February 13, 2015

HOUSE BILL No. 1304

DIGEST OF HB 1304 (Updated February 11, 2015 4:40 pm - DI 69)

Citations Affected: IC 5-2; IC 11-10; IC 11-12; IC 11-13; IC 12-13; IC 12-23; IC 12-24; IC 31-30; IC 31-30.5 ; IC 31-32; IC 31-37; IC 33-23; IC 33-37; IC 33-39; IC 33-40; IC 34-30; IC 35-31.5; IC 35-36; IC 35-38; IC 35-43; IC 35-48; IC 35-50.

Synopsis: Various criminal law issues. Requires the criminal justice institute to track the number of direct file charges of juveniles in adult court. Requires custodial interrogations of juveniles to be recorded. Provides an exception if the interrogation occurs at the juvenile's school. Provides a process for funding appointed counsel for juveniles. Raises the ages for waiver of jurisdiction of certain juveniles to adult court. Defines "intellectual disability" and "autism spectrum disorder". Allows a person with an intellectual disability or autism spectrum disorder to participate in a forensic diversion program. Authorizes a prosecuting attorney to require a person participating in a prosecutorial diversion program to receive mental health treatment to reduce recidivism, and allows diversion and deferral fees to be used to fund mental health treatment programs to reduce recidivism. Allows a criminal court to appoint a court appointed special advocate to assist

(Continued next page)

Effective: July 1, 2015; January 1, 2016.

McMillin, Morrison, Huston, Steuerwald, Pierce, McNamara

January 13, 2015, read first time and referred to Committee on Courts and Criminal Code.
February 12, 2015, amended, reported — Do Pass.

a person with an intellectual disability or autism spectrum disorder who is charged with a criminal offense. Allows continuation of a prosecution for a person who is a drug abuser or an alcoholic charged with a felony or a misdemeanor. Provides that if a person is found to be a habitual offender and sentenced to an additional fixed term of imprisonment: (1) a court may suspend the sentence during the time the person is participating in a court approved substance abuse treatment program; and (2) if the person successfully completes the treatment program, the time the person spent in the treatment program is deducted from the person's additional fixed term of imprisonment. Provides that addiction counseling, inpatient detoxification, and the administration of Vivitrol or a similar substance may be required to treat opioid or alcohol addiction as a condition of parole, probation, community corrections, pretrial diversion, or participation in a problem solving court. Provides that the division of mental health and addiction may consider the administration of Vivitrol or a similar substance as an alternative to methadone treatment. Repeals provisions allowing juvenile courts to modify disposition orders concerning truancy and runaways. Makes it a delinquent act for a child to leave a specific location designated by the child's parent, guardian, or custodian: (1) without reasonable cause; and (2) without permission of the parent, guardian, or custodian, who requests the child's return. Requires the criminal justice institute to collect and analyze data concerning permissive and presumptive juvenile waivers from juvenile courts to evaluate the feasibility of increasing the age in these cases from 16 years of age to 17 years of age. Changes the penalty of legend drug deception to a Class A misdemeanor. Removes the penalty for a subsequent conviction for possessing paraphernalia. Provides that a child who commits the delinquent act of running away may not be held in a juvenile detention facility. Provides that a juvenile shall not be shackled in court unless the court determines the juvenile is dangerous or potentially dangerous. Provides that the habitual offender enhancement may be suspended if the habitual offender is in a court approved substance abuse treatment program. Allows drug abusers or alcoholics charged with or convicted of certain felonies to request treatment for addictions. Provides that a convicted individual may be placed on probation if the individual requests to undergo substance abuse treatment. Provides for voluntary and involuntary treatment for drug addictions.

February 13, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1304

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 5-2-6-24, AS ADDED BY P.L.168-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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; **and**

(3) track the number of direct file charges of juveniles in adult courts.

(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 2. IC 5-2-6-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2015]: **Sec. 25. The institute shall collect and analyze data concerning permissive and presumptive juvenile waivers from juvenile courts to evaluate the feasibility of increasing the age in these cases from sixteen (16) years of age to seventeen (17) years of age.**

SECTION 3. IC 11-10-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. The administration of a drug by the department for the purpose of controlling a mental or emotional disorder is subject to the following requirements:

(1) The particular drug must be prescribed by a physician who has examined the offender.

(2) The drug must be administered by either a physician or qualified medical personnel under the direct supervision of a physician.

(3) The offender must be periodically observed, during the duration of the drug's effect, by qualified medical personnel.

(4) A drug may be administered for a period longer than seventy-two (72) hours only if the administration is part of a psychotherapeutic program of treatment prescribed and detailed in writing by a physician.

(5) A drug may be administered for the purpose of controlling substance abuse, including Vivitrol or a similar substance, for alcohol or opioid abuse treatment.

SECTION 4. IC 11-10-11.5-11, AS AMENDED BY P.L.247-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) While assigned to a community transition program, a person must comply with:

(1) the rules concerning the conduct of persons in the community transition program, including rules related to payments described in section 12 of this chapter, that are adopted by the community corrections advisory board establishing the program or, in counties that are not served by a community corrections program, that are jointly adopted by the courts in the county with felony jurisdiction; and

(2) any conditions established by the sentencing court for the person.

(b) As a rule of the community transition program, a person convicted of a sex offense (as defined in IC 11-8-8-5.2) may not use a social networking web site (as defined in IC 35-31.5-2-307) or an instant messaging or chat room program (as defined in IC 35-31.5-2-173) to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age. However, the rules of

the community transition program may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with:

(1) the offender's own child, stepchild, or sibling; or

(2) another relative of the offender specifically named in the rules applicable to that person.

(c) As a rule of the community transition program, a person may be required to receive:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid abuse treatment.

SECTION 5. IC 11-12-1-2.5, AS AMENDED BY P.L.184-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter shall use evidence based services, programs, and practices that reduce the risk for recidivism among persons who participate in the community corrections programs.

(b) The community corrections board may also coordinate or operate:

(1) educational;

(2) mental health;

(3) drug or alcohol abuse counseling; and

(4) housing;

programs. In addition, the board may provide supervision services for persons described in section 2 of this chapter.

(c) Drug or alcohol services in subsection (b) may include:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 6. IC 11-12-2-1, AS AMENDED BY P.L.168-2014, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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.

(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. **Programs for addictive disorders may include:**

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 7. IC 11-12-3.7-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 2.5. As used in this chapter, "autism spectrum disorder" means a developmental disability as defined in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.**

SECTION 8. IC 11-12-3.7-4, AS AMENDED BY P.L.192-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. As used in this chapter, "forensic diversion program" means a program designed to provide an adult:

(1) who has **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder;~~ **a combination of those conditions;** and

(2) who has been charged with a crime that is not a violent offense;

an opportunity to receive community treatment and other services addressing mental health and addiction instead of or in addition to incarceration.

SECTION 9. IC 11-12-3.7-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.5. As used in this chapter, "intellectual disability" means a disability characterized by significant limitations in:**

(1) intellectual functioning; and

(2) adaptive behavior.

SECTION 10. IC 11-12-3.7-7, AS AMENDED BY P.L.2-2014, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) An advisory board shall develop a forensic

diversion plan to provide an adult who:

(1) has **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder;~~ **a combination of those conditions;** and

(2) has been charged with a crime that is not a violent crime;

an opportunity, pre-conviction or post-conviction, to receive community treatment and other services addressing **intellectual disabilities, autism spectrum disorders,** mental health, and addictions instead of or in addition to incarceration.

(b) The forensic diversion plan may include any combination of the following program components:

(1) Pre-conviction diversion for adults with mental illness.

(2) Pre-conviction diversion for adults with addictive disorders.

(3) Pre-conviction diversion for adults with intellectual disabilities.

(4) Pre-conviction diversion for individuals with an autism spectrum disorder.

~~(3)~~ **(5)** Post-conviction diversion for adults with mental illness.

~~(4)~~ **(6)** Post-conviction diversion for adults with addictive disorders.

(7) Post-conviction diversion for adults with intellectual disabilities.

(8) Post-conviction diversion for individuals with an autism spectrum disorder.

(c) In developing a plan, the advisory board must consider the ability of existing programs and resources within the community, including:

(1) a problem solving court established under IC 33-23-16;

(2) a court alcohol and drug program certified under IC 12-23-14-13;

(3) treatment providers certified by the division of mental health and addiction under IC 12-23-1-6 or IC 12-21-2-3(5); and

(4) other public and private agencies.

(d) Development of a forensic diversion program plan under this chapter or IC 11-12-2-3 does not require implementation of a forensic diversion program.

(e) The advisory board may:

(1) operate the program;

(2) contract with existing public or private agencies to operate one (1) or more components of the program; or

(3) take any combination of actions under subdivisions (1) or (2).

(f) Any treatment services provided under the forensic diversion program:

(1) for addictions must be provided by an entity that is certified by the division of mental health and addiction under IC 12-23-1-6; or

(2) for mental health must be provided by an entity that is:

(A) certified by the division of mental health and addiction under IC 12-21-2-3(5);

(B) accredited by an accrediting body approved by the division of mental health and addiction; or

(C) licensed to provide mental health services under IC 25.

SECTION 11. IC 11-12-3.7-11, AS AMENDED BY P.L.168-2014, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder.~~ **a combination of those conditions.**

(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 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. **Programs for addictive disorders may include:**

(A) addiction counseling;

(B) inpatient detoxification; and

(C) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

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

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) A person is eligible to participate in a post-conviction forensic diversion program only if the person meets the following criteria:

(1) The person has **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder.~~ **a combination of those conditions.**

(2) The person has been convicted of an offense that is:

(A) not a violent offense; and

(B) not a drug dealing offense.

(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 post-conviction forensic diversion program.

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

(b) If the person meets the eligibility criteria described in subsection (a) and has been convicted of an offense that may be suspended, the court may:

(1) suspend all or a portion of the person's sentence;

(2) place the person on probation for the suspended portion of the person's sentence; and

(3) require as a condition of probation that the person successfully participate in and successfully complete the post-conviction forensic diversion program.

(c) If the person meets the eligibility criteria described in subsection (a) and has been convicted of an offense that is nonsuspendible, the court may:

(1) order the execution of the nonsuspendible sentence; and

(2) stay execution of all or part of the nonsuspendible portion of the sentence pending the person's successful participation in and successful completion of the post-conviction forensic diversion program.

The court shall treat the suspendible portion of a nonsuspendible sentence in accordance with subsection (b).

(d) The person may be required to participate in the post-conviction forensic diversion program for no 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.

The time periods described in this section only limit the amount of time a person may spend in the forensic diversion program and do not limit the amount of time a person may be placed on probation.

(e) If, after considering the report of the forensic diversion program, the court determines that a person convicted of an offense that may be suspended has failed to successfully participate in the forensic diversion program, or has failed to successfully complete the program, the court may do any of the following:

(1) Revoke the person's probation.

(2) Order all or a portion of the person's suspended sentence to be executed.

(3) Modify the person's sentence.

(4) Order the person to serve all or a portion of the person's suspended sentence in:

(A) a work release program established by the department under IC 11-10-8 or IC 11-10-10; or

(B) a county work release program under IC 11-12-5.

(f) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense failed to successfully participate in the forensic diversion **program,** or failed to successfully complete the program, the court may do any of the following:

(1) Lift its stay of execution of the nonsuspendible portion of the sentence and remand the person to the department.

(2) Order the person to serve all or a portion of the nonsuspendible portion of the sentence that is stayed in:

(A) a work release program established by the department under IC 11-10-8 or IC 11-10-10; or

(B) a county work release program under IC 11-12-5.

(3) Modify the person's sentence.

However, if the person failed to successfully participate in the forensic diversion program, or failed to successfully complete the program while serving the suspendible portion of a nonsuspendible sentence, the court may treat the suspendible portion of the sentence in accordance with subsection (e).

(g) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense has successfully completed the program, the court shall waive execution of the nonsuspendible portion of the person's sentence.

SECTION 13. IC 11-12-3.8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. For purposes of this**

chapter,"substance abuse treatment" may include:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 14. IC 11-13-3-4, AS AMENDED BY P.L.114-2012, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

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

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

(1) retained by the parolee;

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

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

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

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

(1) consider:

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

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

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

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

(1) periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

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

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

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

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

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-31.5-2-285) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

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

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

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

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

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

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

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

(m) As a condition of parole, the parole board may require a parolee to receive:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including Vivitrol or a

similar substance, for alcohol or opioid treatment.

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

SECTION 15. IC 12-13-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. ~~Except as provided in IC 31-37-7-3,~~ IC 12-13 through IC 12-19 does not authorize a state or county official, agent, or representative, in carrying out IC 12-13 through IC 12-19, to take charge of a child over the objection of either parent of the child or of the person standing in loco parentis to the child, except under a court order.

SECTION 16. IC 12-23-1-11, AS AMENDED BY P.L.113-2014, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) This article does not repeal or modify Indiana law relating to the operation of a vehicle under the influence of liquor or drugs.

(b) IC 12-23-5, **IC 12-23-6.1, IC 12-23-7.1, IC 12-23-8.1,** and any other related provisions of this article shall be considered to be alternative methods or procedures for the prosecution of alcoholics or drug abusers as criminals.

SECTION 17. IC 12-23-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 6.1. Addiction Services

Sec. 1. A drug abuser or an alcoholic charged with or convicted of a felony may request treatment under the supervision of the division and upon the consent of the authorities concerned as set forth in IC 12-23-7.1 instead of prosecution or imprisonment.

SECTION 18. IC 12-23-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 7.1. Continuance of Prosecution After Criminal Charge

Sec. 1. If:

(1) a court has reason to believe that an individual charged with an offense is a drug abuser or an alcoholic or the individual states that the individual is a drug abuser or an alcoholic; and

(2) the court finds that the individual is eligible to make the request for treatment provided for in IC 12-23-6.1;

the court may advise the individual that the prosecution of the charge may be continued if the individual requests to undergo treatment and is accepted for treatment by the division.

Sec. 2. In offering an individual an opportunity to request treatment, the court shall advise the individual of the following:

(1) If the individual requests to undergo treatment and is accepted, the individual may be placed under the supervision of the division for a period not to exceed three (3) years.

(2) During treatment the individual may be confined in an institution or, at the discretion of the division, the individual may be released for treatment or supervised aftercare in the community.

(3) If the individual completes treatment, the charge will be dismissed, but if the individual does not complete treatment, prosecution on the charge may be resumed.

(4) A request constitutes a formal waiver of the right to a speedy trial and constitutes a formal waiver of Criminal Rule 4 concerning discharge for delay in criminal trials.

(5) To make a request the individual must waive a jury trial and consent to a trial by the court or must enter a guilty plea, with the general finding to be entered by the court to be deferred until the time that prosecution may be resumed.

Sec. 3. If an eligible individual requests to undergo treatment, the court may order the division to conduct an examination of the individual to determine whether the individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment.

Sec. 4. The court may deny a request if after conducting a pretrial or preplea investigation the court finds the individual would not qualify under the criteria of the court to be released on probation if convicted.

Sec. 5. If a request is granted, the court shall do the following:

(1) Certify to the division that the individual may request treatment.

(2) Transmit to the division the following:

(A) A summary of the criminal history of the individual.

(B) A copy of the report of all background investigations conducted by or for the court.

Sec. 6. Within a reasonable time after receiving an order to conduct an examination, together with the court's certification of eligibility and required supporting documents, the division shall report to the court the results of the examination and recommend if an individual should be placed under supervision for treatment.

Sec. 7. If the court, acting on the report and other information coming to the court's attention, determines that:

(1) an individual is not a drug abuser or an alcoholic; or

(2) the individual is not likely to be rehabilitated through treatment;

the individual may be held to answer the charge.

Sec. 8. If the court determines that an individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment, the court may, with the consent of the prosecuting attorney:

(1) defer the trial; or

(2) without a jury, conduct the trial of the individual but may, with the consent of the prosecuting attorney, do the following:

(A) Defer entering general findings with respect to the individual until the time that prosecution may be resumed.

(B) Place the individual under the supervision of the division for treatment for a maximum of three (3) years.

Sec. 9. The court may require progress reports on an individual that the court finds necessary.

Sec. 10. An individual may not be placed under the supervision of the division for treatment under this chapter unless the division accepts the individual for treatment.

Sec. 11. If an individual is placed under the supervision of the division for treatment under this chapter, the criminal charge against the individual shall be:

(1) continued without final disposition; and

(2) dismissed if the division certifies to the court that the individual has successfully completed the treatment program.

Sec. 12. (a) If by the expiration of the supervisory period the division has not been able to certify that an individual has completed the treatment program, the pending proceeding may be resumed.

(b) If, before the supervisory period expires, the division determines that further treatment of the individual is not likely to be successful, the division shall so advise the court. The court shall terminate the supervision, and the pending criminal proceeding may be resumed.

Sec. 13. If a criminal proceeding is resumed and the individual subsequently completes the treatment program, time spent in institutional care shall be deducted from a fixed term of imprisonment imposed.

Sec. 14. The division may not release an offender under section

2(2) of this chapter to an alcohol and drug services treatment program that is not a program administered by a court under IC 12-23-14 or that has not complied with the certification requirements of the division of mental health and addiction.

SECTION 19. IC 12-23-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 8.1. Treatment and Probation Following Criminal Conviction

Sec. 1. If:

(1) a court has reason to believe that an individual convicted of an offense is a drug abuser or an alcoholic or the individual states that the individual is a drug abuser or an alcoholic; and

(2) the court finds that the individual is eligible to make the request for treatment provided for under IC 12-23-6.1;

the court may advise the individual that the individual may be placed on probation, subject to any mandatory minimum sentence imposed on the individual, if the individual requests to undergo treatment and is accepted for treatment by the division.

Sec. 2. (a) In offering an individual an opportunity to request treatment, the court shall advise the individual of what may be required of the individual under IC 35-38-2-2.3 as conditions of probation.

(b) The court may certify an individual for treatment while on probation regardless of the failure of the individual to request treatment.

Sec. 3. If an individual requests to undergo treatment or is certified for treatment, the court may order an examination by the division to determine whether the individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment.

Sec. 4. The court may deny the request if after conducting a presentence investigation the court finds that the individual would not qualify under criteria of the court to be released on probation.

Sec. 5. If a request is granted, the court shall certify to the division that the individual may request treatment.

Sec. 6. The court shall do the following:

(1) Transmit to the division a summary of an individual's criminal history.

(2) Transmit to the division a copy of the reports on all background and presentence investigations conducted by or for the court.

Sec. 7. Within a reasonable time after receiving an order to

conduct an examination and after the court submits the required supporting documents and certification of eligibility, the division shall do the following:

(1) Report to the court the results of the examination.

(2) Recommend whether the individual should be placed on probation and supervision for treatment.

Sec. 8. If the court, acting on a report and other information coming to the court's attention, determines that:

(1) an individual is not a drug abuser or an alcoholic; or

(2) the individual is not likely to be rehabilitated through treatment;

the court shall sentence the individual as in other cases.

Sec. 9. If the court determines that an individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment, the court may do the following:

(1) Place the individual on probation under IC 35-38-2 and under the supervision of the division for treatment.

(2) Require progress reports on the individual from the probation officer and the division that the court finds necessary.

Sec. 10. An individual may not be placed under supervision unless the division accepts the individual for treatment.

Sec. 11. (a) Failure of an individual placed on probation and under the treatment supervision of the division to observe the requirements set down by the division constitutes a violation of a condition of probation.

(b) A failure shall be reported by the division to the probation officer in charge of the individual and treated in accordance with IC 35-38-2-3.

SECTION 20. IC 12-23-9-4, AS AMENDED BY P.L.113-2014, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) An individual who by medical examination is found to be incapacitated by alcohol at the time of admission or to have become incapacitated by alcohol at any time after admission may not be detained at a facility:

(1) after the individual is no longer incapacitated by alcohol; or

(2) if the individual remains incapacitated by alcohol for more than forty-eight (48) hours after admission as a patient, **unless the individual is committed under IC 12-23-7.1 through IC 12-23-8.1.**

(b) An individual may consent to remain in a facility as long as the physician in charge believes it is appropriate.

SECTION 21. IC 12-23-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 10.1. Voluntary Treatment by Division for Drug Abusers

Sec. 1. An individual who believes the individual is a drug abuser may request the division or a facility approved by the division to provide the individual with treatment.

Sec. 2. Upon receipt of a request, the division or facility may require an examination of the individual to determine if:

(1) the individual is a drug abuser; and

(2) the individual should be admitted to an existing treatment facility or program.

Sec. 3. The examination shall be conducted within a reasonable time of the receipt of a request.

Sec. 4. The decision of the facility whether to offer treatment to an individual and whether to discontinue treatment to an individual is final and not subject to appeal.

SECTION 22. IC 12-23-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 11.1. Involuntary Treatment by Division for Alcoholics and Drug Abusers

Sec. 1. (a) Except as provided in subsection (b), an individual who is:

(1) an alcoholic;

(2) incapacitated by alcohol; or

(3) a drug abuser;

may be involuntarily committed to the care of the division under IC 12-26.

(b) A drug abuser who is charged with or convicted of an offense that makes the individual ineligible to make an election for treatment under IC 12-23-6.1 may not be involuntarily committed under subsection (a).

Sec. 2. (a) Acceptance of treatment for drug abuse under the supervision of the division may be made a condition of parole under IC 11-13-3-4. Failure to comply with treatment may be treated as a violation of parole.

(b) The division shall establish the conditions under which a parolee is accepted for treatment.

(c) A parolee may not be placed under supervision of the division for treatment unless the division accepts the individual for

treatment.

(d) The division shall make periodic progress reports regarding each parolee to the appropriate parole authority and shall report failures to comply with the prescribed treatment program.

SECTION 23. IC 12-23-18-7, AS ADDED BY P.L.131-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The division shall adopt rules under IC 4-22-2 to establish standards and protocols for opioid treatment programs to do the following:

(1) Assess new opioid treatment program patients to determine the most effective opioid treatment medications to start the patient's opioid treatment.

(2) Ensure that each patient voluntarily chooses maintenance treatment and that relevant facts concerning the use of opioid treatment medications are clearly and adequately explained to the patient.

(3) Have appropriate opioid treatment program patients who are receiving methadone for opioid treatment move to receiving other approved opioid treatment medications.

(b) An opioid treatment program shall follow the standards and protocols adopted under subsection (a) for each opioid treatment program patient.

(c) Subject to subsection (a), an opioid treatment program may use any of the following medications as an alternative for methadone for opioid treatment:

(1) Buprenorphine.

(2) Buprenorphine combination products containing naloxone.

(3) Naltrexone, Vivitrol, or a similar substance.

~~(3)~~ **(4)** Any other medication that has been approved by:

(A) the federal Food and Drug Administration for use in the treatment of opioid addiction; and

(B) the division under subsection (e).

(d) Before starting a patient on a new opioid treatment medication, the opioid treatment program shall explain to the patient the potential side effects of the new medication.

(e) The division may adopt rules under IC 4-22-2 to provide for other medications, **including Vivitrol or a similar substance,** as alternatives to methadone that may be used under subsection (a).

SECTION 24. IC 12-24-12-10, AS AMENDED BY P.L.113-2014, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) Upon admission to a state institution administered by the division of mental health and addiction, the

gatekeeper is one (1) of the following:

(1) For an individual with a psychiatric disorder, the community mental health center that submitted the report to the committing court under IC 12-26.

(2) For an individual with a developmental disability, a division of disability and rehabilitative services service coordinator under IC 12-11-2.1.

(b) The division is the gatekeeper for the following:

(1) An individual who is found to have insufficient comprehension to stand trial under IC 35-36-3.

(2) An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.

(3) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony (as defined by IC 35-31.5-2-138).

(4) An individual transferred from the department of correction under IC 11-10-4.

(5) An individual placed under the supervision of the division for addictions treatment under IC 12-23-7.1 and IC 12-23-8.1.

SECTION 25. IC 31-30-3-2, AS AMENDED BY P.L.67-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. Upon motion of the prosecuting attorney and after full investigation and hearing, the juvenile court may waive jurisdiction if it finds that:

(1) the child is charged with an act that is a felony:

(A) that is heinous or aggravated, with greater weight given to acts against the person than to acts against property; or

(B) that is a part of a repetitive pattern of delinquent acts, even though less serious;

(2) the child was at least ~~fourteen (14)~~ **sixteen (16)** years of age when the act charged was allegedly committed;

(3) there is probable cause to believe that the child committed the act;

(4) the child is beyond rehabilitation under the juvenile justice system; and

(5) it is in the best interests of the safety and welfare of the community that the child stand trial as an adult.

SECTION 26. IC 31-30-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. Upon motion of the

prosecuting attorney and after full investigation and hearing, the juvenile court shall waive jurisdiction if it finds that:

(1) the child is charged with an act that would be murder if committed by an adult;

(2) there is probable cause to believe that the child has committed the act; and

(3) the child was at least ~~ten (10)~~ **twelve (12)** years of age when the act charged was allegedly committed;

unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system.

SECTION 27. IC 31-30-3-5, AS AMENDED BY P.L.158-2013, SECTION 316, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. Except for those cases in which the juvenile court has no jurisdiction in accordance with IC 31-30-1-4, the court shall, upon motion of the prosecuting attorney and after full investigation and hearing, waive jurisdiction if it finds that:

(1) the child is charged with an act that, if committed by an adult, would be:

(A) a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, except a felony defined by IC 35-48-4;

(B) involuntary manslaughter as a Level 5 felony under IC 35-42-1-4; or

(C) reckless homicide as a Level 5 felony under IC 35-42-1-5;

(2) there is probable cause to believe that the child has committed the act; and

(3) the child was at least ~~sixteen (16)~~ **seventeen (17)** years of age when the act charged was allegedly committed;

unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system.

SECTION 28. IC 31-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

ARTICLE 30.5. JUVENILE LAW: PRELIMINARY PROCEEDINGS

Chapter 1. Custodial Interrogations

Sec. 1. As used in this chapter, "custodial interrogation" means an interrogation conducted by a law enforcement agency during which:

(1) a reasonable person being interrogated would consider the person to be in custody; and

(2) a question is asked that is reasonably likely to elicit an incriminating response from the person.

Sec. 2. As used in this chapter, "law enforcement agency" means an agency or department of any level of state or local government whose principal function is the apprehension of criminal offenders.

Sec. 3. As used in this chapter, "record electronically" means to make a record of:

(1) sounds by using audio electronic equipment; or

(2) visual images and sounds by using video and audio electronic equipment.

Sec. 4. (a) After June 30, 2015, except as provided in subsection (b), a law enforcement agency shall record electronically all custodial interrogations:

(1) of juvenile suspects involved in investigations of acts that would be crimes if committed by an adult; and

(2) that occur:

(A) at:

(i) a law enforcement agency station house; or

(ii) any other building owned or operated by the law enforcement agency;

at which persons are detained in connection with criminal investigations; or

(B) at any other place where the suspect is detained in connection with the investigation.

(b) A custodial interrogation of a juvenile that occurs at the school the juvenile attends is not required to be electronically recorded if recording the interrogation would impair the administration of school functions.

Sec. 5. A law enforcement agency shall retain a copy of a custodial interrogation of a juvenile electronically recorded under this chapter:

(1) if the juvenile is adjudicated a delinquent child for committing an act that would be crime if committed by an adult, until the juvenile has exhausted all appeals related to the adjudication;

(2) if the juvenile is convicted of a felony as an adult, until:

(A) the felony conviction is final; and

(B) the juvenile has exhausted all direct and habeas corpus appeals related to the conviction; or

(3) until a prosecution of the juvenile for a felony is barred by law.

Sec. 6. A custodial interrogation recorded electronically under

this chapter is:

(1) confidential; and

(2) exempt from disclosure under IC 5-14-3.

Sec. 7. (a) Except as provided in subsection (b), if a court finds by a preponderance of the evidence that a juvenile suspect was subjected to a custodial interrogation:

(1) after June 30, 2015; and

(2) that violated this chapter;

any statements made by the suspect during or following the interrogation are inadmissible in the felony prosecution against the suspect or in a juvenile adjudication.

(b) The state has the burden of proving by a preponderance of the evidence that a statement is admissible under this subsection.

Chapter 2. Shackling of Juveniles in Court

Sec. 1. A juvenile shall not be shackled in court unless the court has determined the juvenile is dangerous or potentially dangerous.

SECTION 29. IC 31-32-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. **(a)** The following persons are entitled to be represented by counsel:

(1) A child charged with a delinquent act, as provided by IC 31-32-2-2.

(2) A parent, in a proceeding to terminate the parent-child relationship, as provided by IC 31-32-2-5.

(3) Any other person designated by law.

(b) A county auditor may seek reimbursement for the expenses of counsel described in this section as described in IC 33-40-6-4.

SECTION 30. IC 31-37-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child leaves home **or a specific location previously designated by the child's parent, guardian, or custodian:**

(1) without reasonable cause; and

(2) without permission of the parent, guardian, or custodian, who requests the child's return.

SECTION 31. IC 31-37-7-1, AS AMENDED BY P.L.146-2008, SECTION 625, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. A child alleged to be a delinquent child under IC 31-37-2, ~~except as provided in section 3 of this chapter,~~ may not be held in:

(1) a secure facility; or

(2) a shelter care facility, a forestry camp, or a training school that houses persons charged with, imprisoned for, or incarcerated for

crimes.

SECTION 32. IC 31-37-7-3 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 3. A child alleged to be a delinquent child because of an act under IC 31-37-2-2 may be held in a juvenile detention facility for:~~

~~(1) not more than twenty-four (24) hours before; and~~

~~(2) not more than twenty-four (24) hours immediately after;~~

~~the initial court appearance, not including Saturdays, Sundays, and nonjudicial days.~~

SECTION 33. IC 31-37-22-5 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. ~~Sec. 5. If:~~

~~(1) a child is placed in a shelter care facility or other place of residence as part of a court order with respect to a delinquent act under IC 31-37-2-2;~~

~~(2) the child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;~~

~~(3) the issuance of the warning was reflected in the records of the hearing;~~

~~(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and~~

~~(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;~~

~~the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.~~

SECTION 34. IC 31-37-22-6 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. ~~Sec. 6. If:~~

~~(1) a child fails to comply with IC 20-33-2 concerning compulsory school attendance as part of a court order with respect to a delinquent act under IC 31-37-2-3 (or IC 31-6-4-1(a)(3) before its repeal);~~

~~(2) the child received a written warning of the consequences of a violation of the court order;~~

~~(3) the issuance of the warning was reflected in the records of the hearing;~~

~~(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that~~

~~the child violated that part of the order concerning the child's school attendance; and~~

~~(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;~~

~~the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.~~

SECTION 35. IC 31-37-22-7 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. ~~Sec. 7. (a) If the juvenile court modifies its disposition order under section 5 or 6 of this chapter, the court may order the child placed under one (1) of the following alternatives:~~

~~(1) In a nonlocal secure private facility licensed under the laws of any state. Placement under this alternative includes authorization to control and discipline the child.~~

~~(2) In a local secure private facility licensed under Indiana law. Placement under this alternative includes authorization to control and discipline the child.~~

~~(3) In a local secure public facility.~~

~~(4) In a local alternative facility approved by the juvenile court.~~

~~(5) As a ward of the department of correction for housing in any correctional facility for children. Wardship under this alternative does not include the right to consent to the child's adoption. However, without a determination of unavailable housing by the department of correction, a child found to be subject to section 5 or 6 of this chapter and placed in a secure facility of the department of correction may not be housed with any child found to be delinquent under any other provision of this article.~~

~~(b) If the juvenile court places a child under subsection (a)(3) or (a)(4):~~

~~(1) the length of the placement may not exceed thirty (30) days; and~~

~~(2) the juvenile court shall order specific treatment of the child designated to eliminate the child's disobedience of the court's order of placement.~~

~~(c) The juvenile court shall retain jurisdiction over any placement under this section (or IC 31-6-7-16(d) before its repeal) and shall review each placement every three (3) months to determine whether placement in a secure facility remains appropriate.~~

SECTION 36. IC 33-23-16-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 24.5. A problem solving court may require an individual participating in a problem solving court**

to receive:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 37. IC 33-37-8-4, AS AMENDED BY P.L.229-2011, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds for one (1) or more of the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) The provision of evidence based mental health and addiction, autism, and co-occurring autism and mental illness forensic treatment services to reduce the risk of recidivism in a program administered or coordinated by a provider

certified by the division of mental health and addiction with expertise in providing evidence based forensic treatment services.

~~(9)~~ **(10)** Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 38. IC 33-37-8-6, AS AMENDED BY P.L.229-2011, SECTION 264, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds for one (1) or more of the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) The provision of evidence based mental health and addiction, autism, and co-occurring autism and mental illness forensic treatment services to reduce the risk of recidivism in a program administered or coordinated by a provider certified by the division of mental health and addiction with expertise in providing evidence based forensic treatment services.

~~(9)~~ **(10)** Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 39. IC 33-39-1-8, AS AMENDED BY P.L.168-2014, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 35-44.1-2-13(b)(1); or

(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, **including:**

(A) addiction counseling;

(B) inpatient detoxification; and

(C) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment;

(4) receive evidence based mental health and addiction, autism, and co-occurring autism and mental illness forensic treatment services to reduce the risk of recidivism;

~~(4)~~ **(5)** support the person's dependents and meet other family responsibilities;

~~(5)~~ **(6)** make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

~~(6)~~ **(7)** refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

~~(7)~~ **(8)** report to the prosecuting attorney at reasonable times;

~~(8)~~ **(9)** answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

~~(9)~~ **(10)** 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).~~ **(e)(7):**

(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 40. IC 33-40-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The commission shall do the following:

(1) Make recommendations to the supreme court concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9, including the following:

(A) Determining indigency and eligibility for legal representation.

(B) Selection and qualifications of attorneys to represent indigent defendants at public expense.

(C) Determining conflicts of interest.

(D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under IC 33-40-6, including the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-40-3.

(C) The use and expenditure of funds in the county supplemental public defender services fund established under IC 33-40-3-1.

(D) Qualifications of attorneys to represent indigent

defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana, **including the funding and delivery of indigent defense services for juveniles.**

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

The report to the general assembly under subdivision (4) must be in an electronic format under IC 5-14-6.

SECTION 41. IC 33-40-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9.

(b) **Except as provided in subsection (d),** a county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to forty percent (40%) of the county's expenditures for indigent defense services provided in all noncapital cases except misdemeanors.

(c) A request under this section from a county described in IC 33-40-7-1(3) may be limited to expenditures for indigent defense services provided by a particular division of a court.

(d) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to one hundred percent (100%) of the county's expenditures for indigent defense services provided to a juvenile defendant described in IC 31-32-4-1.

SECTION 42. IC 33-40-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Except as provided under section 6 of this chapter, upon certification by a county auditor and a determination by the public defender commission that the request is in compliance with the guidelines and standards set by the commission, the commission shall quarterly authorize an amount of reimbursement due the county:

(1) that is equal to fifty percent (50%) of the county's certified expenditures for indigent defense services provided for a

defendant against whom the death sentence is sought under IC 35-50-2-9; ~~and~~

(2) that is equal to forty percent (40%) of the county's certified expenditures for defense services provided in noncapital cases except misdemeanors; **and**

(3) that is equal to one hundred percent (100%) of the county's certified expenditures for defense services provided in juvenile cases.

The division of state court administration shall then certify to the auditor of state the amount of reimbursement owed to a county under this chapter.

(b) Upon receiving certification from the division of state court administration, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of the amount certified.

SECTION 43. IC 34-30-2-148.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 148.6. IC 35-36-12-7 (Concerning a court appointed special advocate, an employee of a county court appointed special advocate, or a volunteer for a court appointed special advocate program for good faith performance of duties relating to assistance of a person with an intellectual disability or an autism spectrum disorder).**

SECTION 44. IC 35-31.5-2-68.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 68.5. "Court appointed special advocate" means a community volunteer who:**

(1) has completed a training program approved by the court that includes training in:

(A) the development of a person with an intellectual disability (as defined in IC 11-12-3.7-4.5) or an autism spectrum disorder (as defined in IC 11-12-3.7-2.5); and

(B) evidence based treatment and counseling programs for a person with an intellectual disability or an autism spectrum disorder;

(2) has been appointed by a court to assist a person with an intellectual disability or an autism spectrum disorder who has been charged with a criminal offense; and

(3) may research, examine, advocate, facilitate, and monitor the situation of a person with an intellectual disability or an autism spectrum disorder who has been charged with a criminal offense.

SECTION 45. IC 35-36-12 IS ADDED TO THE INDIANA CODE

AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 12. Court Appointed Special Advocate for Persons With Intellectual Disabilities or Autism Spectrum Disorders

Sec. 1. A court may appoint a court appointed special advocate at any time to assist a person with an intellectual disability or an autism spectrum disorder who has been charged with a criminal offense.

Sec. 2. A court appointed special advocate shall assist the person with an intellectual disability or an autism spectrum disorder to whom the advocate has been appointed.

Sec. 3. A court appointed special advocate may recommend to the court treatment programs and other services that may reduce recidivism and are available to the person with an intellectual disability or an autism spectrum disorder.

Sec. 4. A court appointed special advocate serves until the court enters an order for removal.

Sec. 5. The court appointed special advocate is considered an officer of the court for the purpose of assisting the person with an intellectual disability or an autism spectrum disorder.

Sec. 6. A court appointed special advocate appointed by a court under this chapter may continue to assist the person with an intellectual disability or an autism spectrum disorder while the person is undergoing treatment or serving the person's sentence, if applicable.

Sec. 7. Except for gross misconduct:

(1) a court appointed special advocate;

(2) an employee of a county court appointed special advocate program; and

(3) a volunteer for a court appointed special advocate program;

who performs in good faith duties relating to assistance of a person with an intellectual disability or an autism spectrum disorder is immune from any civil liability that may occur as a result of that person's performance.

Sec. 8. The court may order the person assisted by the court appointed special advocate to pay a user fee to the:

(1) court appointed special advocate program; or

(2) individual who served as a court appointed special advocate;

for the services provided under this chapter.

Sec. 9. The court shall establish one (1) of the following

procedures to be used to collect the user fee:

(1) The court may order the person with an intellectual disability or an autism spectrum disorder to pay the user fee to the court appointed special advocate program that provided the services.

(2) The court may order the person with an intellectual disability or an autism spectrum disorder to pay the user fee to the individual court appointed special advocate that provided the services.

Sec. 10. If the court orders the person with an intellectual disability or an autism spectrum disorder to pay a user fee under this chapter, the program or the individual shall report to the court the receipt of payment not later than thirty (30) days after receiving the payment.

SECTION 46. IC 35-38-2-2.3, AS AMENDED BY P.L.13-2013, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Participate in a treatment program, educational class, or rehabilitative service provided by a probation department or by referral to an agency.

(5) Support the person's dependents and meet other family responsibilities.

(6) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(7) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(8) Pay a fine authorized by IC 35-50.

(9) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's

probation officer.
(10) Report to a probation officer at reasonable times as directed by the court or the probation officer.
(11) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
(12) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
(13) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
(14) Perform uncompensated work that benefits the community.
(15) Satisfy other conditions reasonably related to the person's rehabilitation.
(16) Undergo home detention under IC 35-38-2.5.
(17) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or
(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:
(i) the delivery by any person to another person; or
(ii) the use by any person on another person;
of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.
(18) Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.
(19) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).
(20) Periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have

the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(21) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(22) Refrain from owning, harboring, or training an animal.

(23) Participate in a reentry court program.

(24) Receive:

(A) addiction counseling;

(B) inpatient detoxification; and

(C) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;
(2) the days or parts of days during which a person is to be confined; and
(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(18):
(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.

(g) As a condition of probation, a court shall require a person:
(1) convicted of an offense described in IC 10-13-6-10;
(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

(h) If a court imposes a condition of probation described in subsection (a)(4), the person on probation is responsible for any costs resulting from the participation in a program, class, or service. Any costs collected for services provided by the probation department shall be deposited in the county or local supplemental adult services fund.

SECTION 47. IC 35-43-10-3, AS AMENDED BY P.L.158-2013, SECTION 494, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. A person who knowingly or intentionally:
(1) possesses a contraband legend drug;
(2) sells, delivers, or possesses with intent to sell or deliver a contraband legend drug;
(3) forges, counterfeits, or falsely creates a label for a legend drug or falsely represents a factual matter contained on a label of a legend drug; or
(4) manufactures, purchases, sells, delivers, brings into Indiana, or possesses a contraband legend drug;

commits legend drug deception, a ~~Level 6 felony.~~ **Class A misdemeanor.**

SECTION 48. IC 35-48-4-8.3, AS AMENDED BY P.L.158-2013,

SECTION 635, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:

(1) introducing into the person's body a controlled substance;

(2) testing the strength, effectiveness, or purity of a controlled substance; or

(3) enhancing the effect of a controlled substance;

in violation of this chapter commits a Class A infraction for possessing paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. ~~However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.~~

SECTION 49. IC 35-50-2-8, AS AMENDED BY P.L.168-2014, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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) six (6) years and twenty (20) years, for a person convicted of murder or a Level 1 through Level 4 felony; or

(2) 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. **However, a court may suspend a sentence under this subsection during the time the habitual offender is participating in a court approved substance abuse treatment program. If the habitual offender successfully completes the treatment program, the time the habitual offender spent in the treatment program shall be deducted from the habitual offender's additional fixed term of imprisonment.**

(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.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1304, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 2. IC 5-2-6-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 25. The institute shall collect and analyze data concerning permissive and presumptive juvenile waivers from juvenile courts to evaluate the feasibility of increasing the age in these cases from sixteen (16) years of age to seventeen (17) years of age.**

SECTION 3. IC 11-10-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. The administration of a drug by the department for the purpose of controlling a mental or emotional disorder is subject to the following requirements:

(1) The particular drug must be prescribed by a physician who has examined the offender.

(2) The drug must be administered by either a physician or qualified medical personnel under the direct supervision of a physician.

(3) The offender must be periodically observed, during the duration of the drug's effect, by qualified medical personnel.

(4) A drug may be administered for a period longer than seventy-two (72) hours only if the administration is part of a psychotherapeutic program of treatment prescribed and detailed in writing by a physician.

(5) A drug may be administered for the purpose of controlling substance abuse, including Vivitrol or a similar substance, for alcohol or opioid abuse treatment.

SECTION 4. IC 11-10-11.5-11, AS AMENDED BY P.L.247-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) While assigned to a community transition program, a person must comply with:

(1) the rules concerning the conduct of persons in the community transition program, including rules related to payments described in section 12 of this chapter, that are adopted by the community corrections advisory board establishing the program or, in counties that are not served by a community corrections program, that are jointly adopted by the courts in the county with felony

jurisdiction; and

(2) any conditions established by the sentencing court for the person.

(b) As a rule of the community transition program, a person convicted of a sex offense (as defined in IC 11-8-8-5.2) may not use a social networking web site (as defined in IC 35-31.5-2-307) or an instant messaging or chat room program (as defined in IC 35-31.5-2-173) to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age. However, the rules of the community transition program may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with:

(1) the offender's own child, stepchild, or sibling; or

(2) another relative of the offender specifically named in the rules applicable to that person.

(c) As a rule of the community transition program, a person may be required to receive:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid abuse treatment.

SECTION 5. IC 11-12-1-2.5, AS AMENDED BY P.L.184-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter shall use evidence based services, programs, and practices that reduce the risk for recidivism among persons who participate in the community corrections programs.

(b) The community corrections board may also coordinate or operate:

(1) educational;

(2) mental health;

(3) drug or alcohol abuse counseling; and

(4) housing;

programs. In addition, the board may provide supervision services for persons described in section 2 of this chapter.

(c) Drug or alcohol services in subsection (b) may include:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 6. IC 11-12-2-1, AS AMENDED BY P.L.168-2014, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2015]: 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.

(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. **Programs for addictive disorders may include:**

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 7. IC 11-12-3.7-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 2.5. As used in this chapter, "autism spectrum disorder" means a developmental disability as defined in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.**

SECTION 8. IC 11-12-3.7-4, AS AMENDED BY P.L.192-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. As used in this chapter, "forensic diversion program" means a program designed to provide an adult:

(1) who has **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder;~~ **a combination of those conditions;** and

(2) who has been charged with a crime that is not a violent offense;

an opportunity to receive community treatment and other services addressing mental health and addiction instead of or in addition to incarceration.

SECTION 9. IC 11-12-3.7-4.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.5. As used in this chapter, "intellectual disability" means a disability characterized by significant limitations in:**

(1) intellectual functioning; and

(2) adaptive behavior.

SECTION 10. IC 11-12-3.7-7, AS AMENDED BY P.L.2-2014, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) An advisory board shall develop a forensic diversion plan to provide an adult who:

(1) has **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder;~~ **a combination of those conditions;** and

(2) has been charged with a crime that is not a violent crime;

an opportunity, pre-conviction or post-conviction, to receive community treatment and other services addressing **intellectual disabilities, autism spectrum disorders,** mental health, and addictions instead of or in addition to incarceration.

(b) The forensic diversion plan may include any combination of the following program components:

(1) Pre-conviction diversion for adults with mental illness.

(2) Pre-conviction diversion for adults with addictive disorders.

(3) Pre-conviction diversion for adults with intellectual disabilities.

(4) Pre-conviction diversion for individuals with an autism spectrum disorder.

~~(3)~~ **(5)** Post-conviction diversion for adults with mental illness.

~~(4)~~ **(6)** Post-conviction diversion for adults with addictive disorders.

(7) Post-conviction diversion for adults with intellectual disabilities.

(8) Post-conviction diversion for individuals with an autism spectrum disorder.

(c) In developing a plan, the advisory board must consider the ability of existing programs and resources within the community, including:

(1) a problem solving court established under IC 33-23-16;

(2) a court alcohol and drug program certified under IC 12-23-14-13;

(3) treatment providers certified by the division of mental health and addiction under IC 12-23-1-6 or IC 12-21-2-3(5); and

(4) other public and private agencies.

(d) Development of a forensic diversion program plan under this chapter or IC 11-12-2-3 does not require implementation of a forensic diversion program.

(e) The advisory board may:

(1) operate the program;

(2) contract with existing public or private agencies to operate one (1) or more components of the program; or

(3) take any combination of actions under subdivisions (1) or (2).

(f) Any treatment services provided under the forensic diversion program:

(1) for addictions must be provided by an entity that is certified by the division of mental health and addiction under IC 12-23-1-6; or

(2) for mental health must be provided by an entity that is:

(A) certified by the division of mental health and addiction under IC 12-21-2-3(5);

(B) accredited by an accrediting body approved by the division of mental health and addiction; or

(C) licensed to provide mental health services under IC 25.

SECTION 11. IC 11-12-3.7-11, AS AMENDED BY P.L.168-2014, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder.~~ **a combination of those conditions.**

(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 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. **Programs for addictive disorders may include:**

(A) addiction counseling;

(B) inpatient detoxification; and

(C) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

(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 12. IC 11-12-3.7-12, AS AMENDED BY P.L.192-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) A person is eligible to participate in a post-conviction forensic diversion program only if the person meets the following criteria:

(1) The person has **an intellectual disability, an autism spectrum disorder,** a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder.~~ **a combination of those conditions.**

(2) The person has been convicted of an offense that is:

(A) not a violent offense; and

(B) not a drug dealing offense.

(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 post-conviction forensic diversion program.

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

(b) If the person meets the eligibility criteria described in subsection (a) and has been convicted of an offense that may be suspended, the court may:

(1) suspend all or a portion of the person's sentence;

(2) place the person on probation for the suspended portion of the person's sentence; and

(3) require as a condition of probation that the person successfully participate in and successfully complete the post-conviction forensic diversion program.

(c) If the person meets the eligibility criteria described in subsection (a) and has been convicted of an offense that is nonsuspendible, the court may:

(1) order the execution of the nonsuspendible sentence; and

(2) stay execution of all or part of the nonsuspendible portion of the sentence pending the person's successful participation in and

successful completion of the post-conviction forensic diversion program.

The court shall treat the suspendible portion of a nonsuspendible sentence in accordance with subsection (b).

(d) The person may be required to participate in the post-conviction forensic diversion program for no 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.

The time periods described in this section only limit the amount of time a person may spend in the forensic diversion program and do not limit the amount of time a person may be placed on probation.

(e) If, after considering the report of the forensic diversion program, the court determines that a person convicted of an offense that may be suspended has failed to successfully participate in the forensic diversion program, or has failed to successfully complete the program, the court may do any of the following:

(1) Revoke the person's probation.

(2) Order all or a portion of the person's suspended sentence to be executed.

(3) Modify the person's sentence.

(4) Order the person to serve all or a portion of the person's suspended sentence in:

(A) a work release program established by the department under IC 11-10-8 or IC 11-10-10; or

(B) a county work release program under IC 11-12-5.

(f) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense failed to successfully participate in the forensic diversion **program,** or failed to successfully complete the program, the court may do any of the following:

(1) Lift its stay of execution of the nonsuspendible portion of the sentence and remand the person to the department.

(2) Order the person to serve all or a portion of the nonsuspendible portion of the sentence that is stayed in:

(A) a work release program established by the department under IC 11-10-8 or IC 11-10-10; or

(B) a county work release program under IC 11-12-5.

(3) Modify the person's sentence.

However, if the person failed to successfully participate in the forensic diversion program, or failed to successfully complete the program while serving the suspendible portion of a nonsuspendible sentence, the

court may treat the suspendible portion of the sentence in accordance with subsection (e).

(g) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense has successfully completed the program, the court shall waive execution of the nonsuspendible portion of the person's sentence.".

Delete pages 3 through 7.

Page 8, delete lines 1 through 7, begin a new paragraph and insert:

"SECTION 13. IC 11-12-3.8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. For purposes of this chapter,"substance abuse treatment" may include:**

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including using Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 14. IC 11-13-3-4, AS AMENDED BY P.L.114-2012, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

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

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

(1) retained by the parolee;

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

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

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

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

(1) consider:

(A) the residence of the parolee prior to the parolee's

incarceration; and

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

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

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

(1) periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

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

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

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

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

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-31.5-2-285) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children

less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

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

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

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

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

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

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

(l) As a condition of parole, the parole board may prohibit a parolee

convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

(m) As a condition of parole, the parole board may require a parolee to receive:

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment.

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

Page 8, line 35, delete "Felony" and insert "**Criminal**".

Page 8, line 38, delete "a felony" and insert "**an offense**".

Page 9, line 16, delete "." and insert "**and constitutes a formal waiver of Criminal Rule 4 concerning discharge for delay in criminal trials.**".

Page 10, line 27, delete "Subject to subsection (b), if" and insert "**If**".

Page 10, delete lines 31 through 33.

Page 10, line 34, delete "(c)" and insert "**(b)**".

Page 10, line 39, delete "resumed," and insert "**resumed and the individual subsequently completes the treatment program,**".

Page 11, line 8, delete "Felony" and insert "**Criminal**".

Page 11, line 17, after "probation" insert "**, subject to any mandatory minimum sentence imposed on the individual,**".

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 23. IC 12-23-18-7, AS ADDED BY P.L.131-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The division shall adopt rules under IC 4-22-2 to establish standards and protocols for opioid treatment programs to do the following:

(1) Assess new opioid treatment program patients to determine the most effective opioid treatment medications to start the patient's opioid treatment.

(2) Ensure that each patient voluntarily chooses maintenance

treatment and that relevant facts concerning the use of opioid treatment medications are clearly and adequately explained to the patient.

(3) Have appropriate opioid treatment program patients who are receiving methadone for opioid treatment move to receiving other approved opioid treatment medications.

(b) An opioid treatment program shall follow the standards and protocols adopted under subsection (a) for each opioid treatment program patient.

(c) Subject to subsection (a), an opioid treatment program may use any of the following medications as an alternative for methadone for opioid treatment:

(1) Buprenorphine.

(2) Buprenorphine combination products containing naloxone.

(3) Naltrexone, Vivitrol, or a similar substance.

~~(3)~~ **(4)** Any other medication that has been approved by:

(A) the federal Food and Drug Administration for use in the treatment of opioid addiction; and

(B) the division under subsection (e).

(d) Before starting a patient on a new opioid treatment medication, the opioid treatment program shall explain to the patient the potential side effects of the new medication.

(e) The division may adopt rules under IC 4-22-2 to provide for other medications, **including Vivitrol or a similar substance,** as alternatives to methadone that may be used under subsection (a).".

Page 15, delete lines 6 through 17.

Page 18, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 29. IC 31-37-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child leaves home **or a specific location previously designated by the child's parent, guardian, or custodian:**

(1) without reasonable cause; and

(2) without permission of the parent, guardian, or custodian, who requests the child's return.".

Page 18, delete lines 20 through 42, begin a new paragraph and insert:

"SECTION 32. IC 31-37-22-5 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. ~~Sec. 5. If:~~

~~(1) a child is placed in a shelter care facility or other place of residence as part of a court order with respect to a delinquent act under IC 31-37-2-2;~~

~~(2) the child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;~~

~~(3) the issuance of the warning was reflected in the records of the hearing;~~

~~(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and~~

~~(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;~~

~~the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.~~

SECTION 33. IC 31-37-22-6 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. ~~Sec. 6. If:~~

~~(1) a child fails to comply with IC 20-33-2 concerning compulsory school attendance as part of a court order with respect to a delinquent act under IC 31-37-2-3 (or IC 31-6-4-1(a)(3) before its repeal);~~

~~(2) the child received a written warning of the consequences of a violation of the court order;~~

~~(3) the issuance of the warning was reflected in the records of the hearing;~~

~~(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's school attendance; and~~

~~(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;~~

~~the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children under section 7 of this chapter.~~

SECTION 34. IC 31-37-22-7 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. ~~Sec. 7. (a) If the juvenile court modifies its disposition order under section 5 or 6 of this chapter, the court may order the child placed under one (1) of the following alternatives:~~

~~(1) In a nonlocal secure private facility licensed under the laws of any state. Placement under this alternative includes authorization~~

~~to control and discipline the child.~~

~~(2) In a local secure private facility licensed under Indiana law. Placement under this alternative includes authorization to control and discipline the child.~~

~~(3) In a local secure public facility.~~

~~(4) In a local alternative facility approved by the juvenile court.~~

~~(5) As a ward of the department of correction for housing in any correctional facility for children. Wardship under this alternative does not include the right to consent to the child's adoption. However, without a determination of unavailable housing by the department of correction, a child found to be subject to section 5 or 6 of this chapter and placed in a secure facility of the department of correction may not be housed with any child found to be delinquent under any other provision of this article.~~

~~(b) If the juvenile court places a child under subsection (a)(3) or (a)(4):~~

~~(1) the length of the placement may not exceed thirty (30) days; and~~

~~(2) the juvenile court shall order specific treatment of the child designated to eliminate the child's disobedience of the court's order of placement.~~

~~(c) The juvenile court shall retain jurisdiction over any placement under this section (or IC 31-6-7-16(d) before its repeal) and shall review each placement every three (3) months to determine whether placement in a secure facility remains appropriate.~~

SECTION 35. IC 33-23-16-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 24.5. A problem solving court may require an individual participating in a problem solving court to receive:**

(1) addiction counseling;

(2) inpatient detoxification; and

(3) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment.

SECTION 36. IC 33-37-8-4, AS AMENDED BY P.L.229-2011, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds for one (1) or more of the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) The provision of evidence based mental health and addiction, autism, and co-occurring autism and mental illness forensic treatment services to reduce the risk of recidivism in a program administered or coordinated by a provider certified by the division of mental health and addiction with expertise in providing evidence based forensic treatment services.

~~(9)~~ **(10)** Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 37. IC 33-37-8-6, AS AMENDED BY P.L.229-2011, SECTION 264, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the

fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds for one (1) or more of the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) The provision of evidence based mental health and addiction, autism, and co-occurring autism and mental illness forensic treatment services to reduce the risk of recidivism in a program administered or coordinated by a provider certified by the division of mental health and addiction with expertise in providing evidence based forensic treatment services.

~~(9)~~ **(10)** Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 38. IC 33-39-1-8, AS AMENDED BY P.L.168-2014, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 35-44.1-2-13(b)(1); or

(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, **including:**

(A) addiction counseling;

(B) inpatient detoxification; and

(C) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment;

(4) receive evidence based mental health and addiction, autism, and co-occurring autism and mental illness forensic treatment services to reduce the risk of recidivism;

~~(4)~~ **(5)** support the person's dependents and meet other family responsibilities;

~~(5)~~ **(6)** make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

~~(6)~~ **(7)** refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

~~(7)~~ **(8)** report to the prosecuting attorney at reasonable times;

~~(8)~~ **(9)** answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

~~(9)~~ **(10)** 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):~~ **(e)(7):**

(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.".

Delete pages 19 through 21.

Page 22, delete lines 1 through 23.

Page 24, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 42. IC 34-30-2-148.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 148.6. IC 35-36-12-7 (Concerning a court appointed special advocate, an employee of a county court appointed special advocate, or a volunteer for a court appointed special advocate program for good faith performance of duties relating to assistance of a person with an intellectual disability or an autism spectrum disorder).**

SECTION 43. IC 35-31.5-2-68.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 68.5. "Court appointed special advocate" means a community volunteer who:**

(1) has completed a training program approved by the court that includes training in:

(A) the development of a person with an intellectual disability (as defined in IC 11-12-3.7-4.5) or an autism spectrum disorder (as defined in IC 11-12-3.7-2.5); and

(B) evidence based treatment and counseling programs for a person with an intellectual disability or an autism spectrum disorder;

(2) has been appointed by a court to assist a person with an intellectual disability or an autism spectrum disorder who has been charged with a criminal offense; and

(3) may research, examine, advocate, facilitate, and monitor the situation of a person with an intellectual disability or an autism spectrum disorder who has been charged with a criminal offense.

SECTION 44. IC 35-36-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 12. Court Appointed Special Advocate for Persons With Intellectual Disabilities or Autism Spectrum Disorders

Sec. 1. A court may appoint a court appointed special advocate at any time to assist a person with an intellectual disability or an autism spectrum disorder who has been charged with a criminal

offense.

Sec. 2. A court appointed special advocate shall assist the person with an intellectual disability or an autism spectrum disorder to whom the advocate has been appointed.

Sec. 3. A court appointed special advocate may recommend to the court treatment programs and other services that may reduce recidivism and are available to the person with an intellectual disability or an autism spectrum disorder.

Sec. 4. A court appointed special advocate serves until the court enters an order for removal.

Sec. 5. The court appointed special advocate is considered an officer of the court for the purpose of assisting the person with an intellectual disability or an autism spectrum disorder.

Sec. 6. A court appointed special advocate appointed by a court under this chapter may continue to assist the person with an intellectual disability or an autism spectrum disorder while the person is undergoing treatment or serving the person's sentence, if applicable.

Sec. 7. Except for gross misconduct:

(1) a court appointed special advocate;

(2) an employee of a county court appointed special advocate program; and

(3) a volunteer for a court appointed special advocate program;

who performs in good faith duties relating to assistance of a person with an intellectual disability or an autism spectrum disorder is immune from any civil liability that may occur as a result of that person's performance.

Sec. 8. The court may order the person assisted by the court appointed special advocate to pay a user fee to the:

(1) court appointed special advocate program; or

(2) individual who served as a court appointed special advocate;

for the services provided under this chapter.

Sec. 9. The court shall establish one (1) of the following procedures to be used to collect the user fee:

(1) The court may order the person with an intellectual disability or an autism spectrum disorder to pay the user fee to the court appointed special advocate program that provided the services.

(2) The court may order the person with an intellectual disability or an autism spectrum disorder to pay the user fee

to the individual court appointed special advocate that provided the services.

Sec. 10. If the court orders the person with an intellectual disability or an autism spectrum disorder to pay a user fee under this chapter, the program or the individual shall report to the court the receipt of payment not later than thirty (30) days after receiving the payment.".

Delete page 25.

Page 26, delete lines 1 through 12, begin a new paragraph and insert:

"SECTION 45. IC 35-38-2-2.3, AS AMENDED BY P.L.13-2013, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Participate in a treatment program, educational class, or rehabilitative service provided by a probation department or by referral to an agency.

(5) Support the person's dependents and meet other family responsibilities.

(6) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(7) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(8) Pay a fine authorized by IC 35-50.

(9) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(10) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(11) Permit the person's probation officer to visit the person at

reasonable times at the person's home or elsewhere.
(12) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
(13) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
(14) Perform uncompensated work that benefits the community.
(15) Satisfy other conditions reasonably related to the person's rehabilitation.
(16) Undergo home detention under IC 35-38-2.5.
(17) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or
(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:
(i) the delivery by any person to another person; or
(ii) the use by any person on another person;
of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(18) Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.
(19) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).
(20) Periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.
(21) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments

under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(22) Refrain from owning, harboring, or training an animal.

(23) Participate in a reentry court program.

(24) Receive:

(A) addiction counseling;

(B) inpatient detoxification; and

(C) medication assisted treatment, including Vivitrol or a similar substance, for alcohol or opioid treatment.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(18):

(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.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

(h) If a court imposes a condition of probation described in subsection (a)(4), the person on probation is responsible for any costs resulting from the participation in a program, class, or service. Any costs collected for services provided by the probation department shall be deposited in the county or local supplemental adult services fund.".

Page 28, line 40, reset in roman "is nonsuspendible.".

Page 28, line 40, after "nonsuspendible." insert "**However, a court may suspend a sentence under this subsection during the time the habitual offender is participating in a court approved substance abuse treatment program. If the habitual offender successfully completes the treatment program, the time the habitual offender spent in the treatment program shall be deducted from the habitual offender's additional fixed term of imprisonment.**".

Page 28, delete lines 41 through 42.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1304 as introduced.)

WASHBURNE

Committee Vote: yeas 12, nays 0.