the offender under this chapter.

(b) If a court elects to impose a sentence upon conviction of an offender under subsection (a) and, before the offender is sentenced, the department of correction determines that there is space available for the offender in a juvenile facility of the division of youth services of the department, the sentencing court may:

(1) impose an appropriate criminal sentence on the offender under IC 35-50-2;

(2) suspend the criminal sentence imposed, notwithstanding IC 35-50-2-2 **(before its repeal),** ~~and~~ IC 35-50-2-2.1, **and IC 35-50-2-2.2;**

(3) order the offender to be placed into the custody of the department of correction to be placed in the juvenile facility of the division of youth services; and

(4) provide that the successful completion of the placement of the offender in the juvenile facility is a condition of the suspended criminal sentence.

(c) The court may not impose a sentence on an offender under subsection (a) until:

(1) the prosecuting attorney has notified the victim of the felony of the possible imposition of a sentence on the offender under this chapter; and

(2) either:

(A) the probation department of the court has conducted a presentence investigation concerning the offender and reported

its findings to the court; or

(B) the department of correction has conducted a diagnostic evaluation of the offender and reported its findings to the court.

SECTION 42. IC 31-30-4-5, AS ADDED BY P.L.104-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) At the request of a sentencing court, the department of correction shall provide a progress report to the sentencing court concerning an offender sentenced and placed in a juvenile facility under section 2(b) of this chapter. When the offender becomes eighteen (18) years of age:

(1) the department shall notify the sentencing court; and

(2) the sentencing court shall hold a review hearing concerning the offender before the offender becomes nineteen (19) years of age.

(b) Except as provided in subsection (c), after a hearing conducted under subsection (a), the sentencing court may:

(1) continue the offender's placement in a juvenile facility until the objectives of the sentence imposed on the offender have been met, if the sentencing court finds that the objectives of the sentence imposed on the offender have not been met;

(2) discharge the offender if the sentencing court finds that the objectives of the sentence imposed on the offender have been met;

(3) order execution of all or part of the offender's suspended criminal sentence in an adult facility of the department of correction; or

(4) place the offender:

(A) in home detention under IC 35-38-2.5;

(B) in a community corrections program under IC 35-38-2.6;

(C) on probation under IC 35-50-7; or

(D) in any other appropriate alternative sentencing program.

(c) This subsection applies to an offender over whom a juvenile court lacks jurisdiction under IC 31-30-1-4 who is convicted of one (1) or more of the following offenses:

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

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

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

(4) Rape as a Class A felony **(for a crime committed before July 1, 2014) or a Level 1 felony (for a crime committed after June 30, 2014)** (IC 35-42-4-1(b)).

(5) Criminal deviate conduct as a Class A felony

(IC 35-42-4-2(b)) **(before its repeal).**

(6) Robbery as a Class A felony **(for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014)** (IC 35-42-5-1), if:

(A) the offense was committed while armed with a deadly weapon; and

(B) the offense resulted in bodily injury to any person other than a defendant.

The court may not modify the original sentence of an offender to whom this subsection applies if the prosecuting attorney objects in writing to the modification. The prosecuting attorney shall set forth in writing the prosecuting attorney's reasons for objecting to the sentence modification.

SECTION 43. IC 31-34-1-3, AS AMENDED BY P.L.158-2013, SECTION 319, AND AS AMENDED BY P.L.214-2013, SECTION 26, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 ~~(repealed);~~ **(before its repeal);**

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2;

(I) IC 35-46-1-3; or

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 ~~(repealed);~~ **(before its repeal);**

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;
(E) IC 35-42-4-7;
(F) IC 35-42-4-9;
(G) IC 35-45-4-1;
(H) IC 35-45-4-2;
(I) IC 35-46-1-3; or
(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);

(2) the child lives in the same household as the adult who:
(A) committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2; *or*
(B) has been charged with a sex offense listed in subdivision (1) and is awaiting trial;

(3) the child needs care, treatment, or rehabilitation that:
(A) the child is not receiving; and
(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:
(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or
(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 44. IC 31-37-4-3, AS AMENDED BY P.L.172-2013, SECTION 8, AND AS AMENDED BY P.L.158-2013, SECTION 326, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~*Class A*~~ *Level 2* felony or a ~~*Class B*~~ *Level 3* felony (IC 35-42-5-1).
(13) Burglary as a ~~*Class A*~~ *Level 1 felony, Level 2 felony, Level 3* felony, or ~~*a Class B*~~ *Level 4* felony (IC 35-43-2-1).
~~*(14) Carjacking (IC 35-42-5-2).*~~
~~(15)~~ *(14)* Assisting a criminal as a ~~*Class C*~~ *Level 5* felony (IC 35-44.1-2-5).
~~*(16)*~~ *(15)* Escape (IC 35-44.1-3-4) as a ~~*Class B*~~ *Level 4* felony or ~~*Class C*~~ *Level 5* felony.
~~*(17)*~~ *(16)* Trafficking with an inmate as a ~~*Class C*~~ *Level 5* felony (IC 35-44.1-3-5).
~~*(18)*~~ *(17)* Causing death when operating a vehicle (IC 9-30-5-5).
~~*(19)*~~ *(18)* Criminal confinement (IC 35-42-3-3) as a ~~*Class B*~~ *Level 2 or Level 3* felony.
~~*(20)*~~ *(19)* Arson (IC 35-43-1-1) as a ~~*Class A or Class B*~~ *Level 2 felony, Level 3 felony,* or *Level 4* felony.
~~*(21)*~~ *(20)* Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
~~*(22)*~~ *(21)* Terroristic mischief (IC 35-47-12-3) as a ~~*Class B*~~ *Level 2 or Level 3* felony.
~~*(23)*~~ *(22)* Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
~~*(24)*~~ *(23)* A violation of IC 35-47.5 (controlled explosives) as a ~~*Class A or Class B*~~ *Level 2 felony, Level 3 felony,* or *Level 4* felony.
~~*(25)*~~ *(24)* A controlled substances offense under IC 35-48.
~~*(26)*~~ *(25)* A criminal gang offense under IC 35-45-9.

(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 45. IC 31-37-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. If a finding of delinquency is based on a delinquent act that would be a felony if committed by an adult, the juvenile court shall state in the findings the following:

(1) The specific statute that was violated.

(2) The class **or level** of the felony had the violation been committed by an adult.

SECTION 46. IC 33-37-5-23, AS AMENDED BY P.L.214-2013, SECTION 30, AND AS AMENDED BY P.L.158-2013, SECTION 341, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least ~~*two hundred fifty dollars ($250)*~~ *five hundred dollars ($500)* and not more than ~~*one thousand dollars ($1,000)*~~ *five thousand dollars ($5,000)* against an individual convicted in Indiana of any of the following offenses:

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

(2) Criminal deviate conduct (IC 35-42-4-2) ~~*(before its repeal on July 1, 2014); (repealed).*~~ **(before its repeal).**

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

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

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

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

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

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

(9) Sexual misconduct with a minor as a Class A or Class B *felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 4* felony *(for a crime committed after June 30, 2014)* (IC 35-42-4-9).

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

(11) Promotion of human trafficking (IC 35-42-3.5-1(a)).

(12) Promotion of human trafficking of a minor (IC 35-42-3.5-1(b)).

(13) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

(14) Human trafficking (IC 35-42-3.5-1(d)).

SECTION 47. IC 33-39-1-8, AS AMENDED BY HEA 1279-2014, SECTION 186, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2014]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

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

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

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

(A) intoxication; or

(B) the operation of a vehicle;

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

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

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

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

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

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

~~(D)~~ **(C)** IC 35-44.1-2-13(b)(1); or

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

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

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

(1) the person is charged with a misdemeanor, **a Level 6 felony, or a Level 5 felony;**

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

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

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

manner and format designated by the prosecuting attorneys council.

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

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

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

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

(4) support the person's dependents and meet other family responsibilities;

(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

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

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

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

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

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 48. IC 35-31.5-2-67.2 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 67.2. "Corrections officer", for purposes of IC 35-42-2-6, has the meaning set forth in IC 35-42-2-6(a).~~

SECTION 49. IC 35-31.5-2-115.2 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 115.2. "Emergency medical responder", for purposes of IC 35-42-2-6, has the meaning set forth in IC 35-42-2-6(c).~~

SECTION 50. IC 35-31.5-2-160.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 160.5. "Human immunodeficiency virus (HIV)", for purposes of IC 35-42-2-6, has the meaning set forth in IC 35-42-2-6(d).~~

SECTION 51. IC 35-31.5-2-244, AS AMENDED BY P.L.13-2013, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 244. ~~(a)~~ "Prescription drug", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-25.

~~(b) "Prescription drug", for purposes of IC 35-42-2-8, has the meaning set forth in IC 35-42-2-8(a)(4).~~

SECTION 52. IC 35-32-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. This title shall be construed in accordance with its general purposes, to:

(1) secure simplicity in procedure;

(2) insure fairness of administration including the elimination of unjustifiable delay;

(3) insure the effective apprehension and trial of persons accused of offenses;

(4) provide for the just determination of every criminal proceeding by a fair and impartial trial and adequate review; ~~and~~

(5) reduce crime by promoting the use of evidence based best practices for rehabilitation of offenders in a community setting;

(6) keep dangerous offenders in prison by avoiding the use of scarce prison space for nonviolent offenders;

(7) give judges maximum discretion to impose sentences based on a consideration of all the circumstances related to the offense;

(8) maintain proportionality of penalties across the criminal code, with like sentences for like crimes;

(9) make the lengths of sentences served by offenders more certain for victims; and

~~(5)~~ **(10)** preserve the public welfare and secure the fundamental rights of individuals.

SECTION 53. IC 35-33-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. Money in the fund at the end of a particular calendar year does not revert to any other fund, but remains in the county extradition **and sheriff's assistance** fund.

SECTION 54. IC 35-38-1-1.3, AS ADDED BY P.L.178-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.3. After a court has pronounced a sentence for

a felony conviction, the court shall issue a statement of the court's reasons for selecting the sentence that it imposes **unless the court imposes the advisory sentence for the felony.**

SECTION 55. IC 35-38-1-1.5, AS AMENDED BY P.L.159-2013, SECTION 8, AND AS AMENDED BY P.L.158-2013, SECTION 393, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.5. (a) A court may enter judgment of conviction as a ~~*Class D*~~ *Level 6* felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor ~~*within three (3) years*~~ if the person fulfills certain conditions. A court may enter a judgment of conviction as a ~~*Class D*~~ *Level 6* felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor only if the person pleads guilty to a ~~*Class D*~~ *Level 6* felony that qualifies for consideration as a Class A misdemeanor under IC 35-50-2-7, and the following conditions are met:

(1) The prosecuting attorney consents.

(2) The person agrees to the conditions set by the court.

(b) For a judgment of conviction to be entered under subsection (a), the court, the prosecuting attorney, and the person must all agree to the conditions set by the court under subsection (a).

(c) The court is not required to convert a judgment of conviction entered as a ~~*Class D*~~ *Level 6* felony to a Class A misdemeanor if, after a hearing, the court finds:

(1) the person has violated a condition set by the court under subsection (a); or

(2) the period that the conditions set by the court under subsection (a) are in effect expires before the person successfully completes each condition.

However, the court may not convert a judgment of conviction entered as a ~~*Class D*~~ *Level 6* felony to a Class A misdemeanor if the person commits a new offense before the conditions set by the court under subsection (a) expire.

(d) The court shall enter judgment of conviction as a Class A misdemeanor if the person fulfills the conditions set by the court under subsection (a).

(e) The entry of a judgment of conviction under this section does not affect the application of any statute requiring the suspension of a person's driving privileges.

(f) This section may not be construed to diminish or alter the rights of a victim (as defined in IC 35-40-4-8) in a sentencing proceeding under this chapter.

SECTION 56. IC 35-38-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this chapter, "victim representative" means a person designated by a sentencing court who is:

(1) a spouse, parent, child, sibling, or other relative of; or

(2) a person who has had a close personal relationship with;

the victim of a felony who is deceased, incapacitated, or less than eighteen (18) years of age.

(b) Upon entering a conviction, the court shall set a date for sentencing within thirty (30) days, unless for good cause shown an extension is granted. If a presentence report is not required, the court may sentence the defendant at the time the judgment of conviction is entered. However, the court may not pronounce sentence at that time without:

(1) inquiring as to whether an adjournment is desired by the defendant; and

(2) informing the victim, if present, of a victim's right to make a statement concerning the crime and the sentence.

When an adjournment is requested, the defendant shall state its purpose and the court may allow a reasonable time for adjournment.

(c) If:

(1) the state in the manner prescribed by IC 35-34-1-2.5 sought an increased penalty by alleging that the person was previously convicted of the offense; and

(2) the person was convicted of the subsequent offense in a jury trial;

the jury shall reconvene for the sentencing hearing. The person shall be sentenced to receive the increased penalty if the jury (or the court, if the trial is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had a previous conviction for the offense.

(d) If the felony is nonsuspendible under IC 35-50-2-2 **(before its repeal) or IC 35-50-2-2.2,** the judge shall order the defendant, if the defendant has previously been released on bail or recognizance, to be imprisoned in the county or local penal facility pending sentencing.

(e) Upon entering a conviction for a felony, the court shall designate a victim representative if the victim is deceased, incapacitated, or less than eighteen (18) years of age.

SECTION 57. IC 35-38-1-7.5, AS AMENDED BY P.L.214-2013, SECTION 33, AND AS AMENDED BY P.L.158-2013, SECTION 394, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7.5. (a) As used in this section,

"sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense (as defined in IC 11-8-8-5.2). The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 ~~*(before its repeal on July 1, 2014);*~~ ~~*(repealed);*~~ **(before its repeal);**

(C) IC 35-42-4-3 as a Class A or Class B felony *(for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014);*

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B *felony (for a crime committed before July 1, 2014) or Level 2, Level 3, or Level 4* felony *(for a crime committed after June 30, 2014);*

(H) IC 35-42-4-5(b)(2);

(I) IC 35-42-4-5(b)(3) as a Class A or Class B *felony (for a crime committed before July 1, 2014) or a Level 2, Level 3, or Level 4* felony *(for a crime committed after June 30, 2014);*

(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or

(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);

(2) commits a sex offense (as defined in IC 11-8-8-5.2) while having a previous unrelated conviction for a sex offense for which the person is required to register as a sex or violent offender under IC 11-8-8;

(3) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if, after considering expert testimony, a court finds by clear and convincing evidence that the person is likely to commit an additional sex offense; or

(4) commits a sex offense (as defined in IC 11-8-8-5.2) while

having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if the person was required to register as a sex or violent offender under IC 11-8-8-5(b)(2);

is a sexually violent predator. Except as provided in subsection (g) or (h), a person is a sexually violent predator by operation of law if an offense committed by the person satisfies the conditions set forth in subdivision (1) or (2) and the person was released from incarceration, secure detention, ~~or~~ probation, *or parole* for the offense after June 30, 1994.

(c) This section applies whenever a court sentences a person or a juvenile court issues a dispositional decree for a sex offense (as defined in IC 11-8-8-5.2) for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall indicate on the record whether the person has been convicted of an offense that makes the person a sexually violent predator under subsection (b).

(e) If a person is not a sexually violent predator under subsection (b), the prosecuting attorney may request the court to conduct a hearing to determine whether the person (including a child adjudicated to be a delinquent child) is a sexually violent predator under subsection (a). If the court grants the motion, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person is a sexually violent predator under subsection (a). A hearing conducted under this subsection may be combined with the person's sentencing hearing.

(f) If a person is a sexually violent predator:

(1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and

(2) the court shall send notice to the department of correction.

(g) This subsection does not apply to a person who has two (2) or more unrelated convictions for an offense described in IC 11-8-8-4.5 for which the person is required to register under IC 11-8-8. A person who is a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court or juvenile court makes its determination under subsection (e); or

(2) the person is released from incarceration or secure detention. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered a sexually violent predator under subsection (a). If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator *or an offender against children.* Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:

(1) The victim was not less than twelve (12) years of age at the time the offense was committed.

(2) The person is not more than four (4) years older than the victim.

(3) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(4) The offense committed by the person was not any of the following:

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

(B) Criminal deviate conduct (IC 35-42-4-2) ~~*(before its repeal on July 1, 2014).*~~ ~~*(repealed).*~~ **(before its repeal).**

(C) An offense committed by using or threatening the use of deadly force or while armed with a deadly weapon.

(D) An offense that results in serious bodily injury.

(E) An offense that is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(5) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

(6) The person did not have a position of authority or substantial influence over the victim.

(7) The court finds that the person should not be considered a sexually violent predator.

SECTION 58. IC 35-38-1-17, AS AMENDED BY P.L.158-2013, SECTION 396, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) **This section does not apply to a credit restricted felon.**

(b) ~~At any time~~ **Not later than three hundred sixty-five (365) days** after:

(1) a convicted person begins serving the person's sentence; **and**

~~(2) a hearing is held:~~

~~(A) at which the convicted person is present; and~~

~~(B) of which the prosecuting attorney has been notified; and~~

~~(3)~~ **(2)** the court obtains a report from the department of correction concerning the convicted person's conduct while imprisoned;

the court may reduce or suspend the sentence and impose a sentence that the court was authorized to impose at the time of sentencing. The court must incorporate its reasons in the record.

(c) If more than three hundred sixty-five (365) days have elapsed since the convicted person began serving the sentence, the court may reduce or suspend the sentence and impose a sentence that the court was authorized to impose at the time of sentencing. The court must incorporate its reasons in the record.

~~(b)~~ **(d) If the court sets a hearing on a petition under this section,** the court must give notice ~~of the order to reduce or suspend the sentence under this section~~ to the prosecuting attorney and the **prosecuting attorney must give notice to the** victim (as defined in IC 35-31.5-2-348) of the crime for which the convicted person is serving the sentence.

~~(c)~~ **(e)** The court may suspend a sentence for a felony under this section only if suspension is permitted under IC 35-50-2-2.2.

~~(d)~~ **(f)** The court may deny a request to suspend or reduce a sentence under this section without making written findings and conclusions.

~~(e)~~ **(g)** The court is not required to conduct a hearing before reducing or suspending a sentence **under this section** if:

(1) the prosecuting attorney has filed with the court an agreement of the reduction or suspension of the sentence; and

(2) the convicted person has filed with the court a waiver of the right to be present when the order to reduce or suspend the sentence is considered.

(h) A convicted person may file a petition for sentence modification under this section:

(1) not more than one (1) time in any three hundred sixty-five (365) day period; and

(2) a maximum of two (2) times during any consecutive period of incarceration.

(i) A person may not waive the right to sentence modification under this section as part of a plea agreement. Any purported waiver of the right to sentence modification under this section in a plea agreement is invalid and unenforceable as against public policy. This subsection does not prohibit the finding of a waiver of the right to sentence modification for any other reason, including failure to comply with the provisions of this section.

SECTION 59. IC 35-38-2.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Except as provided in section 5.5 of this chapter, as a condition of probation a court may order an offender confined to the offender's home for a period of home detention lasting at least sixty (60) days.

(b) The period of home detention may be consecutive or nonconsecutive, as the court orders. However, the aggregate time actually spent in home detention must not exceed:

(1) the minimum term of imprisonment prescribed for a felony under IC 35-50-2; or

(2) the maximum term of imprisonment prescribed for a misdemeanor under IC 35-50-3;

for the crime committed by the offender.

(c) The court may order supervision of an offender's home detention to be provided by the probation department for the court or by a community corrections program that provides supervision of home detention.

(d) A person's term of confinement on home detention under this chapter is computed on the basis of the actual days the person spends on home detention **plus any earned credit time.**

(e) A person confined on home detention as a condition of probation ~~earns~~ **accrues one (1) day of** credit ~~for time served.~~ **for each day the person is confined on home detention.**

(f) In addition to credit accrued for time served under subsection (e), a person confined on home detention as a condition of probation is entitled to earn credit time under IC 35-50-6-3 and

IC 35-50-6-3.1. A person confined on home detention as a condition of probation may not earn educational credit time under IC 35-50-6-3.3.

(g) A person confined on home detention may be deprived of earned credit time if the person violates a condition of probation.

SECTION 60. IC 35-38-2.6-6, AS AMENDED BY P.L.105-2010, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) As used in this subsection, "home" means the actual living area of the temporary or permanent residence of a person.

(b) A person confined on home detention in a community corrections program accrues one (1) day of credit time for each day the person is confined on home detention, plus any earned credit time.

(c) In addition to credit accrued for time served under subsection (b), a person who is placed in a community corrections program under this chapter is entitled to earn credit time under ~~IC 35-50-6.~~ **IC 35-50-6-3 and IC 35-50-6-3.1. A person confined on home detention as part of a community corrections program may not earn educational credit time under IC 35-50-6-3.3.**

~~(b)~~ **(d)** A person who is placed in a community corrections program under this chapter may be deprived of earned credit time as provided under rules adopted by the department of correction under IC 4-22-2.

SECTION 61. IC 35-38-3-1, AS AMENDED BY P.L.158-2013, SECTION 401, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. As used in this chapter:

"Earliest possible release date" means the date, computed as of the date of sentencing, on which a person would be entitled to discharge or release on parole considering:

(1) the term of the sentence;

(2) the term of any other concurrent or consecutive sentence that the person must serve;

(3) credit time that the person has earned before sentencing; and

(4) the maximum amount of credit time that the person would earn if the person remained in a Class I**, Class A,** or **Class B** credit time assignment during the person's period of commitment.

"Rated capacity" means the number of inmates that can be housed at the facility as determined by the most recent jail inspection report.

"Receiving authority" means:

(1) the department of correction;

(2) a sheriff, if incarceration is authorized in a county jail; or

(3) a facility or place designated by the department of correction.

SECTION 62. IC 35-38-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) Except as provided by subsection (b), a person convicted of a misdemeanor may not be committed to the department of correction.

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

(1) if placement in the county jail:

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

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

(2) for other good cause shown; or

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

(c) After June 30, 2014, and before July 1, 2015, a court may not commit a person convicted of a Level 6 felony to the department of correction if the person's earliest possible release date is less than ninety-one (91) days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.

(d) After June 30, 2015, a court may not commit a person convicted of a Level 6 felony to the department of correction if the person's earliest possible release date is less than three hundred sixty-six (366) days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.

(e) After June 30, 2014, a sheriff is entitled to a per diem and medical expense reimbursement as described in P.L.205-2013, SECTION 4 for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail. The reimbursement:

(1) shall be reviewed by the budget committee; and

(2) is subject to approval by the budget agency.

SECTION 63. IC 35-41-4-2, AS AMENDED BY P.L.44-2013, SECTION 2, AND AS AMENDED BY P.L.158-2013, SECTION 407, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is

commenced:

(1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony *(for a crime committed before July 1, 2014) or a Level 3, Level 4, Level 5, or Level 6 felony (for a crime committed after June 30, 2014);* or

(2) within two (2) years after the commission of the offense, in the case of a misdemeanor.

(b) A prosecution for a Class B or Class C felony *(for a crime committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony (for a crime committed after June 30, 2014)* that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

(1) first discovers evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis; or

(2) could have discovered evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis by the exercise of due diligence.

(c) A prosecution for a Class A felony *(for a crime committed before July 1, 2014) or a Level 1 felony or Level 2 felony (for a crime committed after June 30, 2014)* may be commenced at any time.

(d) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

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

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

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

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

(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire

within ninety (90) days after the dismissal.

(h) The period within which a prosecution must be commenced does not include any period in which:

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself or herself that process cannot be served;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge the person with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

(k) The following apply to the specified offenses:

(1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of funeral trust funds) is barred unless commenced within five (5) years after the date of death of the settlor (as described in IC 30-2-9).

(2) A prosecution for an offense under IC 30-2-10-9(b) (misuse of funeral trust funds) is barred unless commenced within five (5) years after the date of death of the settlor (as described in IC 30-2-10).

(3) A prosecution for an offense under IC 30-2-13-38(f) (misuse of funeral trust or escrow account funds) is barred unless commenced within five (5) years after the date of death of the purchaser (as defined in IC 30-2-13-9).

(l) A prosecution for an offense under IC 23-14-48-9 is barred unless commenced within five (5) years after the earlier of the date on which the state:

(1) first discovers evidence sufficient to charge the offender with the offense; or

(2) could have discovered evidence sufficient to charge the offender with the offense by the exercise of due diligence.

(m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is committed against a child and that is not:

(1) a Class A felony **(for a crime committed before July 1, 2014) or a Level 1 felony or Level 2 felony (for a crime committed after June 30, 2014);** *or*

(2) listed in subsection (e);

is barred unless commenced within ten (10) years after the commission of the offense, or within four (4) years after the person ceases to be a dependent of the person alleged to have committed the offense, whichever occurs later.

SECTION 64. IC 35-41-5-1, AS AMENDED BY P.L.247-2013, SECTION 5, AND AS AMENDED BY P.L.158-2013, SECTION 408, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person attempts to commit a crime when, acting with the culpability required for commission of the crime, ~~he~~ *the person* engages in conduct that constitutes a substantial step toward commission of the crime. An attempt to commit a crime is a felony or misdemeanor of the same *level* **or** *class* as the crime attempted. However, an attempt to commit murder is a ~~*Class A*~~ *Level 1* felony.

(b) It is no defense that, because of a misapprehension of the circumstances, *including the age of the intended victim in a prosecution for attempted child molesting (IC 35-42-4-3),* it would have been impossible for the accused person to commit the crime attempted.

(c) For purposes of subsection (a), a person engages in conduct that constitutes a substantial step if the person, with the intent to commit a sex crime against a child or an individual the person believes to be a child:

(1) communicates with the child or individual the person believes to be a child concerning the sex crime; and

(2) travels to another location to meet the child or individual the person believes to be a child.

SECTION 65. IC 35-42-1-1, AS AMENDED BY P.L.158-2013, SECTION 35, AND AS AMENDED BY P.L.214-2013, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. A person who:

(1) knowingly or intentionally kills another human being;

(2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product

tampering, criminal deviate conduct *(under IC 35-42-4-2* before its repeal), ~~*on July 1, 2014),*~~ kidnapping, rape, robbery, human trafficking, promotion of human trafficking, sexual trafficking of a minor, or carjacking *(before its repeal);*

(3) kills another human being while committing or attempting to commit:

(A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);

(B) dealing in or manufacturing methamphetamine (IC 35-48-4-1.1);

(C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

(D) dealing in a schedule IV controlled substance (IC 35-48-4-3); or

(E) dealing in a schedule V controlled substance; or

(4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);

commits murder, a felony.

SECTION 66. IC 35-42-3.5-1, AS AMENDED BY P.L.55-2013, SECTION 1, AND AS AMENDED BY P.L.158-2013, SECTION 436, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage;

(B) prostitution; or

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

commits promotion of human trafficking, a ~~*Class B*~~ *Level 4* felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

(1) ~~*sixteen (16)*~~ *eighteen (18)* years of age with the intent of:

~~*(1)*~~ *(A)* engaging the child in:

~~*(A)*~~ *(i)* forced labor; or

~~*(B)*~~ *(ii)* involuntary servitude; or

~~*(2)*~~ *(B)* inducing or causing the child to:

~~*(A)*~~ *(i)* engage in prostitution; or

(ii) engage in a performance or incident that includes sexual

conduct in violation of IC 35-42-4-4(b) (child exploitation); or

~~(B)~~ *(2) sixteen (16) years of age with the intent of inducing or causing the child to* participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a ~~*Class B*~~ *Level 3* felony. Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than ~~*sixteen (16)*~~ *eighteen (18)* years of age for the purpose of prostitution or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a ~~*Class A*~~ *Level 2* felony.

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

(1) forced labor;

(2) involuntary servitude; or

(3) prostitution;

commits human trafficking, a ~~*Class C*~~ *Level 5* felony.

(e) It is a defense to a prosecution under subsection ~~*(b)(2)(B)*~~ *(b)(2)* if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or

(2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in

IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

SECTION 67. IC 35-42-4-1, AS AMENDED BY P.L.158-2013, SECTION 437, AND AS AMENDED BY P.L.214-2013, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with ~~*a member of the opposite sex*~~ *another person* or knowingly or intentionally causes another person to perform or submit to ~~*deviate sexual conduct*~~ *other sexual conduct (as defined in IC 35-31.5-2-221.5)* when:

(1) the other person is compelled by force or imminent threat of force;

(2) the other person is unaware that the sexual intercourse *or* ~~*deviate sexual conduct*~~ *other sexual conduct (as defined in IC 35-31.5-2-221.5)* is occurring; or

(3) the other person is so mentally disabled or deficient that consent to sexual intercourse *or* ~~*deviate sexual conduct*~~ *other sexual conduct (as defined in IC 35-31.5-2-221.5)* cannot be given;

commits rape, a ~~*Class B*~~ *Level 3* felony.

(b) An offense described in subsection (a) is a ~~*Class A*~~ *Level 1* felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon;

(3) it results in serious bodily injury to a person other than a defendant; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

SECTION 68. IC 35-42-4-3, AS AMENDED BY P.L.158-2013, SECTION 439, AND AS AMENDED BY P.L.247-2013, SECTION 6,

IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) A person who, with a child under fourteen (14) years of age, *knowingly or intentionally* performs or submits to sexual intercourse or ~~*deviate*~~ *other* sexual conduct *(as defined in IC 35-31.5-2-221.5)* commits child molesting, a ~~*Class B*~~ *Level 3* felony. However, the offense is a ~~*Class A*~~ *Level 1* felony if:

(1) it is committed by a person at least twenty-one (21) years of age;

(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(3) it results in serious bodily injury; or

(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a ~~*Class C*~~ *Level 4* felony. However, the offense is a ~~*Class A*~~ *Level 2* felony if:

(1) it is committed by using or threatening the use of deadly force;

(2) it is committed while armed with a deadly weapon; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) *A person may be convicted of attempted child molesting of an individual at least fourteen (14) years of age if the person believed the individual to be a child under fourteen (14) years of age at the time the person attempted to commit the offense.*

(d) It is a defense *to a prosecution under this section* that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

(1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;

(2) the offense results in serious bodily injury; or

(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the

drug or controlled substance without the victim's knowledge.

SECTION 69. IC 35-42-4-4, AS AMENDED BY P.L.214-2013, SECTION 38, AND AS AMENDED BY P.L.158-2013, SECTION 440, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The following definitions apply throughout this section:

(1) "Disseminate" means to transfer possession for free or for a consideration.

(2) "Matter" has the same meaning as in IC 35-49-1-3.

(3) "Performance" has the same meaning as in IC 35-49-1-7.

(4) "Sexual conduct" means ~~(A)~~ sexual intercourse*,* ~~(B) deviate~~ *other* sexual conduct *(as defined in IC 35-31.5-2-221.5),* ~~(C),~~ exhibition of the ~~(i)~~ uncovered genitals ~~or (ii) female breast with less than a fully opaque covering of any part of the nipple;~~ intended to satisfy or arouse the sexual desires of any person, ~~(D)~~ sadomasochistic abuse, ~~(E)~~ sexual intercourse or ~~deviate~~ *other* sexual conduct *(as defined in IC 35-31.5-2-221.5)* with an animal*,* or ~~(F)~~ any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who*:*

(1) knowingly or intentionally ~~(1)~~ manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) *knowingly or intentionally* disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; ~~or~~

(3) *knowingly or intentionally* makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age; *or*

(4) with the intent to satisfy or arouse the sexual desires of any person:

(A) knowingly or intentionally:

(i) manages;

(ii) produces;

(iii) sponsors;

(iv) presents;

(v) exhibits;

(vi) photographs;
(vii) films;
(viii) videotapes; or
(ix) creates a digitized image of;
any performance or incident that includes the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;
(B) knowingly or intentionally:
(i) disseminates to another person;
(ii) exhibits to another person;
(iii) offers to disseminate or exhibit to another person; or
(iv) sends or brings into Indiana for dissemination or exhibition;
matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age; or
(C) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;
commits child exploitation, a ~~*Class C*~~ *Level 5* felony.

(c) A person who knowingly or intentionally possesses:
(1) a picture;
(2) a drawing;
(3) a photograph;
(4) a negative image;
(5) undeveloped film;
(6) a motion picture;
(7) a videotape;
(8) a digitized image; or
(9) any pictorial representation;
that depicts or describes sexual conduct by a child who the person knows is less than ~~*sixteen (16)*~~ *eighteen (18)* years of age or who appears to be less than ~~*sixteen (16)*~~ *eighteen (18)* years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a ~~*Class D*~~ *Level 6* felony.

(d) Subsections (b) and (c) do not apply to a bona fide school,

museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

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

(1) the person is a school employee; and

(2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

(f) Except as provided in subsection (g), it is a defense to a prosecution under *subsection (b) or (c)* ~~*subsection (b)(1), subsection (b)(2), or subsection (c)*~~ if all of the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

(g) The defense to a prosecution described in subsection (f) does not apply if:

(1) the person who receives the image disseminates it to a person other than the person:

(A) who sent the image; or

(B) who is depicted in the image;

(2) the image is of a person other than the person who sent the image or received the image; or

(3) the dissemination of the image violates:

(A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(B) an ex parte protective order issued under IC 34-26-5 (or,

if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
(C) a workplace violence restraining order issued under IC 34-26-6;
(D) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
(E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
(F) a no contact order issued as a condition of probation;
(G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
(H) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
(I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
(J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I);
(K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:
(i) tribe;
(ii) band;
(iii) pueblo;
(iv) nation; or
(v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;
(L) an order issued under IC 35-33-8-3.2; or
(M) an order issued under IC 35-38-1-30.

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

(1) the person was less than eighteen (18) years of age at the time the alleged offense was committed; and

(2) the circumstances described in IC 35-45-4-6(a)(2) through IC 35-45-4-6(a)(4) apply.

(i) A person is entitled to present the defense described in subsection (h) in a pretrial hearing. If a person proves by a preponderance of the evidence in a pretrial hearing that the defense described in subsection (h) applies, the court shall dismiss the charges under this section with prejudice.

SECTION 70. IC 35-42-4-6, AS AMENDED BY P.L.158-2013, SECTION 442, AND AS AMENDED BY P.L.247-2013, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:

(1) in person;

(2) by telephone or wireless device;

(3) in writing;

(4) by using a computer network (as defined in IC 35-43-2-3(a));

(5) by advertisement of any kind; or

(6) by any other means;

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

(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in ~~*(1)*~~ sexual intercourse*,* ~~*(2) deviate*~~ *other* sexual conduct *(as defined in IC 35-31.5-2-221.5),* or ~~*(3)*~~ any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person, commits child solicitation, a ~~*Class D*~~ *Level 5* felony. ~~*However, the offense is*~~

~~*(1) a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and*~~

~~*(2) a Class B felony if the person*~~ **However, the offense is a Level 4 felony if the person** *solicits the child or individual the person believes to be a child under fourteen (14) years of age to engage in sexual intercourse or* ~~*deviate*~~ **other** *sexual conduct* **(as defined in IC 35-31.5-2-221.5)** *and:*

~~*(A)*~~ **(1)** ~~*commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and*~~ **commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and** *travels to meet the child or individual the person believes to be a child; or*

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

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

~~*(1)*~~ sexual intercourse,

~~*(2)*~~ ~~*deviate*~~ *other* sexual conduct *(as defined in IC 35-31.5-2-221.5),* or

~~*(3)*~~ any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person,

commits child solicitation, a ~~*Class D*~~ *Level 5* felony.

~~*However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)), and a Class B felony if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and has a previous unrelated conviction for committing the offense by using a computer network (as defined in IC 35-43-2-3(a)).*~~

However, the offense is

~~*(1) a Class C felony if the person solicits the child or individual the person believes to be a child at least fourteen (14) but less than sixteen (16) years of age to engage in sexual intercourse or deviate sexual conduct and makes the solicitation by using a computer network (as defined in IC 35-43-2-3(a)); and*~~

~~*(2)*~~ *a* ~~*Class B*~~ **Level 4** *felony if the person solicits the child or individual the person believes to be a child at least fourteen (14) but less than sixteen (16) years of age to engage in sexual intercourse or* ~~*deviate*~~ **other** *sexual conduct* **(as defined in IC 35-31.5-2-221.5),** *and:*

~~*(A)*~~ **(1)** *commits the offense by using a computer network (as defined in IC 35-43-2-3(a)) and travels to meet the child or individual the person believes to be a child; or*

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

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

SECTION 71. IC 35-42-4-7, AS AMENDED BY P.L.208-2013, SECTION 8, AND AS AMENDED BY P.L.158-2013, SECTION 443, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

(d) As used in this section, "child care worker" means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility;

(2) is employed by a:

(A) school corporation;

(B) charter school;

(C) nonpublic school; or

(D) special education cooperative;

attended by a child who is the victim of a crime under this chapter; or

(3) is:

(A) affiliated with a:

(i) school corporation;

(ii) charter school;

(iii) nonpublic school; or

(iv) special education cooperative;

attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who attends the school or cooperative;

(C) engaged in the provision of care or supervision to a child who attends the school or cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

(e) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(f) As used in this section, "mental health professional" means:

(1) a mental health counselor licensed under IC 25-23.6-8.5;

(2) a psychologist; or

(3) a psychiatrist.

~~(f)~~ *(g)* As used in this section, "military recruiter" means a member of the armed forces of the United States (as defined in IC 20-33-10-2) or the Indiana National Guard whose primary job function, classification, or specialty is recruiting individuals to enlist with the armed forces of the United States or the Indiana National Guard.

~~(g)~~ *(h)* As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.

(i) For purposes of this section, a person has a "professional relationship" with a child if:

(1) the person:

(A) has a license issued by the state or a political subdivision on the basis of the person's training and experience that authorizes the person to carry out a particular occupation; or

(B) is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and

(2) the person has a relationship with a child that is based on the person's employment or licensed status as described in subdivision (1).

The term includes a relationship between a child and a mental health professional or military recruiter. The term does not include a coworker relationship between a child and a person described in subdivision (1)(B).

~~(h)~~ *(j)* As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16.

~~(i)~~ *(k)* As used in this section, "special education cooperative" has the meaning set forth in IC 20-35-5-1.

~~(j)~~ *(l)* As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

~~(k)~~ *(m)* If a person who:

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

~~(2) is:~~

~~(A) the:~~

~~(i) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or~~

(2) is the:

(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(B) child care worker for;

~~(ii) child care worker for; or~~

~~(B) a military recruiter who is attempting to enlist;~~

a child at least sixteen (16) years of age but less than eighteen (18) years of age;

~~*fondles or touches the child*~~ *engages with the child in sexual intercourse,* ~~*deviate*~~ **other** *sexual conduct (as defined in* ~~*IC 35-31.5-2-94),*~~ **IC 35-31.5-2-221.5),** *or any fondling or touching* with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction, ~~a felony.~~ *a Level 6 felony. However, the offense is a Level 5 felony if the person engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the child.*

(n) A person who:

(1) has or had a professional relationship with a child at least sixteen (16) years of age but less than eighteen (18) years of age whom the person knows to be at least sixteen (16) years of age but less than eighteen (18) years of age;

(2) may exert undue influence on the child because of the person's current or previous professional relationship with the child; and

(3) uses or exerts the person's professional relationship to engage in sexual intercourse, ~~*deviate*~~ **other** *sexual conduct* **(as defined in IC 35-31.5-2-221.5),** *or any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the person;*

commits child seduction.

(o) A law enforcement officer who:

(1) is at least five (5) years older than a child who is:

(A) at least sixteen (16) years of age; and

(B) less than eighteen (18) years of age;

(2) has contact with the child while acting within the scope of the law enforcement officer's official duties with respect to the child; and

(3) uses or exerts the law enforcement officer's professional relationship with the child to engage with the child in:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5); or

(C) any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the law enforcement officer;

commits child seduction.

~~*(o)*~~ **(p)** *In determining whether a person used or exerted the person's professional relationship with the child to engage in sexual intercourse,* ~~*deviate*~~ **other** *sexual conduct* **(as defined in**

IC 35-31.5-2-221.5), *or any fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person under* ~~*subsection (n),*~~ **this section,** *the trier of fact may consider one (1) or more of the following:*

(1) The age difference between the person and the child.

(2) Whether the person was in a position of trust with respect to the child.

(3) Whether the person's conduct with the child violated any ethical obligations of the person's profession or occupation.

(4) The authority that the person had over the child.

(5) Whether the person exploited any particular vulnerability of the child.

(6) Any other evidence relevant to the person's ability to exert undue influence over the child.

~~*(p)*~~ **(q)** *Child seduction under this section is:*

(1) a ~~*Class D*~~ **Level 6** *felony if the person* **or law enforcement officer** *engaged in any fondling or touching with the intent to arouse or satisfy the sexual desires of:*

(A) *the child; or*

(B) *the person* **or law enforcement officer;** *and*

(2) a ~~*Class C*~~ **Level 5** *felony if the person* **or law enforcement officer** *engaged in sexual intercourse or* ~~*deviate*~~ **other** *sexual conduct* **(as defined in IC 35-31.5-2-221.5)** *with the child.*

SECTION 72. IC 35-42-4-11, AS AMENDED BY P.L.214-2013, SECTION 39, AND AS AMENDED BY P.L.158-2013, SECTION 447, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

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

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

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

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

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person is not the child's parent or guardian.

(F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).

(G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

(1) a residence; or

(2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, not including property of an institution providing post-secondary education;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a ~~*Class D*~~ *Level 6* felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration **or parole, whichever occurs last** *(or, if the person is not incarcerated, not earlier than ten (10) years after the person is released from* probation). ~~*or parole, whichever occurs last).*~~ A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

SECTION 73. IC 35-42-4-12, AS AMENDED BY P.L.247-2013, SECTION 8, AND AS AMENDED BY P.L.158-2013, SECTION 448, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. (a) This section ~~*does not apply to a person to*~~ *applies only to a sex offender (as defined in IC 11-8-8-4.5).* ~~*whom all of the following apply:*~~

~~*(1) The person is not more than:*~~

~~*(A) four (4) years older than the victim if the offense was committed after June 30, 2007; or*~~

~~*(B) five (5) years older than the victim if the offense was committed before July 1, 2007.*~~

~~*(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.*~~

~~*(3) The crime:*~~

~~*(A) was not committed by a person who is at least twenty-one (21) years of age;*~~

~~*(B) was not committed by using or threatening the use of deadly force;*~~

~~*(C) was not committed while armed with a deadly weapon;*~~

~~*(D) did not result in serious bodily injury;*~~

~~*(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and*~~

~~*(F) was not committed by a person having a position of authority or substantial influence over the victim.*~~

(b) A sex offender who knowingly or intentionally violates a:

(1) condition of probation;

(2) condition of parole; or

(3) rule of a community transition program;

that prohibits the offender from using a social networking web site or an instant messaging or chat room program to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a ~~*Class D*~~ **Level 6** *felony if the person has a prior unrelated conviction under this section.*

~~*(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:*~~

~~(1) found to be a sexually violent predator under IC 35-38-1-7.5; or~~

~~(2) convicted of one (1) or more of the following offenses:~~

~~(A) Child molesting (IC 35-42-4-3).~~

~~(B) Child exploitation (IC 35-42-4-4(b)).~~

~~(C) Possession of child pornography (IC 35-42-4-4(c)).~~

~~(D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).~~

~~(E) Sexual conduct in the presence of a minor IC 35-42-4-5(c)).~~

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

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

~~(H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.~~

~~(I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).~~

~~(J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).~~

~~(c) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program.~~

~~(d) As used in this section, "social networking web site" means an Internet web site that:~~

~~(1) facilitates the social introduction between two (2) or more persons;~~

~~(2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;~~

~~(3) allows a member to create a web page or a personal profile; and~~

~~(4) provides a member with the opportunity to communicate with another person.~~

~~The term does not include an electronic mail program or message board program.~~

~~(e) A person described in subsection (b) who knowingly or intentionally uses:~~

~~(1) a social networking web site; or~~

~~*(2) an instant messaging or chat room program;*~~
~~*that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Class D Level 6 felony if the person has a prior unrelated conviction under this section.*~~

~~*(f) It is a defense to a prosecution under this section that the person:*~~

~~*(1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and*~~

~~*(2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program.*~~

(c) It is a defense to a prosecution under subsection (b) that the person reasonably believed that the child was at least sixteen (16) years of age.

SECTION 74. IC 35-42-4-13, AS AMENDED BY P.L.247-2013, SECTION 9, AND AS AMENDED BY P.L.158-2013, SECTION 449, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) This section does not apply to the following:

(1) A parent, guardian, or custodian of a child.

(2) A person who acts with the permission of a child's parent, guardian, or custodian.

(3) A person to whom a child makes a report of abuse or neglect.

(4) A person to whom a child reports medical symptoms that relate to or may relate to sexual activity.

(b) As used in this section, "sexual activity" means sexual intercourse, ~~*deviate*~~ *other* sexual *conduct (as defined in IC 35-31.5-2-221.5),* or the fondling or touching of the buttocks, genitals, or female breasts.

(c) A person at least ~~*twenty-one (21)*~~ *eighteen (18)* years of age who knowingly or intentionally communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is*:*

(1) a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a); *and*

(2) a ~~*Class D*~~ **Level 6** *felony if the person has a prior unrelated*

conviction for a sex offense (as defined in IC 11-8-8-5.2).

SECTION 75. IC 35-43-1-1, AS AMENDED BY P.L.158-2013, SECTION 452, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages:

(1) a dwelling of another person without the other person's consent;

(2) property of any person under circumstances that endanger human life;

(3) property of another person without the other person's consent if the pecuniary loss is at least five thousand dollars ($5,000); or

(4) a structure used for religious worship without the consent of the owner of the structure;

commits arson, a Level 4 felony. However, the offense is a Level 3 felony if it results in bodily injury to any person other than a defendant and a Level 2 felony if it results in serious bodily injury to any person other than a defendant.

(b) A person who commits arson for hire commits a Level 4 felony. However, the offense is:

(1) a Level 3 felony if it results in bodily injury to any other person; and

(2) a Level 2 felony if it results in serious bodily injury to any other person.

(c) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages property of any person with intent to defraud commits arson, a ~~Level 5~~ **Level 6** felony.

(d) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages property of another person without the other person's consent so that the resulting pecuniary loss is at least two hundred fifty dollars ($250) but less than five thousand dollars ($5,000) commits arson, a Level 6 felony.

(e) A person who commits an offense under subsection (a), (b), (c), or (d) commits a separate offense for each person who suffers a bodily injury or serious bodily injury that is caused by the violation of subsection (a), (b), (c), or (d).

SECTION 76. IC 35-43-1-7, AS ADDED BY P.L.158-2013, SECTION 458, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. ~~(a)~~ A person who knowingly or intentionally and who without authorization:

(1) modifies data, a computer program, or supporting documentation;

(2) destroys data, a computer program, or supporting documentation; or

(3) discloses or takes data, a computer program, or supporting documentation that is:

(A) a trade secret (as defined in IC 24-2-3-2); or

(B) otherwise confidential as provided by law;

and that resides or exists internally or externally on a computer, computer system, or computer network, commits an offense against intellectual property, a Level 6 felony.

~~(b) However, the offense is a Level 5 felony if the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property.~~

SECTION 77. IC 35-43-4-2.5, AS AMENDED BY P.L.158-2013, SECTION 465, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. (a) As used in this section, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).

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

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

(2) a component part (as defined in IC 9-13-2-34) of the vehicle;

commits auto theft, a Level 6 felony. ~~However, the offense is a Level 5 felony if the person has a prior conviction of an offense under this subsection or subsection (c).~~

(c) A person who knowingly or intentionally receives, retains, or disposes of a motor vehicle or any part of a motor vehicle of another person that has been the subject of theft commits receiving stolen auto parts, a Level 6 felony. ~~However, the offense is a Level 5 felony if the person has a prior conviction of an offense under this subsection or subsection (b).~~

SECTION 78. IC 35-43-5-4.6, AS ADDED BY P.L.293-2013(ts), SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4.6. (a) The following definitions apply throughout this section:

(1) "Automated sales suppression device" means a software program:

(A) carried on a memory stick or removable compact disc;

(B) accessed through an Internet link; or

(C) accessed through any other means;

that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and transaction reports.

(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or a computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.

(3) "Phantom-ware" means a hidden, a pre-installed, or an installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

(A) can be used to create a virtual second till; or

(B) may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(4) "Transaction data" includes information regarding:

(A) items purchased by a customer;

(B) the price for each item;

(C) a taxability determination for each item;

(D) a segregated tax amount for each of the taxed items;

(E) the amount of cash or credit tendered;

(F) the net amount returned to the customer in change;

(G) the date and time of the purchase;

(H) the name, address, and identification number of the vendor; and

(I) the receipt or invoice number of the transaction.

(5) "Transaction report" means:

(A) a report that includes:

(i) the sales;

(ii) taxes collected;

(iii) media totals; and

(iv) discount voids;

at an electronic cash register that is printed on cash register tape at the end of a day or shift; or

(B) a report documenting every action at an electronic cash register that is stored electronically.

(6) "Zapper" refers to an automated sales suppression device.

(b) A person who knowingly or intentionally sells, purchases, installs, transfers, or possesses:

(1) an automated sales suppression device or a zapper; or

(2) phantom-ware;

after June 30, 2013, commits unlawful sale or possession of a transaction manipulation device, a ~~Class C~~ **Level 5** felony.

SECTION 79. IC 35-44.1-2-3, AS AMENDED BY P.L.292-2013, SECTION 11, AND AS AMENDED BY P.L.158-2013, SECTION 503 IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

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

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

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

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

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

knowing the report to be false, commits false reporting, a ~~*Class D*~~ *Level 6* felony.

(d) A person who:

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

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

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

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

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

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

(B) knowing the complaint to be false; ~~*or*~~

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

(7) gives a false report of actions, behavior, or conditions concerning a septic tank soil absorption system under IC 8-1-2-125 or IC 13-26-5-2.5 knowing the report or

information to be false;

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

SECTION 80. IC 35-44.1-3-1, AS AMENDED BY P.L.172-2013, SECTION 11, AND AS AMENDED BY P.L.158-2013, SECTION 509, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

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

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

(1) ~~*Class D*~~ *Level 6* felony if:

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

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

(2) ~~*Class C*~~ *Level 5* felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person;

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

(4) ~~*Class A*~~ *Level 2* felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of a law enforcement officer while the law enforcement officer is engaged in the officer's official duties.

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

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

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

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

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

~~*(e)*~~ *(d)* Notwithstanding ~~*IC 35-50-2-2*~~ *IC 35-50-2-2.2* and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection ~~*(d)*~~ *(c)* may not be suspended.

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

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

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

(3) subsection (b)(3);

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

(f) A person may not be charged or convicted of a crime under subsection (a)(3) if the law enforcement officer is a school resource officer acting in the officer's capacity as a school resource officer.

SECTION 81. IC 35-44.1-3-5, AS AMENDED BY P.L.5-2013, SECTION 1, AND AS AMENDED BY P.L.158-2013, SECTION 512, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) As used in this section, "juvenile facility" means the following:

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

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

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

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

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

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

commits trafficking with an inmate, a Class A misdemeanor. *However, the offense is a* ~~*Class C*~~ **Level 5** *felony under subdivision (1) or (2) if the article is a controlled substance, a deadly weapon, or a cellular telephone or other wireless or cellular communications device.*

(c) If:

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

~~*(1)*~~ *(A)* the department of correction; or

~~*(2)*~~ *(B)* a penal facility;

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall ~~*impose a mandatory*~~ *order the person to pay a fine of at least five hundred dollars ($500) and not more than* five thousand ~~*dollar*~~ *dollars* ($5,000) ~~*fine*~~ under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2; *or*

(2) a person is convicted of committing a ~~*Class C*~~ **Level 5** *felony under subsection (b)(1) or (b)(2) because the article was a cellular telephone or other wireless or cellular communication device, the court shall order the person to pay a fine of at least five hundred dollars ($500) and not more than ten thousand dollars ($10,000) under IC 35-50-2-6(a) in addition to any term of imprisonment imposed on the person under IC 35-50-2-6(a).*

(d) A person who: ~~*without the prior authorization of the person in charge of a penal facility or juvenile facility, knowingly or intentionally possesses in, or carries or causes to be brought into, a penal facility or juvenile facility:*~~

~~*(1) a controlled substance;*~~

(1) is not an inmate of a penal facility or a child of a juvenile facility; and

(2) knowingly or intentionally possesses in, or carries or causes to be brought into, the penal facility or juvenile facility a deadly weapon *without the prior authorization of the person in charge of the penal facility or juvenile facility;* ~~*or*~~

~~*(3) a cellular telephone or other wireless or cellular communications device;*~~

commits ~~*a class D felony trafficking with an inmate,*~~ **carrying a deadly weapon into a correctional facility,** *a Level 5 felony.*

SECTION 82. IC 35-45-2-1, AS AMENDED BY P.L.123-2013, SECTION 3, AND AS AMENDED BY P.L.158-2013, SECTION 523, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

(1) that the other person engage in conduct against the other person's will;

(2) that the other person be placed in fear of retaliation for a prior lawful act; or

(3) of:

(A) causing:

~~*(A)*~~ *(i)* a dwelling, *a* building, or ~~*another*~~ *other* structure; or

~~*(B)*~~ *(ii)* a vehicle;

to be evacuated; *or*

(B) interfering with the occupancy of:

(i) a dwelling, building, or other structure; or

(ii) a vehicle;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) ~~*Class D*~~ *Level 6* felony if:

(A) the threat is to commit a forcible felony;

(B) the person to whom the threat is communicated:

(i) is a law enforcement officer;

~~*(ii) is a judge or bailiff of any court;*~~

~~*(iii)*~~ *(ii)* is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;

~~*(iv)*~~ *(iii)* is an employee of a *school or* school corporation;

~~*(v)*~~ *(iv)* is a community policing volunteer;

~~*(vi)*~~ *(v)* is an employee of a court;

~~*(vii)*~~ *(vi)* is an employee of a probation department; ~~*or*~~

~~(viii)~~ *(vii)* is an employee of a community corrections program;

(viii) is an employee of a hospital, church, or religious organization; or

(ix) is a person that owns a building or structure that is open to the public or is an employee of the person;

and, except as provided in item (ii), the threat is communicated to the person because of the occupation, profession, employment status, or ownership status of the person as described in items (i) through (ix) or based on an act taken by the person within the scope of the occupation, profession, employment status, or ownership status of the person;

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) ~~*Class C*~~ *Level 5* felony if:

(A) while committing it, the person draws or uses a deadly weapon; *or*

(B) the person to whom the threat is communicated:

(i) is a judge or bailiff of any court; or

(ii) is a prosecuting attorney or a deputy prosecuting attorney.

(c) "Communicates" includes posting a message electronically, including on a social networking web site (as defined in IC 35-42-4-12(d)).

~~(c)~~ *(d)* "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of the person

threatened; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 83. IC 35-45-4-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 6. (a) This section applies only to a person to whom all of the following apply:**

(1) The person is less than eighteen (18) years of age.

(2) The person is not more than four (4) years older than the individual who is depicted in the image or who received the image.

(3) The relationship between the person and the individual who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The individual receiving the image or who is depicted in the image acquiesced in the person's conduct.

(b) The following definitions apply throughout this section:

(1) "Disseminate" means to transfer possession for no direct or indirect consideration.

(2) "Matter" has the meaning set forth in IC 35-49-1-3.

(3) "Performance" has the meaning set forth in IC 35-49-1-7.

(4) "Sexual conduct" means sexual intercourse, other sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or other sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(c) A person who, on or by means of a cellular telephone, social media web site, or another wireless or cellular communications device, knowingly or intentionally:

(1) produces, presents, exhibits, photographs, records, or creates a digitized image of any performance or incident that includes sexual conduct by a child at least twelve (12) years of age;

(2) disseminates, exhibits to another person, or offers to disseminate or exhibit to another person, matter that depicts or describes sexual conduct by a child at least twelve (12) years of age; or

(3) possesses:

(A) a picture;

(B) a drawing;

(C) a photograph;

(D) a motion picture;

(E) a digitized image; or

(F) any pictorial representation;

that depicts or describes sexual conduct by a child at least twelve (12) years of age who the person knows is less than sixteen (16) years of age or who appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value;

commits indecent display by a youth, a Class A misdemeanor.

(d) Subsection (c) does not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of that school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for legitimate scientific or educational purposes.

SECTION 84. IC 35-45-6-1, AS AMENDED BY P.L.196-2013, SECTION 18, AND AS AMENDED BY P.L.158-2013, SECTION 534, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit,

to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.
(2) A violation of IC 35-45-9.
(3) A violation of IC 35-47.
(4) A violation of IC 35-49-3.
(5) Murder (IC 35-42-1-1).
(6) Battery as a Class C *felony before July 1, 2014, or a Level 5* felony *after June 30, 2014* (IC 35-42-2-1).
(7) Kidnapping (IC 35-42-3-2).
(8) Human and sexual trafficking crimes (IC 35-42-3.5).
(9) Child exploitation (IC 35-42-4-4).
(10) Robbery (IC 35-42-5-1).
(11) Carjacking (IC 35-42-5-2) ~~*(repealed).*~~ **(before its repeal).**
(12) Arson (IC 35-43-1-1).
(13) Burglary (IC 35-43-2-1).
(14) Theft (IC 35-43-4-2).
(15) Receiving stolen property (IC 35-43-4-2).
(16) Forgery (IC 35-43-5-2).
(17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
(18) Bribery (IC 35-44.1-1-2).
(19) Official misconduct (IC 35-44.1-1-1).
(20) Conflict of interest (IC 35-44.1-1-4).
(21) Perjury (IC 35-44.1-2-1).
(22) Obstruction of justice (IC 35-44.1-2-2).
(23) Intimidation (IC 35-45-2-1).
(24) Promoting prostitution (IC 35-45-4-4).
(25) Professional gambling (IC 35-45-5-3).
(26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
(27) Promoting professional gambling (IC 35-45-5-4).
(28) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
(29) Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).
(30) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
(31) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
(32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(33) Dealing in marijuana, hash oil, hashish, **or** salvia ~~or a~~

~~synthetic cannabinoid~~ (IC 35-48-4-10).

(34) Money laundering (IC 35-45-15-5).

(35) A violation of IC 35-47.5-5.

(36) A violation of any of the following:

(A) IC 23-14-48-9.

(B) IC 30-2-9-7(b).

(C) IC 30-2-10-9(b).

(D) IC 30-2-13-38(f).

(37) Practice of law by a person who is not an attorney (IC 33-43-2-1).

(38) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).

SECTION 85. IC 35-46-1-4, AS AMENDED BY P.L.193-2013, SECTION 6, AND AS AMENDED BY P.L.158-2013, SECTION 550, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

(1) places the dependent in a situation that endangers the dependent's life or health;

(2) abandons or cruelly confines the dependent;

(3) deprives the dependent of necessary support; or

(4) deprives the dependent of education as required by law;

commits neglect of a dependent, a ~~*Class D*~~ *Level 6* felony.

(b) However, the offense is:

(1) a ~~*Class C*~~ *Level 5* felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 ~~*(delivery, financing, or manufacture of*~~ (*dealing in* cocaine or a narcotic drug) or IC 35-48-4-1.1 ~~*(delivery, financing, or manufacture of*~~ *(dealing in methamphetamine);* or

(ii) the result of a violation of IC 35-48-4-1 ~~*(delivery, financing, or manufacture of*~~ (dealing in cocaine or a narcotic drug) *or IC 35-48-4-1.1* ~~*(delivery, financing, or manufacture of*~~ *(dealing in methamphetamine);*

(2) a ~~*Class B*~~ *Level 3* felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

(3) a ~~*Class A*~~ *Level 1* felony if it is committed under subsection

(a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a ~~*Class C*~~ *Level 5* felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(b) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a ~~*Class D*~~ *Level 6* felony.

SECTION 86. IC 35-46-3-11, AS AMENDED BY P.L.161-2013, SECTION 8, AND AS AMENDED BY P.L.158-2013, SECTION 563, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) A person who knowingly or intentionally:

(1) strikes, torments, injures, or otherwise mistreats a law enforcement animal; or

(2) interferes with the actions of a law enforcement animal while

the animal is engaged in assisting a law enforcement officer in the performance of the officer's duties;

commits a Class A misdemeanor.

(b) An offense under subsection (a)(1) is a ~~Class D~~ *Level 6* felony if the act results in:

(1) serious permanent disfigurement;

(2) unconsciousness;

(3) permanent or protracted loss or impairment of the function of a bodily member or organ; or

(4) death;

of the law enforcement animal.

(c) It is a defense that the accused person:

(1) engaged in a reasonable act of training, handling, or discipline; and

(2) acted as an employee or agent of a law enforcement agency.

(d) In addition to any sentence or fine imposed for a conviction of an offense under this section, the court:

(1) may order the person convicted to make restitution to the person or law enforcement agency owning the animal for reimbursement of ~~(1)~~ veterinary bills; and

(2) *shall order the person convicted to make restitution to the person or law enforcement agency owning the animal for reimbursement of* ~~*replacement costs of the animal*~~ *the cost of replacing the animal, which may include the cost of training the animal,* if the animal is *permanently* disabled or killed.

SECTION 87. IC 35-46-9-6, AS ADDED BY P.L.40-2012, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) Except as provided in subsections (b) and (c), a person who operates a motorboat while:

(1) having an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) having a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or

(3) intoxicated;

commits a Class C misdemeanor.

(b) The offense is a ~~Class D~~ **Level 6** felony if:

(1) the person has a previous conviction under:

(A) IC 14-1-5 (repealed); or

(B) this chapter; or

(2) the offense results in serious bodily injury to another person.

(c) The offense is a ~~Class C~~ **Level 5** felony if the offense results in the death of another person.

(d) It is a defense to a prosecution under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1-24) who acted in the course of the practitioner's professional practice.

SECTION 88. IC 35-47-4-5, AS AMENDED BY P.L.158-2013, SECTION 590, AND AS AMENDED BY P.L.214-2013, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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, ~~*(IC 35-42-2-1(a)(5)),*~~ *Class B felony, or Class C felony, for a crime committed before July 1, 2014; or (B)* ~~*Class B felony (IC 35-42-2-1(a)(4)); or*~~ *Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony, for a crime committed after June 30, 2014;*

~~*(C) Class C felony (IC 35-42-2-1(a)(3)),*~~

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

(6) kidnapping (IC 35-42-3-2);

(7) criminal confinement (IC 35-42-3-3);

(8) rape (IC 35-42-4-1);

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

its repeal);
(10) child molesting (IC 35-42-4-3);
(11) sexual battery *(IC 35-42-4-8)* as a:
(A) Class C felony, ~~*(IC 35-42-4-8)*~~ *for a crime committed before July 1, 2014; or*
(B) Level 5 felony, for a crime committed after June 30, 2014;
(12) robbery (IC 35-42-5-1);
(13) carjacking (IC 5-42-5-2) ~~*(repealed);*~~ **(before its repeal);**
(14) arson *(IC 35-43-1-1(a))* as a:
(A) Class A felony or Class B felony, ~~*(IC 35-43-1-1(a));*~~ *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) burglary *(IC 35-43-2-1)* as a:
(A) Class A felony or Class B felony, ~~*(IC 35-43-2-1);*~~ *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) assisting a criminal *(IC 35-44.1-2-5)* as a:
(A) Class C felony, ~~*(IC 35-44.1-2-5);*~~ *for a crime committed before July 1, 2014; or*
(B) Level 5 felony, for a crime committed after June 30, 2014;
(17) resisting law enforcement *(IC 35-44.1-3-1)* as a:
(A) Class B felony or Class C felony, ~~*(IC 35-44.1-3-1);*~~ *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) escape *(IC 35-44.1-3-4)* as a:
(A) Class B felony or Class C felony, ~~*(IC 35-44.1-3-4);*~~ *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) trafficking with an inmate *(IC 35-44.1-3-5)* as a:
(A) Class C felony, ~~*(IC 35-44.1-3-5);*~~ *for a crime committed before July 1, 2014; or*
(B) Level 5 felony, for a crime committed after June 30, 2014;
(20) criminal gang intimidation (IC 35-45-9-4);
(21) stalking *(IC 35-45-10-5)* as a:
(A) Class B felony or Class C felony, ~~*(IC 35-45-10-5);*~~ *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) incest (IC 35-46-1-3);

(23) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);

(24) dealing in methamphetamine (IC 35-48-4-1.1);

(25) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

(26) dealing in a schedule IV controlled substance (IC 35-48-4-3); or

(27) 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 ~~*Class B*~~ *Level 4* felony.

SECTION 89. IC 35-47-9-2, AS AMENDED BY P.L.172-2013, SECTION 13, AND AS AMENDED BY P.L.158-2013, SECTION 601, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. A person who *knowingly or intentionally* possesses a firearm:

(1) in or on school property; *or*

~~*(2) in or on property that is being used by a school for a school function; or*~~

~~*(3)*~~ *(2)* on a school bus;

commits a ~~*Class D*~~ *Level 6* felony.

SECTION 90. IC 35-48-1-16.5, AS ADDED BY P.L.158-2013, SECTION 619, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16.5. "Enhancing circumstance" means one (1) or more of the following:

(1) The person has a prior conviction, **in any jurisdiction,** for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, **including an attempt or conspiracy to commit the offense.**

(2) The person committed the offense while in possession of a firearm.

(3) The person committed the offense:

(A) on a school bus; or

(B) in, on, or within five hundred (500) feet of:

(i) school property while a person under eighteen (18) years of age was reasonably expected to be present; or

(ii) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

(4) The person delivered or financed the delivery of the drug to a person under eighteen (18) years of age at least three (3) years junior to the person.

(5) The person manufactured or financed the manufacture of the drug.

(6) The person committed the offense in the physical presence of a child less than eighteen (18) years of age, knowing that the child was present and might be able to see or hear the offense.

SECTION 91. IC 35-48-4-1, AS AMENDED BY P.L.158-2013, SECTION 622, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II;

commits dealing in cocaine or a narcotic drug, a Level 5 felony, except as provided in subsections (b) through ~~(d)~~ **(e).**

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

~~(b)~~ **(c) The offense is a Level 4 felony if:**

(1) the amount of the drug involved is at least one (1) gram but less than five (5) grams; or

(2) the amount of the drug involved is less than one (1) gram and an enhancing circumstance applies.

(d) The offense is a ~~Level 4~~ **Level 3** felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

~~(c)~~ **(e)** The offense is a ~~Level 3~~ **Level 2** felony if:

(1) the amount of the drug involved is at least ten (10) ~~but less than twenty-eight (28)~~ grams; or

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies.

~~(d) The offense is a Level 2 felony if:~~

~~(1) the amount of the drug involved is at least twenty-eight (28) grams; or~~

~~(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.~~

SECTION 92. IC 35-48-4-1.1, AS AMENDED BY P.L.158-2013, SECTION 623, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

methamphetamine, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

methamphetamine, pure or adulterated;

commits dealing in methamphetamine, a Level 5 felony, except as provided in subsections (b) through ~~(d)~~ **(e).**

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

~~(b)~~ **(c) The offense is a Level 4 felony if:**

(1) the amount of the drug involved is at least one (1) gram but less than five (5) grams; or

(2) the amount of the drug involved is less than one (1) gram and an enhancing circumstance applies.

(d) The offense is a ~~Level 4~~ **Level 3** felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

~~(c)~~ **(e)** The offense is a ~~Level 3~~ **Level 2** felony if:

(1) the amount of the drug involved is at least ten (10) ~~but less~~

~~than twenty-eight (28)~~ grams; ~~or~~

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies;

~~(d) The offense is a Level 2 felony if:~~

~~(1) the amount of the drug involved is at least twenty-eight (28) grams;~~

~~(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies;~~ or

(3) the person is manufacturing the drug and the manufacture results in an explosion causing serious bodily injury to a person other than the manufacturer.

SECTION 93. IC 35-48-4-2, AS AMENDED BY P.L.158-2013, SECTION 624, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid;~~ **drug;** or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid;~~ **drug;**

commits dealing in a schedule I, II, or III controlled substance, a ~~Level 5~~ **Level 6** felony, except as provided in subsections (b) through ~~(d).~~ **(f).**

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

~~(b)~~ **(c) The offense is a Level 5 felony if:**

(1) the amount of the drug involved is at least one (1) gram but less than five (5) grams; or

(2) the amount of the drug involved is less than one (1) gram

and an enhancing circumstance applies.

(d) The offense is a Level 4 felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

~~(c)~~ **(e)** The offense is a Level 3 felony if:

(1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies.

~~(d)~~ **(f)** The offense is a Level 2 felony if:

(1) the amount of the drug involved is at least twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

SECTION 94. IC 35-48-4-3, AS AMENDED BY P.L.158-2013, SECTION 625, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule IV; or

(2) possesses, with intent to manufacture or deliver, a controlled substance, pure or adulterated, classified in schedule IV;

commits dealing in a schedule IV controlled substance, a ~~Level 6 felony~~ **Class A misdemeanor**, except as provided in subsections (b) through ~~(d).~~ **(f).**

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture or deliver the controlled substance.

~~(b)~~ **(c) The offense is a Level 6 felony if:**

(1) the amount of the drug involved is at least one (1) gram but less than five (5) grams; or

(2) the amount of the drug involved is less than one (1) gram and an enhancing circumstance applies.

(d) The offense is a Level 5 felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

~~(c)~~ **(e)** The offense is a Level 4 felony if:

(1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies.

~~(d)~~ **(f)** The offense is a Level 3 felony if:

(1) the amount of the drug involved is at least twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

SECTION 95. IC 35-48-4-4, AS AMENDED BY P.L.158-2013, SECTION 626, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule V; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule V;

commits dealing in a schedule V controlled substance, a ~~Class A~~ **Class B** misdemeanor, except as provided in subsections (b) through ~~(d).~~ **(f).**

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

~~(b)~~ **(c) The offense is a Class A misdemeanor if:**

(1) the amount of the drug involved is at least one (1) gram

but less than five (5) grams; or

(2) the amount of the drug involved is less than one (1) gram and an enhancing circumstance applies.

(d) The offense is a Level 6 felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

~~(c)~~ **(e)** The offense is a Level 5 felony if:

(1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies.

~~(d)~~ **(f)** The offense is a Level 4 felony if:

(1) the amount of the drug involved is at least twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

SECTION 96. IC 35-48-4-4.6, AS AMENDED BY P.L.158-2013, SECTION 629, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4.6. (a) A person who knowingly or intentionally:

(1) manufactures;

(2) finances the manufacture of;

(3) advertises;

(4) distributes; or

(5) possesses with intent to manufacture, finance the manufacture of, advertise, or distribute;

a substance described in section 4.5 of this chapter commits a Level 5 felony.

(b) A person may be convicted of an offense under subsection (a)(5) only if there is evidence in addition to the weight of the substance that the person intended to manufacture, finance the manufacture of, advertise, or distribute the substance.

~~(b)~~ **(c)** A person who knowingly or intentionally possesses a substance described in section 4.5 of this chapter commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous conviction under this section.

~~(c)~~ **(d)** In any prosecution brought under this section it is not a defense that the person believed the substance actually was a controlled

substance.

~~(d)~~ **(e)** This section does not apply to the following:

(1) The manufacture, financing the manufacture of, processing, packaging, distribution, or sale of noncontrolled substances to licensed medical practitioners for use as placebos in professional practice or research.

(2) Persons acting in the course and legitimate scope of their employment as law enforcement officers.

(3) The retention of production samples of noncontrolled substances produced before September 1, 1986, where such samples are required by federal law.

SECTION 97. IC 35-48-4-5, AS AMENDED BY P.L.158-2013, SECTION 630, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A person who:

(1) knowingly or intentionally:

(A) creates;

(B) delivers; or

(C) finances the delivery of;

a counterfeit substance; or

(2) possesses, with intent to:

(A) deliver; or

(B) finance the delivery of;

a counterfeit substance;

commits dealing in a counterfeit substance, a Level 6 felony. **However, a person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the counterfeit substance that the person intended to deliver or finance the delivery of the counterfeit substance.**

SECTION 98. IC 35-48-4-6, AS AMENDED BY P.L.158-2013, SECTION 631, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II, commits possession of cocaine or a narcotic drug, a Level 6 felony, except as provided in subsections (b) through (d).

(b) The offense is a Level 5 felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

(c) The offense is a Level 4 felony if:

(1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies.

(d) The offense is a Level 3 felony if:

(1) the amount of the drug involved is at least twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

SECTION 99. IC 35-48-4-6.1, AS AMENDED BY P.L.158-2013, SECTION 632, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Level 6 felony, except as provided in subsections (b) through (d).

(b) The offense is a Level 5 felony if:

(1) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams; or

(2) the amount of the drug involved is less than ~~three (3)~~ **five (5)** grams and an enhancing circumstance applies.

(c) The offense is a Level 4 felony if:

(1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ~~three (3)~~ **five (5)** but less than ten (10) grams and an enhancing circumstance applies.

(d) The offense is a Level 3 felony if:

(1) the amount of the drug involved is more than twenty-eight (28) grams; or

(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

SECTION 100. IC 35-48-4-10, AS AMENDED BY P.L.196-2013, SECTION 21, AND AS AMENDED BY P.L.158-2013, SECTION 637, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;
(B) finances the manufacture of;
(C) delivers; or
(D) finances the delivery of;
marijuana, hash oil, hashish, *or* salvia, ~~*or a synthetic drug,*~~ pure or adulterated; or
(2) possesses, with intent to:
(A) manufacture;
(B) finance the manufacture of;
(C) deliver; or
(D) finance the delivery of;
marijuana, hash oil, hashish, *or* salvia, ~~*or a synthetic drug,*~~ pure or adulterated;

commits dealing in marijuana, hash oil, hashish, *or* salvia, ~~*or a synthetic drug,*~~ a Class A misdemeanor, except as provided in ~~*subsection*~~ *subsections* (b) *through* ~~*(c).*~~ **(d).**

~~*(b) The offense is:*~~
~~*(1) a Class D felony if:*~~
~~*(A) the recipient or intended recipient is under eighteen (18) years of age;*~~
~~*(B) the amount involved is:*~~
~~*(i) more than thirty (30) grams but less than ten (10) pounds of marijuana or more than two (2) grams but less than three hundred (300) grams of hash oil, hashish, or salvia; or*~~
~~*(ii) more than two (2) grams of a synthetic drug; or*~~
~~*(C) the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic drug; and*~~
~~*(2) a Class C felony if:*~~
~~*(A) the amount involved is ten (10) pounds or more of marijuana or three hundred (300) or more grams of hash oil, hashish, or salvia, or the person delivered or financed the delivery of marijuana, hash oil, hashish, or salvia:*~~
~~*(i) on a school bus; or*~~
~~*(ii) in, on, or within one thousand (1,000) feet of, school property, a public park, a family housing complex, or a youth program center; or*~~
~~*(B) the amount involved is more than two (2) grams of a synthetic drug and the person delivered or financed the delivery of the synthetic drug:*~~
~~*(i) on a school bus; or*~~
~~*(ii) in, on, or within one thousand (1,000) feet of school property, a public park, a family housing complex, or a*~~

~~*youth program center.*~~

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

~~*(b)*~~ **(c)** *The offense is a Level 6 felony if:*

(1) the person has a prior conviction for a drug offense and the amount of the drug involved is:

(A) less than thirty (30) grams of marijuana; or

(B) less than ~~*two (2)*~~ **five (5)** *grams of hash oil, hashish,* **or** *salvia;* ~~*or a synthetic drug;*~~ *or*

(2) the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least ~~*two (2)*~~ **five (5)** *grams but less than three hundred (300) grams of hash oil, hashish,* **or** *salvia.* ~~*or a synthetic drug.*~~

~~*(c)*~~ **(d)** *The offense is a Level 5 felony if:*

(1) the person has a prior conviction for a drug dealing offense and the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least ~~*two (2)*~~ **five (5)** *grams but less than three hundred (300) grams of hash oil, hashish,* **or** *salvia;* ~~*or a synthetic drug;*~~ *or*

(2) the:

(A) amount of the drug involved is:

(i) at least ten (10) pounds of marijuana; or

(ii) at least three hundred (300) grams of hash oil, hashish, **or** *salvia;* ~~*or a synthetic drug;*~~ *or*

(B) offense involved a sale to a minor.

SECTION 101. IC 35-48-4-10.5, AS ADDED BY P.L.196-2013, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10.5. (a) A person who:

(1) manufactures;

(2) finances the manufacture of;

(3) delivers;

(4) finances the delivery of;

(5) possesses, with intent to deliver; or

(6) possesses, with intent to finance the delivery of;

a synthetic drug or a synthetic drug lookalike substance commits dealing in a synthetic drug or synthetic drug lookalike substance, a

Class A infraction. However, the offense is a ~~Class D~~ **Level 6** felony if the offense is committed knowingly or intentionally and the person has a prior unrelated judgment or conviction under this subsection.

(b) A person may be adjudicated or convicted of an infraction or offense under subsection (a)(5) or (a)(6) only if there is evidence in addition to the weight of the synthetic drug or synthetic drug lookalike substance that the person intended to deliver or finance the delivery of the synthetic drug or synthetic drug lookalike substance.

~~(b)~~ **(c)** A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a synthetic drug or synthetic drug lookalike substance; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a synthetic drug or synthetic drug lookalike substance;

commits dealing in a synthetic drug or synthetic drug lookalike substance, a Class A misdemeanor, except as provided in ~~subsection~~ **subsections (d) through (e).** ~~(c).~~

(d) A person may be convicted of an offense under subsection (c)(2) only if there is evidence in addition to the weight of the synthetic drug or synthetic drug lookalike substance that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the synthetic drug or synthetic drug lookalike substance.

~~(c)~~ **(e)** The offense in subsection ~~(b)~~ **(c)** is:

(1) a ~~Class D~~ **Level 6** felony if:

(A) the recipient or intended recipient is less than eighteen (18) years of age;

(B) the amount involved is more than ~~two (2)~~ **five (5)** grams; or

(C) the person has a prior conviction of an offense involving a synthetic drug or synthetic drug lookalike substance; and

(2) a ~~Class C~~ **Level 5** felony if the amount involved is more than ~~two (2)~~ **five (5)** grams and the person delivered or financed the delivery of the synthetic drug or synthetic drug lookalike

substance:

(A) on a school bus; or

(B) in, on, or within five hundred (500) feet of:

(i) school property; or

(ii) a public park;

while a person under eighteen (18) years of age was reasonably expected to be present.

~~(d)~~ **(f)** In addition to a criminal or civil penalty imposed for a violation of this section, if the court finds that a person has violated this section and the violation involved the sale of or offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate, the court:

(1) shall recommend the suspension of the registered retail merchant certificate for the place of business for one (1) year if the person's violation of this section resulted in a criminal conviction; and

(2) may recommend the suspension of the registered retail merchant certificate for the place of business for six (6) months if the person's violation of this section resulted in an adjudication that the person committed an infraction.

~~(e)~~ **(g)** The department of state revenue shall suspend the registered retail merchant certificate of a retail merchant in accordance with the recommendation of the court. Whenever the department of state revenue is required to suspend a retail merchant's registered retail merchant certificate under this section, the department shall immediately mail a notice to the retail merchant's address that must state that the retail merchant's registered retail merchant certificate will be suspended for the period recommended by the court, commencing five (5) days after the date of the notice.

SECTION 102. IC 35-48-4-11, AS AMENDED BY P.L.196-2013, SECTION 23, AND AS AMENDED BY P.L.158-2013, SECTION 638, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. *(a)* A person who:

(1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, *or* salvia; ~~or a synthetic drug;~~

(2) knowingly or intentionally grows or cultivates marijuana; or

(3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

commits possession of marijuana, hash oil, hashish, *or* salvia, ~~*or a synthetic drug,*~~ a ~~*Class A*~~ *Class B* misdemeanor, *except as provided in*

subsections (b) through (c). ~~*However, the offense is a Class D felony if the amount involved is more than thirty (30) grams of marijuana or two (2) grams of hash oil, hashish, or salvia, or a synthetic drug, or if the person has a prior conviction of an offense involving marijuana, hash oil, or hashish, or salvia, or a synthetic drug.*~~

(b) The offense described in subsection (a) is a Class A misdemeanor if the person has a prior conviction for a drug offense.

(c) The offense described in subsection (a) is a Level 6 felony if:

(1) the person has a prior conviction for a drug offense; and

(2) the person possesses:

(A) at least thirty (30) grams of marijuana; or

(B) at least two (2) grams of hash oil, hashish, or salvia;

in any thirty (30) day period. ~~*or a synthetic drug.*~~

SECTION 103. IC 35-48-4-11.5, AS ADDED BY P.L.185-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11.5. (a) As used in this section, "synthetic drug lookalike substance" has the meaning set forth in IC 35-31.5-2-321.5(a)(2).

(b) A person who possesses a synthetic drug or synthetic drug lookalike substance commits possession of a synthetic drug or synthetic drug lookalike substance, a Class B infraction.

(c) A person who knowingly or intentionally possesses a synthetic drug or synthetic drug lookalike substance commits possession of a synthetic drug or synthetic drug lookalike substance, a Class A misdemeanor. However, the offense is a ~~Class D~~ **Level 6** felony if the person has a prior unrelated conviction under this section or under section 10.5 of this chapter.

SECTION 104. IC 35-48-4-12, AS AMENDED BY P.L.196-2013, SECTION 25, AND AS AMENDED BY P.L.158-2013, SECTION 639, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. If a person who has no prior conviction of an offense under this article or under a law of another jurisdiction relating to controlled substances pleads guilty to possession of marijuana, hashish, salvia, or a synthetic drug *or* **a** *synthetic drug lookalike substance* as a ~~*Class A*~~ misdemeanor, the court, without entering a judgment of conviction and with the consent of the person, may defer further proceedings and place the person in the custody of the court under ~~*such*~~ conditions ~~*as*~~ *determined by* the court. ~~*determines.*~~ Upon violation of a condition of the custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the custody, the court shall dismiss the charges against the person. There may be only one (1) dismissal under this section with respect to

a person.

SECTION 105. IC 35-48-4-14.5, AS AMENDED BY P.L.193-2013, SECTION 7, AND AS AMENDED BY P.L.158-2013, SECTION 643, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.
(2) Pseudoephedrine.
(3) Phenylpropanolamine.
(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
(6) Organic solvents.
(7) Hydrochloric acid.
(8) Lithium metal.
(9) Sodium metal.
(10) Ether.
(11) Sulfuric acid.
(12) Red phosphorous.
(13) Iodine.
(14) Sodium hydroxide (lye).
(15) Potassium dichromate.
(16) Sodium dichromate.
(17) Potassium permanganate.
(18) Chromium trioxide.
(19) Benzyl cyanide.
(20) Phenylacetic acid and its esters or salts.
(21) Piperidine and its salts.
(22) Methylamine and its salts.
(23) Isosafrole.
(24) Safrole.
(25) Piperonal.
(26) Hydriodic acid.
(27) Benzaldehyde.
(28) Nitroethane.
(29) Gamma-butyrolactone.
(30) White phosphorus.
(31) Hypophosphorous acid and its salts.
(32) Acetic anhydride.
(33) Benzyl chloride.

(34) Ammonium nitrate.
(35) Ammonium sulfate.
(36) Hydrogen peroxide.
(37) Thionyl chloride.
(38) Ethyl acetate.
(39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a ~~*Class D*~~ *Level 6* felony. However, the offense is a ~~*Class C*~~ *Level 5* felony if the person possessed:

(1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within ~~*one thousand (1,000)*~~ *five hundred (500)* feet of:

(A) school property *while a person under eighteen (18) years of age was reasonably expected to be present; or*

(B) a public park *while a person under eighteen (18) years of age was reasonably expected to be present.*

~~*(C) a family housing complex; or*~~

~~*(D) a youth program center.*~~

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a ~~*Class D*~~ *Level 6* felony. However, the offense is a ~~*Class C*~~ *Level 5* felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within ~~*one thousand (1,000)*~~ *five hundred (500)* feet of:

(A) school property *while a person under eighteen (18) years of age was reasonably expected to be present; or*

(B) a public park *while a person under eighteen (18) years of age was reasonably expected to be present.*

~~*(C) a family housing complex; or*~~

~~*(D) a youth program center.*~~

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

(A) the location in which the substance is stored;

(B) the possession of the substance in a variety of:

(i) strengths;

(ii) brands; or

(iii) types; or

(C) the possession of the substance:

(i) with different expiration dates; or

(ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a ~~*Class D*~~ *Level 6* felony.

(f) An offense under subsection (e) is a ~~*Class C*~~ *Level 5* felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within ~~*one thousand (1,000)*~~ *five hundred (500)* feet of:

(A) school property *while a person under eighteen (18) years of age was reasonably expected to be present; or*

(B) a public park *while a person under eighteen (18) years of age was reasonably expected to be present.*

~~*(C) a family housing complex; or*~~

~~*(D) a youth program center.*~~

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a ~~*Class D*~~ *Level 6* felony. *However, the offense is a* ~~*Class C*~~ **Level 5** *felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.*

(h) This subsection does not apply to a drug containing ephedrine,

pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:

(1) has been convicted of:

(A) dealing in methamphetamine (IC 35-48-4-1.1);

(B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));

(C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (subsection (c));

(D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); or

(E) unlawful sale of a precursor (subsection (g)); and

(2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a ~~Class D~~ **Level 6** *felony.*

SECTION 106. IC 35-49-3-1, AS AMENDED BY P.L.214-2013, SECTION 41, AND AS AMENDED BY P.L.158-2013, SECTION 646, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. A person who knowingly or intentionally:

(1) sends or brings into Indiana obscene matter for sale or distribution; or

(2) offers to distribute, distributes, or exhibits to another person obscene matter;

commits a Class A misdemeanor. However, the offense is a *~~Class D~~ Level 6* felony if the obscene matter depicts or describes sexual conduct involving any person who is or appears to be under *~~sixteen (16)~~ eighteen (18)* years of age.

SECTION 107. IC 35-49-3-2, AS AMENDED BY P.L.214-2013, SECTION 42, AND AS AMENDED BY P.L.158-2013, SECTION 647, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. A person who knowingly or intentionally engages in, participates in, manages, produces, sponsors, presents, exhibits, photographs, films, or videotapes any obscene performance commits a Class A misdemeanor. However, the offense is a *~~Class D~~ Level 6* felony if the obscene performance depicts or describes sexual conduct involving any person who is or appears to be under *~~sixteen (16)~~ eighteen (18)* years of age.

SECTION 108. IC 35-50-1-2, AS AMENDED BY P.L.214-2013,

SECTION 43, AND AS AMENDED BY P.L.158-2013, SECTION 650, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this section, "crime of violence" means the following:

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

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

(9) Criminal deviate conduct (IC 35-42-4-2) ~~*(before its repeal on July 1, 2014).* *(repealed).*~~ **(before its repeal).**

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

(11) Sexual misconduct with a minor as a ~~*Class A*~~ *Level 1* felony under IC 35-42-4-9(a)(2) or a ~~*Class B*~~ *Level 2* felony under IC 35-42-4-9(b)(2).

(12) Robbery as a ~~*Class A*~~ *Level 2* felony or a ~~*Class B*~~ *Level 3* felony (IC 35-42-5-1).

(13) Burglary as a ~~*Class A*~~ **Level 1 felony,** *Level 2* felony, *Level 3 felony,* or ~~*Class B*~~ *Level 4* felony (IC 35-43-2-1).

(14) Operating a vehicle while intoxicated causing death (IC 9-30-5-5).

(15) Operating a vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).

(16) Resisting law enforcement as a felony. (IC 35-44.1-3-1).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

(1) aggravating circumstances in IC 35-38-1-7.1(a); and

(2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10 **(before its repeal)** to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not

exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 109. IC 35-50-2-0.1, AS AMENDED BY P.L.158-2013, SECTION 651, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments described in section 0.2 of this chapter apply as described in section 0.2 of this chapter.

(2) The amendments made to sections 3 and 9 of this chapter by P.L.332-1987 do not apply to a case in which a death sentence has been imposed before September 1, 1987.

(3) The amendments made to sections 3 and 9 of this chapter by P.L.250-1993 apply only to murders committed after June 30, 1993.

(4) The amendments made to section 2 of this chapter by P.L.11-1994 **(before the repeal of section 2 of this chapter)** apply only to an offender (as defined in IC 5-2-12-4, as added by P.L.11-1994 and before its repeal) convicted after June 30, 1994.

(5) The amendments made to section 8 of this chapter by P.L.166-2001 apply only if the offense for which the state seeks to have the person sentenced as a habitual offender was committed after June 30, 2001.

(6) The amendments made to section 1 of this chapter by P.L.243-2001 apply to crimes committed on and after May 11, 2001. It is the intent of the general assembly that section 1 of this chapter, as it applies to crimes committed before May 11, 2001,

be construed without drawing any inference from the passage of P.L.243-2001.

(7) The amendments made to section 8(b)(3) of this chapter by P.L.291-2001) (before its deletion on July 1, 2014) apply only if the last offense for which the state seeks to have the person sentenced as a habitual offender was committed after June 30, 2001.

(8) The amendments made to section 10 of this chapter by P.L.291-2001 **(before the repeal of section 10 of this chapter)** apply only if the last offense for which the state seeks to have the person sentenced as a habitual substance offender was committed after June 30, 2001. However, a prior unrelated conviction committed before, on, or after July 1, 2001, may be used to qualify an offender as a habitual offender under section 8 of this chapter or as a habitual substance offender under section 10 of this chapter.

(9) The amendments made to section 1 of this chapter by P.L.291-2001 apply to crimes committed on and after May 11, 2001. It is the intent of the general assembly that section 1 of this chapter, as it applies to crimes committed before May 11, 2001, be construed without drawing any inference from the passage of P.L.291-2001.

(10) The amendments made to section 9 of this chapter by P.L.80-2002 apply only to a conviction for murder that occurs after March 20, 2002, including a conviction entered as a result of a retrial of a person, regardless of when the offense occurred.

SECTION 110. IC 35-50-2-1.3, AS AMENDED BY P.L.178-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.3. (a) For purposes of sections 3 through 7 of this chapter, "advisory sentence" means a guideline sentence that the court may voluntarily consider ~~as the midpoint between the maximum sentence and the minimum~~ **when imposing a** sentence.

(b) Except as provided in subsection (c), a court is not required to use an advisory sentence.

(c) In imposing:

(1) consecutive sentences for felony convictions that are not crimes of violence (as defined in IC 35-50-1-2(a)) arising out of an episode of criminal conduct, in accordance with IC 35-50-1-2; **or**

~~(2) an additional fixed term to an habitual offender under section 8 of this chapter; or~~

~~(3)~~ **(2)** an additional fixed term to a repeat sexual offender under

section 14 of this chapter;

a court is required to use the appropriate advisory sentence in imposing a consecutive sentence or an additional fixed term. However, the court is not required to use the advisory sentence in imposing the sentence for the underlying offense.

(d) This section does not require a court to use an advisory sentence in imposing consecutive sentences for felony convictions that do not arise out of an episode of criminal conduct.

SECTION 111. IC 35-50-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.1. (a) Except as provided in subsection (b), ~~or section 2 of this chapter,~~ the court may not suspend a sentence for a felony for a person with a juvenile record when:

(1) the juvenile record includes findings that the juvenile acts, if committed by an adult, would constitute:

(A) one (1) Class A or Class B felony;

(B) two (2) Class C or Class D felonies; ~~or~~

(C) one (1) Class C and one (1) Class D felony;

(D) one (1) Level 1, Level 2, Level 3, or Level 4 felony;

(E) two (2) Level 5 or Level 6 felonies; or

(F) one (1) Level 5 and one (1) Level 6 felony; and

(2) less than three (3) years have elapsed between commission of the juvenile acts that would be felonies if committed by an adult and the commission of the felony for which the person is being sentenced.

(b) Notwithstanding subsection (a), the court may suspend any part of the sentence for a felony ~~except as provided in section 2 of this chapter,~~ if it finds that:

(1) the crime was the result of circumstances unlikely to recur;

(2) the victim of the crime induced or facilitated the offense;

(3) there are substantial grounds tending to excuse or justify the crime, though failing to establish a defense; or

(4) the acts in the juvenile record would not be Class A, ~~or~~ Class B, **Level 1, Level 2, Level 3, or Level 4** felonies if committed by an adult, and the convicted person is to undergo home detention under IC 35-38-1-21 instead of the minimum sentence specified for the crime under this chapter.

SECTION 112. IC 35-50-2-2.2, AS ADDED BY P.L.158-2013, SECTION 654, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.2. (a) Except as provided in subsection (b) or (c) the court may suspend any part of a sentence for a felony.

(b) If a person is convicted of ~~a Level 1 felony or~~ a Level 2 felony **or a Level 3 felony, except a Level 2 felony or a Level 3 felony concerning a controlled substance under IC 35-48-4,** and has any prior unrelated felony conviction, the court may suspend only that part of a sentence that is in excess of the minimum sentence for the:

(1) ~~Level 1~~ **Level 2** felony; or

(2) ~~Level 2~~ **Level 3** felony.

(c) The court may suspend only that part of a sentence for murder **or a Level 1 felony conviction** that is in excess of the minimum sentence for murder **or the Level 1 felony conviction.**

SECTION 113. IC 35-50-2-4, AS AMENDED BY P.L.158-2013, SECTION 655, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. **(a)** A person who commits a Class A felony (for a crime committed before July 1, 2014) ~~or a Level 1 felony (for a crime committed after June 30, 2014)~~ shall be imprisoned for a fixed term of between twenty (20) and fifty (50) years, with the advisory sentence being thirty (30) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) A person who commits a Level 1 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between twenty (20) and forty (40) years, with the advisory sentence being thirty (30) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

SECTION 114. IC 35-50-2-5, AS AMENDED BY P.L.158-2013, SECTION 657, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A person who commits a Class B felony (for a crime committed before July 1, 2014) shall be imprisoned for a fixed term of between six (6) and twenty (20) years, with the advisory sentence being ten (10) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) A person who commits a Level 3 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between three (3) and ~~twenty (20)~~ **sixteen (16)** years, with the advisory sentence being ~~six (6)~~ **nine (9)** years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

SECTION 115. IC 35-50-2-5.5, AS ADDED BY P.L.158-2013, SECTION 658, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5.5. A person who commits a Level 4 felony shall be imprisoned for a fixed term of between two (2) and twelve (12) years, with the advisory sentence being ~~four (4)~~ **six (6)** years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

SECTION 116. IC 35-50-2-6, AS AMENDED BY SEA 63-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person who commits a Class C felony (for a crime committed before July 1, 2014) shall be imprisoned for a fixed term of between two (2) and eight (8) years, with the advisory sentence being four (4) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) A person who commits a Level 5 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being ~~two (2)~~ **three (3)** years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(c) Notwithstanding subsections (a) and (b), if a person commits nonsupport of a child as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014) under IC 35-46-1-5, the sentencing court may convert the Class C felony conviction to a Class D felony conviction or a Level 5 felony conviction to a Level 6 felony conviction if, after receiving a verified petition as described in subsection (d) and after conducting a hearing in which the prosecuting attorney has been notified, the court makes the following findings:

(1) The person has successfully completed probation as required by the person's sentence.

(2) The person has satisfied other obligations imposed on the person as required by the person's sentence.

(3) The person has paid in full all child support arrearages due that are named in the information and no further child support arrearage is due.

(4) The person has not been convicted of another felony since the person was sentenced for the underlying nonsupport of a child felony.

(5) There are no criminal charges pending against the person.

(d) A petition filed under subsection (c) must be verified and set forth the following:

(1) A statement that the person was convicted of nonsupport of a child under IC 35-46-1-5.

(2) The date of the conviction.

(3) The date the person completed the person's sentence.

(4) The amount of the child support arrearage due at the time of conviction.

(5) The date the child support arrearage was paid in full.

(6) A verified statement that no further child support arrearage is

due.

(7) Any other obligations imposed on the person as part of the person's sentence.

(8) The date the obligations were satisfied.

(9) A verified statement that there are no criminal charges pending against the person.

(e) A person whose conviction has been converted to a lower penalty under this section is eligible to seek expungement under IC 35-38-9-3 with the date of conversion used as the date of conviction to calculate time frames under IC 35-38-9.

SECTION 117. IC 35-50-2-7, AS AMENDED BY P.L.159-2013, SECTION 5, AND AS AMENDED BY P.L.158-2013, SECTION 660, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) A person who commits a Class D felony *(for a crime committed before July 1, 2014)* shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) *A person who commits a Level 6 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 1/2) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars ($10,000).*

(c) Notwithstanding ~~*subsection*~~ *subsections* (a) *and (b),* if a person has committed a Class D felony *(for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014),* the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony *(for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014)* if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony *(for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014)* under IC 35-42-2-1.3; or

(3) the offense is possession of child pornography

(IC 35-42-4-4(c)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

~~(c)~~ *(d)* Notwithstanding ~~*subsection*~~ *subsections* (a) *and (b),* the sentencing court may convert a Class D felony conviction *(for a crime committed before July 1, 2014) or a Level 6 felony conviction (for a crime committed after June 30, 2014)* to a Class A misdemeanor conviction if, after receiving a verified petition as described in subsection ~~(d)~~ *(e)* and after conducting a hearing of which the prosecuting attorney has been notified, the court makes the following findings:

(1) The person is not a sex or violent offender (as defined in IC 11-8-8-5).

(2) The person was not convicted of a Class D felony *(for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014)* that resulted in bodily injury to another person.

(3) The person has not been convicted of perjury under IC 35-44.1-2-1 (or IC 35-44-2-1 before its repeal) or official misconduct under IC 35-44.1-1-1 (or IC 35-44-1-2 before its repeal).

(4) At least three (3) years have passed since the person:

(A) completed the person's sentence; and

(B) satisfied any other obligation imposed on the person as part of the sentence;

for the Class D *or Level 6* felony.

(5) The person has not been convicted of a felony since the person:

(A) completed the person's sentence; and

(B) satisfied any other obligation imposed on the person as part of the sentence;

for the *Class D or Level 6* felony.

(6) No criminal charges are pending against the person.

~~(d)~~ *(e)* A petition filed under *subsection* ~~*subsections*~~ ~~(c)~~ *(d) or* ~~(e)~~ **(f)** must be verified and set forth:

(1) the crime the person has been convicted of;

(2) the date of the conviction;

(3) the date the person completed the person's sentence;

(4) any obligations imposed on the person as part of the sentence;

(5) the date the obligations were satisfied; and

(6) a verified statement that there are no criminal charges pending

against the person.

~~(e)~~ *(f)* If a person whose Class D *or Level 6* felony conviction has been converted to a Class A misdemeanor conviction under subsection ~~(c)~~ *(d)* is convicted of a felony ~~within~~ *not later than* five (5) years after the conversion under subsection ~~(c),~~ *(d),* a prosecuting attorney may petition a court to convert the person's Class A misdemeanor conviction back to a Class D felony conviction *(for a crime committed before July 1, 2014)* or a Level 6 felony conviction *(for a crime committed after June 30, 2014)*.

SECTION 118. IC 35-50-2-8, AS AMENDED BY P.L.158-2013, SECTION 661, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) The state may seek to have a person sentenced as a habitual offender for a felony by alleging, on one (1) or more pages separate from the rest of the charging instrument, that the person has accumulated the required number of prior unrelated felony convictions in accordance with this section.

(b) A person convicted of murder or of a Level 1 through Level 4 felony is a habitual offender if the state proves beyond a reasonable doubt that:

(1) the person has been convicted of two (2) prior unrelated felonies; and

(2) at least one (1) of the prior unrelated felonies is not a Level 6 felony or a Class D felony.

(c) A person convicted of a Level 5 felony is a habitual offender if the state proves beyond a reasonable doubt that:

(1) the person has been convicted of two (2) prior unrelated felonies;

(2) at least one (1) of the prior unrelated felonies is not a Level 6 felony or a Class D felony; and

(3) if the person is alleged to have committed a prior unrelated:

(A) Level 5 felony;

(B) Level 6 felony;

(C) Class C felony; or

(D) Class D felony;

not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) and the time the person committed the current offense.

(d) A person convicted of a Level 6 felony is a habitual offender if the state proves beyond a reasonable doubt that:

(1) the person has been convicted of three (3) prior unrelated felonies; and

(2) if the person is alleged to have committed a prior unrelated:

(A) Level 5 felony;

(B) Level 6 felony;

(C) Class C felony; or

(D) Class D felony;

not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) and the time the person committed the current offense.

(e) The state may not seek to have a person sentenced as a habitual offender for a felony offense under this section if the current offense is a misdemeanor that is enhanced to a felony in the same proceeding as the habitual offender proceeding solely because the person had a prior unrelated conviction. However, a prior unrelated felony conviction may be used to support a habitual offender determination even if the sentence for the prior unrelated offense was enhanced for any reason, including an enhancement because the person had been convicted of another offense.

(f) A person has accumulated two (2) or three (3) prior unrelated felony convictions for purposes of this section only if:

(1) the second prior unrelated felony conviction was committed after commission of and sentencing for the first prior unrelated felony conviction;

(2) the offense for which the state seeks to have the person sentenced as a habitual offender was committed after commission of and sentencing for the second prior unrelated felony conviction; and

(3) for a conviction requiring proof of three (3) prior unrelated felonies, the third prior unrelated felony conviction was committed after commission of and sentencing for the second prior unrelated felony conviction.

(g) A conviction does not count for purposes of this section as a prior unrelated felony conviction if:

(1) the conviction has been set aside; or

(2) the conviction is one for which the person has been pardoned.

(h) If the person was convicted of the felony 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 under IC 35-38-1-3. The role of the jury is to determine whether the defendant has been convicted of the unrelated felonies. The state or defendant may not conduct any additional interrogation or questioning of the jury during the habitual

offender part of the trial.

(i) The court shall sentence a person found to be a habitual offender to an additional fixed term that is between:

(1) ~~zero (0)~~ **six (6) years** and twenty (20) years, for a person convicted of murder or a Level 1 through Level 4 felony; or

(2) ~~zero (0)~~ **two (2) years** and six (6) years, for a person convicted of a Level 5 or Level 6 felony.

An additional term imposed under this subsection is nonsuspendible.

(j) Habitual offender is a status that results in an enhanced sentence. It is not a separate crime and does not result in a consecutive sentence. The court shall attach the habitual offender enhancement to the felony conviction with the highest sentence imposed and specify which felony count is being enhanced. If the felony enhanced by the habitual offender determination is set aside or vacated, the court shall resentence the person and apply the habitual offender enhancement to the felony conviction with the next highest sentence in the underlying cause, if any.

(k) A prior unrelated felony conviction may not be collaterally attacked during a habitual offender proceeding unless the conviction is constitutionally invalid.

(l) The procedural safeguards that apply to other criminal charges, including:

(1) the requirement that the charge be filed by information or indictment; and

(2) the right to an initial hearing;

also apply to a habitual offender allegation.

SECTION 119. IC 35-50-2-9, AS AMENDED BY P.L.158-2013, SECTION 663, AND AS AMENDED BY P.L.214-2013, SECTION 45, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 mental retardation.

(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) ~~(repealed).~~ **(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) ~~*(repealed).*~~ **(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 burned, mutilated, or tortured 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) Battery *committed before July 1, 2014,* as a Class D felony or as a Class C felony under IC 35-42-2-1 *or battery 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).

(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 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 120. IC 35-50-6-3, AS AMENDED BY P.L.158-2013, SECTION 667, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) This section applies to a person ~~convicted~~ **who commits an offense** before July 1, 2014.

(b) A person assigned to Class I earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class II earns one (1) day of credit time for every two (2) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

(d) A person assigned to Class III earns no credit time.

(e) A person assigned to Class IV earns one (1) day of credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

SECTION 121. IC 35-50-6-3.1, AS ADDED BY P.L.158-2013, SECTION 668, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3.1. (a) This section applies to a person ~~convicted~~ **who commits an offense** after June 30, 2014.

(b) A person assigned to Class A earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.

~~(b)~~ **(c)** A person assigned to ~~Class A~~ **Class B** earns one (1) day of credit time for every three (3) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

~~(c)~~ **(d)** A person assigned to ~~Class B~~ **Class C** earns one (1) day of

credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

~~(d)~~ **(e)** A person assigned to ~~Class C~~ **Class D** earns no credit time.

SECTION 122. IC 35-50-6-3.3, AS AMENDED BY P.L.158-2013, SECTION 669, AND AS AMENDED BY P.L.214-2013, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

(1) is in credit Class I, ~~*or*~~ *Class A*, **or Class B;**

(2) has demonstrated a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person has not previously obtained a high school diploma.

(B) Except as provided in subsection ~~(n),~~ **(o),** a high school diploma, if the person has not previously obtained a general educational development (GED) diploma.

(C) An ~~*associate's*~~ *associate* degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) *earned during the person's incarceration*.

(D) A ~~*bachelor's*~~ *bachelor* degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) *earned during the person's incarceration*.

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

(1) is in credit Class I, ~~*or*~~ *Class A*, **or Class B;**

(2) demonstrates a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical *or vocational* education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(D) A certificate of completion of a reformative program approved by the department of correction.

(c) The department of correction shall establish admissions criteria

and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study. *The department of correction, in consultation with the department of workforce development, shall approve a program only if the program is likely to lead to an employable occupation.*

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

(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18.

(2) One (1) year for graduation from high school.

(3) ~~*One*~~ *Not more than one* (1) year for completion of an ~~*associate's*~~ *associate* degree.

(4) ~~*Two*~~ *Not more than two* (2) years for completion of a ~~*bachelor's*~~ *bachelor* degree.

(5) Not more than a total of ~~*six (6) months*~~ *one (1) year* of credit, as determined by the department of correction, for the completion of one (1) or more career and technical *or vocational* education programs approved by the department of correction.

(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

(7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

(8) Not more than a total of six (6) months credit time, as determined by the department of correction, for completion of one (1) or more reformative programs approved by the department of correction. However, a person who is serving a sentence for an offense listed under IC 11-8-8-4.5 may not earn credit time under this subdivision.

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

ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned under this section must be directly proportional to the time served and course work completed while incarcerated. The department of correction shall adopt rules under IC 4-22-2 necessary to implement this subsection.

~~(e)~~ *(f)* Credit time earned by a person under this section is subtracted from the *release date that would otherwise apply to* ~~*period of imprisonment imposed on*~~ the person *by the sentencing court* after subtracting all other credit time earned by the person.

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

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

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

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

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

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

(B) Criminal deviate conduct (IC 35-42-4-2) ~~(repealed).~~ **(before its repeal).**

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

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

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

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

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

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

(i) Class A felony, Class B felony, or Class C felony ~~*(IC 35-42-4-9);*~~ *for a crime committed before July 1, 2014; or*

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

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

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

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

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

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

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

(1) ~~four (4)~~ *two (2)* years; or

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

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

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

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

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

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

~~(l)~~ *(m)* A person may not earn credit time:

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

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

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

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

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

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

SECTION 123. IC 35-50-6-4, AS AMENDED BY P.L.158-2013, SECTION 670, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. **(a) A person:**

(1) who is not a credit restricted felon; and

(2) who is imprisoned for a Level 6 felony or a misdemeanor or imprisoned awaiting trial or sentencing for a Level 6 felony or misdemeanor;

is initially assigned to Class A.

~~(a)~~ **(b)** A person:

(1) who is not a credit restricted felon; and

(2) who is imprisoned for a crime **other than a Level 6 felony or misdemeanor** or imprisoned awaiting trial or sentencing **for a crime other than a Level 6 felony or misdemeanor;**

is initially assigned to ~~Class A.~~ **Class B.**

~~(b)~~ **(c)** A person who is a credit restricted felon and who is imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to ~~Class B.~~ **Class C.** A credit restricted felon may not be assigned to Class A **or Class B.**

~~(c)~~ **(d)** A person who is not a credit restricted felon may be reassigned to ~~Class B~~ **Class C** or ~~Class C~~ **Class D** if the person violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which the person is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

~~(d)~~ **(e)** A person who is a credit restricted felon may be reassigned to ~~Class C~~ **Class D** and a person who is assigned to Class IV may be assigned to Class III if the person violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which the person is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to Class III or ~~Class C,~~ **Class D,** the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

~~(e)~~ **(f)** In connection with the hearing granted under subsection ~~(c)~~ **(d)** or ~~(d),~~ **(e),** the person is entitled to:

(1) have not less than twenty-four (24) hours advance written notice of the date, time, and place of the hearing, and of the alleged misconduct and the rule the misconduct is alleged to have violated;

(2) have reasonable time to prepare for the hearing;

(3) have an impartial decisionmaker;

(4) appear and speak in the person's own behalf;

(5) call witnesses and present evidence;

(6) confront and cross-examine each witness, unless the hearing authority finds that to do so would subject a witness to a substantial risk of harm;

(7) have the assistance of a lay advocate (the department may require that the advocate be an employee of, or a fellow prisoner in, the same facility or program);

(8) have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;

(9) have immunity if the person's testimony or any evidence derived from the person's testimony is used in any criminal proceedings; and

(10) have the person's record expunged of any reference to the charge if the person is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing.

~~(f)~~ **(g)** Except for a credit restricted felon, a person may be reassigned from:

(1) Class III to Class I, Class II or Class IV;

(2) Class II to Class I;

(3) ~~Class C~~ **Class D** to Class A, ~~or~~ Class B, **or Class C;**

(4) ~~Class B~~ **Class C** to Class A **or Class B.**

A person's assignment to Class III, Class II, ~~Class B, or~~ Class C, **or Class D** shall be reviewed at least once every six (6) months to determine if the person should be reassigned to a higher credit time class. A credit restricted felon may not be reassigned to Class I or Class II or to Class A, ~~or~~ Class B, **or Class C.**

(h) This subsection applies only to a person imprisoned awaiting trial. A person imprisoned awaiting trial is initially assigned to a credit class based on the most serious offense with which the person is charged. If all the offenses of which a person is convicted have a higher credit time class than the most serious offense with

which the person is charged, the person earns credit time for the time imprisoned awaiting trial at the credit time class of the most serious offense of which the person was convicted. However, this section does not apply to any period during which the person is reassigned to a lower credit time class for a disciplinary violation.

SECTION 124. IC 35-50-6-5, AS AMENDED BY P.L.158-2013, SECTION 671, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a:

(A) community transition program; or

(B) community corrections program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.

(6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, the person may also be reassigned to Class II (if the person is not a credit restricted felon) or Class III, ~~Class B, or~~ Class C, **or Class D.**

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive the person's right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 125. [EFFECTIVE JULY 1, 2014] **The general assembly recognizes that P.L.214-2013, SECTION 44 amended IC 35-50-2-2, and that P.L.158-2013, SECTION 653 repealed IC 35-50-2-2. The general assembly intends to repeal IC 35-50-2-2.**

SECTION 126. [EFFECTIVE JULY 1, 2014] **The general assembly recognizes that this act amends IC 9-17-4-14, IC 9-17-4-15, IC 9-17-4-16, IC 9-17-4-17, IC 9-17-4-18, IC 9-22-3-33, and IC 9-32-17-2, and that HEA 1279-2014 repeals those provisions, effective January 1, 2015. The general assembly intends to repeal those provisions, effective January 1, 2015.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____