

SENATE BILL No. 164

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-13; IC 16-31-3-14.5; IC 25-23.6; IC 35-31.5-2; IC 35-34-1-5; IC 35-38; IC 35-42; IC 35-43; IC 35-46; IC 35-47-4-5; IC 35-48; IC 35-50.

Synopsis: Criminal law. Relocates the definition of "crime of violence" and makes conforming amendments. Removes advisory sentences and the sentencing cap for crimes committed in a single episode of criminal conduct. Makes sentences for the following crimes nonsuspendible: (1) Murder and Level 1 felonies. (2) Level 2 or Level 3 felonies if the person has a prior felony conviction. (3) Level 4 and Level 5 felonies if the person has a prior conviction and completed the sentence for the prior felony less than 10 years before commission of the current felony. Changes the penalty enhancement for nonsupport of a child from a Level 6 felony to a Level 5 felony if the person has a previous conviction for the offense. Changes the procedure for a court to lower the penalty for a person convicted of nonsupport of a child. Provides that "enhancing circumstance", as used to increase the penalty for certain drug offenses: (1) applies to a prior conviction committed in any jurisdiction; (2) includes a conspiracy or an attempt; (3) applies when the offense is committed within 1,000 feet of a school, park, family housing complex, or youth program center (current law is 500 feet and does not include a family housing complex or youth program center); and (4) does not require that, with respect to offenses committed near a school or public park, a minor is reasonably expected to be present. Specifies that "manufacturing", for purposes of the statute prohibiting the manufacture of marijuana, applies to the production and propagation of marijuana. Increases the penalties for
(Continued next page)

Effective: July 1, 2014.

Head

January 8, 2014, read first time and referred to Committee on Corrections and Criminal Law.



Digest Continued

certain offenses involving dealing or possession of controlled substances. Allows the state to seek to have a person sentenced as a habitual vehicular substance offender for any vehicular substance offense by alleging that the person has accumulated two prior unrelated vehicular substance offense convictions. Provides that a vehicular substance offense is a misdemeanor or felony in which the: (1) operation of a motor vehicle while intoxicated; (2) operation of a motor vehicle in excess of the statutory limit for alcohol in a person's blood or breath; or (3) operation of a motor vehicle with a controlled substance or its metabolite in a person's body; is a material element of the misdemeanor or felony. Requires a court to sentence a person found to be a habitual vehicular substance offender to an additional fixed term of at least one year but not more than eight years imprisonment. Increases the penalty for human trafficking. Increases, under certain circumstances, the penalties for: (1) reckless homicide; (2) child exploitation; (3) robbery; (4) burglary; (5) theft; (6) forgery; (7) identity deception; and (8) possession of a firearm by a serious violent felon. Creates the crime of retail theft. Increases the penalty for animal cruelty under certain circumstances. Permits a petition for expungement to be filed in a city or town court, treats the expungement of misdemeanor domestic battery as the expungement of a felony, and makes the grant of expungement discretionary where the crime causes another person to suffer injury or loss of property.



Introduced

Second Regular Session 118th General Assembly (2014)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 164

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

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

1 SECTION 1. IC 11-13-3-3, AS AMENDED BY P.L.147-2012,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 3. (a) A person sentenced under IC 35-50 shall be
4 released on parole or discharged from the person's term of
5 imprisonment under IC 35-50 without a parole release hearing.
6 (b) A person sentenced for an offense under laws other than
7 IC 35-50 who is eligible for release on parole, or a person whose parole
8 is revoked and is eligible for reinstatement on parole under rules
9 adopted by the parole board shall, before the date of the person's parole
10 eligibility, be granted a parole release hearing to determine whether
11 parole will be granted or denied. The hearing shall be conducted by one
12 (1) or more of the parole board members. If one (1) or more of the
13 members conduct the hearing on behalf of the parole board, the final
14 decision shall be rendered by the full parole board based upon the

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1 record of the proceeding and the hearing conductor's findings. Before
 2 the hearing, the parole board shall order an investigation to include the
 3 collection and consideration of:

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

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

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

32 (B) Assignment to a minimum security work release program.

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

- 35 (1) not later than twenty-four (24) hours after the escape of a
 36 committed offender;
 37 (2) at least forty (40) days before:
 38 (A) the discharge or release of a committed offender; or
 39 (B) the date of a hearing concerning a committed offender's
 40 possible discharge or release; and
 41 (3) if the date of a committed offender's discharge or release as
 42 referred to in subdivision (2)(A) is changed during the forty (40)



1 day notification period referred to in subdivision (2), not more
2 than forty-eight (48) hours after the change in the discharge or
3 release date.

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

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

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

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

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

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



- 1 (1) nature and circumstances of the crime for which the offender
 2 is committed;
- 3 (2) offender's prior criminal record;
- 4 (3) offender's conduct and attitude during the commitment; and
- 5 (4) offender's parole plan.
- 6 (i) The hearing prescribed by this section may be conducted in an
 7 informal manner without regard to rules of evidence. In connection
 8 with the hearing, however:
- 9 (1) reasonable, advance written notice, including the date, time,
 10 and place of the hearing, shall be provided to the person being
 11 considered;
- 12 (2) the person being considered shall be given access, in accord
 13 with IC 11-8-5, to records and reports considered by the parole
 14 board in making its parole release decision;
- 15 (3) the person being considered may appear, speak in the person's
 16 own behalf, and present documentary evidence;
- 17 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
 18 excluded; and
- 19 (5) a record of the proceeding, to include the results of the parole
 20 board's investigation, notice of the hearing, and evidence adduced
 21 at the hearing, shall be made and preserved.
- 22 (j) If parole is denied, the parole board shall give the person written
 23 notice of the denial and the reasons for the denial. The parole board
 24 may not parole a person if it determines that there is substantial reason
 25 to believe that the person:
- 26 (1) will engage in further specified criminal activity; or
- 27 (2) will not conform to appropriate specified conditions of parole.
- 28 (k) If parole is denied, the parole board shall conduct another parole
 29 release hearing not earlier than five (5) years after the date of the
 30 hearing at which parole was denied. However, the board may conduct
 31 a hearing earlier than five (5) years after denial of parole if the board:
- 32 (1) finds that special circumstances exist for the holding of a
 33 hearing; and
- 34 (2) gives reasonable notice to the person being considered for
 35 parole.
- 36 (l) The parole board may parole a person who is outside Indiana on
 37 a record made by the appropriate authorities of the jurisdiction in
 38 which that person is imprisoned.
- 39 (m) If the board is considering the release on parole of an offender
 40 who is serving a sentence of life in prison, a determinate term of
 41 imprisonment of at least ten (10) years, or an indeterminate term of
 42 imprisonment with a minimum term of at least ten (10) years, in



1 addition to the investigation required under subsection (b), except as
 2 provided in subsection (n), the board may order and consider a
 3 community investigation, which may include an investigation and
 4 report that substantially reflects the attitudes and opinions of:

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

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

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

- 22 (1) the person was convicted of a crime of violence; (as defined
 23 in ~~IC 35-50-1-2~~; **IC 35-31.5-2-79**); or
 24 (2) the person is a sex offender (as defined in IC 11-8-8-4.5).

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

28 SECTION 2. IC 11-13-9-1, AS ADDED BY P.L.119-2008,
 29 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2014]: Sec. 1. This chapter does not apply to the following:

- 31 (1) An inmate who receives a sentence of death or life without
 32 parole under IC 35-50-2.
 33 (2) An inmate who has committed an offense described in
 34 IC 11-8-8-4.5.
 35 (3) A person convicted of a crime of violence (as defined in
 36 ~~IC 35-50-1-2~~; **IC 35-31.5-2-79**).

37 SECTION 3. IC 16-31-3-14.5, AS AMENDED BY P.L.196-2013,
 38 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2014]: Sec. 14.5. The department of homeland security may
 40 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
 41 certification or licensure or permanently revoke a certificate or license
 42 under procedures provided by section 14 of this chapter if the



1 individual who holds the certificate or license issued under this title is
 2 convicted of any of the following:

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

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

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

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

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

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

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

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

19 (9) Dealing in marijuana, hash oil, hashish, or salvia under
 20 IC 35-48-4-10(b).

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

24 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
 25 in this section.

26 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
 27 this section.

28 (13) A crime of violence (as defined in ~~IC 35-50-1-2(a)~~;
 29 **IC 35-31.5-2-79**).

30 (14) An offense in any other jurisdiction in which the elements of
 31 the offense for which the conviction was entered are substantially
 32 similar to the elements of an offense described under this section.

33 SECTION 4. IC 25-23.6-1-5.7, AS ADDED BY P.L.122-2009,
 34 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2014]: Sec. 5.7. (a) "Practice of addiction counseling" means
 36 the providing of professional services that are delivered by a licensed
 37 addiction counselor, that are designed to change substance use or
 38 addictive behavior, and that involve specialized knowledge and skill
 39 related to addictions and addictive behaviors, including understanding
 40 addiction, knowledge of the treatment process, application to practice,
 41 and professional readiness. The term includes:

42 (1) gathering information through structured interview screens



- 1 using routine protocols;
- 2 (2) reviewing assessment findings to assist in the development of
- 3 a plan individualized for treatment services and to coordinate
- 4 services;
- 5 (3) referring for assessment, diagnosis, evaluation, and mental
- 6 health therapy;
- 7 (4) providing client and family education related to addictions;
- 8 (5) providing information on social networks and community
- 9 systems for referrals and discharge planning;
- 10 (6) participating in multidisciplinary treatment team meetings or
- 11 consulting with clinical addiction professionals;
- 12 (7) counseling, through individual and group counseling, as well
- 13 as group and family education, to treat addiction and substance
- 14 abuse in a variety of settings, including:
- 15 (A) mental and physical health facilities; and
- 16 (B) child and family service agencies; and
- 17 (8) maintaining the highest level of professionalism and ethical
- 18 responsibility.
- 19 (b) The term does not include the use of psychotherapy or diagnosis
- 20 (as defined in IC 25-22.5-1-1.1(c) or as defined as the practice of
- 21 psychology under IC 25-33-1-2(a)).
- 22 (c) For an individual who obtains a license as an addiction counselor
- 23 by:
- 24 (1) holding a valid:
- 25 (A) level II or higher certification or the equivalent
- 26 certification from a credentialing agency approved by the
- 27 division of mental health and addiction; or
- 28 (B) certification as an addiction counselor or addiction
- 29 therapist from a credentialing agency that is approved by the
- 30 board;
- 31 (2) having at least ten (10) years of experience in addiction
- 32 counseling;
- 33 (3) furnishing satisfactory evidence to the board that the
- 34 individual does not have:
- 35 (A) a conviction for a crime of violence ~~(as defined in~~
- 36 ~~IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13);~~ **described in**
- 37 **IC 35-31.5-2-79(1) through IC 35-31.5-2-79(13);** or
- 38 (B) a conviction in the previous two (2) years that has a direct
- 39 bearing on the individual's ability to practice competently; and
- 40 (4) filing an initial application with the board before July 1, 2010;
- 41 the term includes the provision of addiction counseling services in
- 42 private practice in consultation with other licensed professionals as



1 required by the client's individualized treatment plan.

2 SECTION 5. IC 25-23.6-10.5-1, AS ADDED BY P.L.122-2009,
3 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2014]: Sec. 1. An individual who applies for a license as an
5 addiction counselor must meet the following requirements:

6 (1) Furnish satisfactory evidence to the board that the individual
7 has:

8 (A) received a baccalaureate or higher degree in addiction
9 counseling or in a related area as determined by the board
10 from:

11 (i) an eligible postsecondary educational institution that
12 meets the requirements under section 3(1) of this chapter; or

13 (ii) a foreign school that has a program of study that meets
14 the requirements under section 3(2) or 3(3) of this chapter;

15 (B) completed the educational requirements under section 5 of
16 this chapter; and

17 (C) completed the experience requirements under section 7 of
18 this chapter.

19 (2) Furnish satisfactory evidence to the board that the individual
20 does not have a:

21 (A) conviction for a crime of violence ~~(as defined in~~
22 ~~IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13);~~ **described in**
23 **IC 35-31.5-2-79(1) through IC 35-31.5-2-79(13);** or

24 (B) conviction in the previous two (2) years that has a direct
25 bearing on the individual's ability to practice competently.

26 (3) Furnish satisfactory evidence to the board that the individual
27 has not been the subject of a disciplinary action by a licensing or
28 certification agency of another state or jurisdiction on the grounds
29 that the individual was not able to practice as an addiction
30 counselor without endangering the public.

31 (4) Pass an examination established by the board.

32 (5) Pay the fee established by the board.

33 SECTION 6. IC 25-23.6-10.5-2, AS ADDED BY P.L.122-2009,
34 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2014]: Sec. 2. An individual who applies for a license as a
36 clinical addiction counselor must meet the following requirements:

37 (1) Furnish satisfactory evidence to the board that the individual
38 has:

39 (A) received a master's or doctor's degree in addiction
40 counseling, addiction therapy, or a related area as determined
41 by the board from an eligible postsecondary educational
42 institution that meets the requirements under section 4(a)(1) of



- 1 this chapter or from a foreign school that has a program of
 2 study that meets the requirements under section 4(a)(2) or
 3 4(a)(3) of this chapter;
 4 (B) completed the educational requirements under section 6 of
 5 this chapter; and
 6 (C) completed the experience requirements under section 8 of
 7 this chapter.
- 8 (2) Furnish satisfactory evidence to the board that the individual
 9 does not have a:
- 10 (A) conviction for a crime of violence (as defined in
 11 ~~IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13)~~; **described in**
 12 **IC 35-31.5-2-79(1) through IC 35-31.5-2-79(13)**; or
 13 (B) conviction in the previous two (2) years that has a direct
 14 bearing on the individual's ability to practice competently.
- 15 (3) Furnish satisfactory evidence to the board that the individual
 16 has not been the subject of a disciplinary action by a licensing or
 17 certification agency of another state or jurisdiction on the grounds
 18 that the individual was not able to practice as a clinical addiction
 19 counselor without endangering the public.
- 20 (4) Pass an examination established by the board.
- 21 (5) Pay the fee established by the board.
- 22 SECTION 7. IC 35-31.5-2-10 IS REPEALED [EFFECTIVE JULY
 23 1, 2014]. ~~Sec. 10: "Advisory sentence"; for purposes of IC 35-50-2-3~~
 24 ~~through IC 35-50-2-7, has the meaning set forth in IC 35-50-2-1.3.~~
- 25 SECTION 8. IC 35-31.5-2-79, AS ADDED BY P.L.114-2012,
 26 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2014]: Sec. 79. "Crime of violence" for purposes of
 28 ~~IC 35-50-1-2~~, has the meaning set forth in ~~IC 35-50-1-2(a)~~: **means the**
 29 **following:**
- 30 (1) **Murder (IC 35-42-1-1).**
 31 (2) **Attempted murder (IC 35-41-5-1).**
 32 (3) **Voluntary manslaughter (IC 35-42-1-3).**
 33 (4) **Involuntary manslaughter (IC 35-42-1-4).**
 34 (5) **Reckless homicide (IC 35-42-1-5).**
 35 (6) **Aggravated battery (IC 35-42-2-1.5).**
 36 (7) **Kidnapping (IC 35-42-3-2).**
 37 (8) **Rape (IC 35-42-4-1).**
 38 (9) **Criminal deviate conduct (IC 35-42-4-2) (repealed).**
 39 (10) **Child molesting (IC 35-42-4-3).**
 40 (11) **Sexual misconduct with a minor (IC 35-42-4-9) as a Class**
 41 **A or Class B felony (for a crime committed before July 1,**
 42 **2014) or as a Level 1 or Level 2 felony (for a crime committed**



1 after June 30, 2014).

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

5 (13) Burglary (IC 35-43-2-1) as a Class A or B felony (for a
6 crime committed before July 1, 2014) or as a Level 2, Level 3,
7 or Level 4 felony (for a crime committed after June 30, 2014).

8 (14) Operating a vehicle while intoxicated causing death
9 (IC 9-30-5-5).

10 (15) Operating a vehicle while intoxicated causing serious
11 bodily injury to another person (IC 9-30-5-4).

12 (16) Resisting law enforcement as a felony (IC 35-44.1-3-1).

13 SECTION 9. IC 35-31.5-2-121 IS REPEALED [EFFECTIVE JULY
14 1, 2014]. Sec. ~~121~~. "Episode of criminal conduct", for purposes of
15 IC 35-50-1-2, has the meaning set forth in IC 35-50-1-2(b).

16 SECTION 10. IC 35-31.5-2-278.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2014]: Sec. 278.5. "Retail merchant", for
19 purposes of IC 35-43-4-2.8, has the meaning set forth in
20 IC 35-43-4-2.8.

21 SECTION 11. IC 35-31.5-2-278.6 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2014]: Sec. 278.6. "Retail property", for
24 purposes of IC 35-43-4-2.8, has the meaning set forth in
25 IC 35-43-4-2.8.

26 SECTION 12. IC 35-31.5-2-345.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2014]: Sec. 345.5. "Value of the property",
29 for purposes of IC 35-43-4-2 and IC 35-43-4-2.8, has the meaning
30 set forth in IC 35-43-4-2.

31 SECTION 13. IC 35-31.5-2-346.2 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2014]: Sec. 346.2. "Vehicular substance
34 offense", for purposes of IC 35-50-2-10.1, has the meaning set forth
35 in IC 35-50-2-10.1(a).

36 SECTION 14. IC 35-34-1-5, AS AMENDED BY P.L.158-2013,
37 SECTION 389, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) An indictment or information
39 which charges the commission of an offense may not be dismissed but
40 may be amended on motion by the prosecuting attorney at any time
41 because of any immaterial defect, including:

42 (1) any miswriting, misspelling, or grammatical error;



- 1 (2) any misjoinder of parties defendant or offenses charged;
 2 (3) the presence of any unnecessary repugnant allegation;
 3 (4) the failure to negate any exception, excuse, or provision
 4 contained in the statute defining the offense;
 5 (5) the use of alternative or disjunctive allegations as to the acts,
 6 means, intents, or results charged;
 7 (6) any mistake in the name of the court or county in the title of
 8 the action, or the statutory provision alleged to have been
 9 violated;
 10 (7) the failure to state the time or place at which the offense was
 11 committed where the time or place is not of the essence of the
 12 offense;
 13 (8) the failure to state an amount of value or price of any matter
 14 where that value or price is not of the essence of the offense; or
 15 (9) any other defect which does not prejudice the substantial
 16 rights of the defendant.

17 (b) The indictment or information may be amended in matters of
 18 substance and the names of material witnesses may be added, by the
 19 prosecuting attorney, upon giving written notice to the defendant at any
 20 time:

21 (1) up to:

22 (A) thirty (30) days if the defendant is charged with a felony;
 23 or

24 (B) fifteen (15) days if the defendant is charged only with one
 25 (1) or more misdemeanors;

26 before the omnibus date; or

27 (2) before the commencement of trial;

28 if the amendment does not prejudice the substantial rights of the
 29 defendant. When the information or indictment is amended, it shall be
 30 signed by the prosecuting attorney or a deputy prosecuting attorney.

31 (c) Upon motion of the prosecuting attorney, the court may, at any
 32 time before, during, or after the trial, permit an amendment to the
 33 indictment or information in respect to any defect, imperfection, or
 34 omission in form which does not prejudice the substantial rights of the
 35 defendant.

36 (d) Before amendment of any indictment or information other than
 37 amendment as provided in subsection (b), the court shall give all
 38 parties adequate notice of the intended amendment and an opportunity
 39 to be heard. Upon permitting such amendment, the court shall, upon
 40 motion by the defendant, order any continuance of the proceedings
 41 which may be necessary to accord the defendant adequate opportunity
 42 to prepare the defendant's defense.



1 (e) An amendment of an indictment or information to include a
 2 habitual offender charge under IC 35-50-2-8 **or IC 35-50-2-10.1** must
 3 be made at least thirty (30) days before the commencement of trial.
 4 However, upon a showing of good cause, the court may permit the
 5 filing of a habitual offender charge at any time before the
 6 commencement of the trial if the amendment does not prejudice the
 7 substantial rights of the defendant. If the court permits the filing of a
 8 habitual offender charge less than thirty (30) days before the
 9 commencement of trial, the court shall grant a continuance at the
 10 request of the:

- 11 (1) state, for good cause shown; or
 12 (2) defendant, for any reason.

13 SECTION 15. IC 35-38-1-7.1, AS AMENDED BY P.L.126-2012,
 14 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2014]: Sec. 7.1. (a) In determining what sentence to impose
 16 for a crime, the court may consider the following aggravating
 17 circumstances:

- 18 (1) The harm, injury, loss, or damage suffered by the victim of an
 19 offense was:
 20 (A) significant; and
 21 (B) greater than the elements necessary to prove the
 22 commission of the offense.
 23 (2) The person has a history of criminal or delinquent behavior.
 24 (3) The victim of the offense was less than twelve (12) years of
 25 age or at least sixty-five (65) years of age at the time the person
 26 committed the offense.
 27 (4) The person:
 28 (A) committed a crime of violence; ~~(IC 35-50-1-2);~~ and
 29 (B) knowingly committed the offense in the presence or within
 30 hearing of an individual who:
 31 (i) was less than eighteen (18) years of age at the time the
 32 person committed the offense; and
 33 (ii) is not the victim of the offense.
 34 (5) The person violated a protective order issued against the
 35 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
 36 IC 34-4-5.1 before their repeal), a workplace violence restraining
 37 order issued against the person under IC 34-26-6, or a no contact
 38 order issued against the person.
 39 (6) The person has recently violated the conditions of any
 40 probation, parole, pardon, community corrections placement, or
 41 pretrial release granted to the person.
 42 (7) The victim of the offense was:



- 1 (A) a person with a disability (as defined in IC 27-7-6-12), and
 2 the defendant knew or should have known that the victim was
 3 a person with a disability; or
 4 (B) mentally or physically infirm.
- 5 (8) The person was in a position having care, custody, or control
 6 of the victim of the offense.
- 7 (9) The injury to or death of the victim of the offense was the
 8 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 9 (10) The person threatened to harm the victim of the offense or a
 10 witness if the victim or witness told anyone about the offense.
- 11 (11) The person:
 12 (A) committed trafficking with an inmate under
 13 IC 35-44.1-3-5; and
 14 (B) is an employee of the penal facility.
- 15 (b) The court may consider the following factors as mitigating
 16 circumstances or as favoring suspending the sentence and imposing
 17 probation:
 18 (1) The crime neither caused nor threatened serious harm to
 19 persons or property, or the person did not contemplate that it
 20 would do so.
 21 (2) The crime was the result of circumstances unlikely to recur.
 22 (3) The victim of the crime induced or facilitated the offense.
 23 (4) There are substantial grounds tending to excuse or justify the
 24 crime, though failing to establish a defense.
 25 (5) The person acted under strong provocation.
 26 (6) The person has no history of delinquency or criminal activity,
 27 or the person has led a law-abiding life for a substantial period
 28 before commission of the crime.
 29 (7) The person is likely to respond affirmatively to probation or
 30 short term imprisonment.
 31 (8) The character and attitudes of the person indicate that the
 32 person is unlikely to commit another crime.
 33 (9) The person has made or will make restitution to the victim of
 34 the crime for the injury, damage, or loss sustained.
 35 (10) Imprisonment of the person will result in undue hardship to
 36 the person or the dependents of the person.
 37 (11) The person was convicted of a crime involving the use of
 38 force against a person who had repeatedly inflicted physical or
 39 sexual abuse upon the convicted person and evidence shows that
 40 the convicted person suffered from the effects of battery as a
 41 result of the past course of conduct of the individual who is the
 42 victim of the crime for which the person was convicted.



1 (c) The criteria listed in subsections (a) and (b) do not limit the
2 matters that the court may consider in determining the sentence.

3 (d) A court may impose any sentence that is:

4 (1) authorized by statute; and

5 (2) permissible under the Constitution of the State of Indiana;
6 regardless of the presence or absence of aggravating circumstances or
7 mitigating circumstances.

8 SECTION 16. IC 35-38-2.5-4.7, AS AMENDED BY P.L.126-2012,
9 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2014]: Sec. 4.7. As used in this chapter, "violent offender"
11 means a person who is:

12 (1) convicted of an offense or attempted offense under
13 ~~IC 35-50-1-2(a)~~, **IC 35-31.5-2-79**, IC 35-42-2-1, IC 35-42-2-1.3,
14 IC 35-43-1-1, IC 35-44.1-3-4, IC 35-45-10-5, IC 35-47-5-1
15 (repealed), or IC 35-47.5-5;

16 (2) charged with an offense or attempted offense listed in
17 ~~IC 35-50-1-2(a)~~, **IC 35-31.5-2-79**, IC 35-42-2-1, IC 35-42-2-1.3,
18 IC 35-42-4, IC 35-43-1-1, IC 35-44.1-3-4, IC 35-45-10-5,
19 IC 35-46-1-3, IC 35-47-5-1 (repealed), or IC 35-47.5-5; or

20 (3) a security risk as determined under section 10 of this chapter.

21 SECTION 17. IC 35-38-3-5, AS AMENDED BY P.L.158-2013,
22 SECTION 402, IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The department, after
24 diagnosis and classification, shall:

25 (1) determine the degree of security (maximum, medium, or
26 minimum) to which a convicted person will be assigned;

27 (2) for each offender convicted of a Class D felony (for a crime
28 committed before July 1, 2014) or a Level 6 felony (for a crime
29 committed after June 30, 2014) whose sentence for the Class D
30 felony or Level 6 felony is nonsuspendible at the time of the
31 offense under:

32 (A) IC 35-50-2-2.1(a)(1)(B);

33 (B) IC 35-50-2-2.1(a)(1)(C); or

34 (C) IC 35-50-2-2.1(a)(2);

35 determine whether the offender is an appropriate candidate for
36 home detention under IC 35-38-2.5;

37 (3) for each offender:

38 (A) committed to the department because the offender has
39 been convicted for the first time of a Class C or Class D felony
40 (for a crime committed before July 1, 2014) or a Level 5 or
41 Level 6 felony (for a crime committed after June 30, 2014);
42 and



1 (B) whose sentence may be suspended;
 2 determine whether the offender is an appropriate candidate for
 3 home detention under IC 35-38-2.5;
 4 (4) notify the trial court and prosecuting attorney if the degree of
 5 security assigned differs from the court's recommendations; and
 6 (5) petition the sentencing court under IC 35-38-1-21 for review
 7 of the sentence of an offender who is not a habitual offender
 8 sentenced under IC 35-50-2-8, ~~or~~ IC 35-50-2-10 (repealed), **or**
 9 **IC 35-50-2-10.1**, and who the department has determined under
 10 subdivision (2) to be an appropriate candidate for home detention.

11 (b) The department may change the degree of security to which the
 12 person is assigned. However, if the person is changed to a lesser degree
 13 security during the first two (2) years of the commitment, the
 14 department shall notify the trial court and the prosecuting attorney not
 15 less than thirty (30) days before the effective date of the changed
 16 security assignment.

17 SECTION 18. IC 35-38-9-2, AS ADDED BY P.L.159-2013,
 18 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2014]: Sec. 2. (a) This section applies only to a person
 20 convicted of a misdemeanor, including a Class D felony (**for a crime**
 21 **committed before July 1, 2014) or a Level 6 felony (for a crime**
 22 **committed after June 30, 2014) reduced to a misdemeanor. However,**
 23 **this section does not apply to a person convicted of domestic**
 24 **battery (IC 35-42-2-1.3).**

25 (b) Not earlier than five (5) years after the date of conviction (unless
 26 the prosecuting attorney consents in writing to an earlier period), the
 27 person convicted of the misdemeanor may petition ~~the sentencing a~~
 28 court to expunge **all** conviction records, **including records** contained
 29 in:

30 (1) a court's files;
 31 (2) the files of the department of correction;
 32 (3) the files of the bureau of motor vehicles; and
 33 (4) the files of any other person who provided treatment or
 34 services to the petitioning person under a court order;
 35 that relate to the person's misdemeanor conviction.

36 (c) A person who files a petition to expunge conviction records shall
 37 pay the filing fees required for filing a civil action, and the clerk shall
 38 distribute the fees as in the case of a civil action. A person who files a
 39 petition to expunge conviction records may not receive a waiver or
 40 reduction of fees upon a showing of indigency. **file the petition in a**
 41 **city court, town court, circuit court, or superior court in the county**
 42 **of conviction.**



- 1 (d) If the court finds by clear and convincing evidence that:
- 2 (1) the period required by this section has elapsed;
- 3 (2) no charges are pending against the person;
- 4 (3) the person does not have an existing or pending driver's
- 5 license suspension;
- 6 (4) the person has successfully completed the person's sentence,
- 7 including any term of supervised release, **paid all fines, fees, and**
- 8 **court costs**, and satisfied ~~all other obligations~~ **any restitution**
- 9 **obligation** placed on the person as part of the sentence; and
- 10 (5) the person has not been convicted of a crime within the
- 11 previous five (5) years **(or within a shorter period agreed to by**
- 12 **the prosecuting attorney if the prosecuting attorney has**
- 13 **consented to a shorter period under subsection (b));**

14 the court shall order the conviction records described in subsection (b)

15 expunged in accordance with section 6 of this chapter **if the crime did**

16 **not result in injury or loss of property to a person, and may order**

17 **the conviction records described in subsection (b) expunged in**

18 **accordance with section 6 of this chapter if the crime resulted in**

19 **injury or loss of property to another person.**

20 SECTION 19. IC 35-38-9-3, AS ADDED BY P.L.159-2013,

21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

22 JULY 1, 2014]: Sec. 3. (a) Except as provided in subsection (b), this

23 section applies only to a person convicted of a Class D felony **(for a**

24 **crime committed before July 1, 2014), a Level 6 felony (for a crime**

25 **committed after June 30, 2014), or domestic battery as a**

26 **misdemeanor (IC 35-42-2-1.3).** This section does not apply to a

27 person if the person's Class D felony **or Level 6 felony** was reduced to

28 a Class A misdemeanor.

- 29 (b) This section does not apply to the following:
- 30 (1) An elected official convicted of an offense while serving the
- 31 official's term or as a candidate for public office.
- 32 (2) A sex or violent offender (as defined in IC 11-8-8-5).
- 33 (3) A person convicted of a felony that resulted in bodily injury to
- 34 another person.
- 35 (4) A person convicted of perjury (IC 35-44.1-2-1) or official
- 36 misconduct (IC 35-44.1-1-1).
- 37 (5) A person convicted of an offense described in:
- 38 (A) IC 35-42-1;
- 39 (B) IC 35-42-3.5; or
- 40 (C) IC 35-42-4.

41 (c) Not earlier than eight (8) years after the date of conviction

42 (unless the prosecuting attorney consents in writing to an earlier



1 period), the person convicted of the Class D felony, **Level 6 felony, or**
 2 **misdemeanor domestic battery** may petition ~~the sentencing a court~~
 3 to expunge **all** conviction records, **including records** contained in:

- 4 (1) a court's files;
 5 (2) the files of the department of correction;
 6 (3) the files of the bureau of motor vehicles; and
 7 (4) the files of any other person who provided treatment or
 8 services to the petitioning person under a court order;

9 that relate to the person's Class D **or Level 6** felony conviction **or**
 10 **misdemeanor domestic battery conviction.**

11 (d) A person who files a petition to expunge conviction records shall
 12 ~~pay the filing fees required for filing a civil action, and the clerk shall~~
 13 ~~distribute the fees as in the case of a civil action. A person who files a~~
 14 ~~petition to expunge conviction records may not receive a waiver or~~
 15 ~~reduction of fees upon a showing of indigency. file the petition in a~~
 16 **city court, town court, circuit court, or superior court in the county**
 17 **of conviction.**

18 (e) If the court finds by clear and convincing evidence that:

- 19 (1) the period required by this section has elapsed;
 20 (2) no charges are pending against the person;
 21 (3) the person does not have an existing or pending driver's
 22 license suspension;
 23 (4) the person has successfully completed the person's sentence,
 24 including any term of supervised release, **paid all fines, fees, and**
 25 **court costs**, and satisfied ~~all other obligations~~ **any restitution**
 26 **obligation** placed on the person as part of the sentence; and
 27 (5) the person has not been convicted of a ~~crime felony~~ within the
 28 previous eight (8) years **(or within a shorter period agreed to**
 29 **by the prosecuting attorney if the prosecuting attorney has**
 30 **consented to a shorter period under subsection (c));**

31 the court shall order the conviction records described in subsection (c)
 32 expunged in accordance with section 6 of this chapter **if the crime did**
 33 **not result in injury or loss of property to another person, and may**
 34 **order the conviction records described in subsection (b) expunged**
 35 **in accordance with section 6 of this chapter if the crime resulted in**
 36 **injury or loss of property to a person.**

37 SECTION 20. IC 35-38-9-4, AS ADDED BY P.L.159-2013,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2014]: Sec. 4. (a) Except as provided in subsection (b), this
 40 section applies only to a person convicted of a felony **who may not**
 41 **seek expungement of that felony under section 3 of this chapter.**

42 (b) This section does not apply to the following:



- 1 (1) An elected official convicted of an offense while serving the
 2 official's term or as a candidate for public office.
 3 (2) A sex or violent offender (as defined in IC 11-8-8-5).
 4 (3) A person convicted of a felony that resulted in serious bodily
 5 injury to another person.
 6 (4) A person convicted of official misconduct (IC 35-44.1-1-1).
 7 (5) A person convicted of an offense described in:
 8 (A) IC 35-42-1;
 9 (B) IC 35-42-3.5; or
 10 (C) IC 35-42-4.
- 11 (c) Not earlier than eight (8) years after the completion of the
 12 person's sentence (including the completion of any term of supervised
 13 release and the satisfaction of all other obligations placed on the person
 14 as part of the sentence, unless the prosecuting attorney consents in
 15 writing to an earlier period), the person convicted of the felony may
 16 petition ~~the sentencing a~~ court to expunge **all** conviction records,
 17 **including records** contained in:
 18 (1) a court's files;
 19 (2) the files of the department of correction;
 20 (3) the files of the bureau of motor vehicles; and
 21 (4) the files of any other person who provided treatment or
 22 services to the petitioning person under a court order;
 23 that relate to the person's felony conviction.
- 24 (d) A person who files a petition to expunge conviction records shall
 25 ~~pay the filing fees required for filing a civil action, and the clerk shall~~
 26 ~~distribute the fees as in the case of a civil action. A person who files a~~
 27 ~~petition to expunge conviction records may not receive a waiver or~~
 28 ~~reduction of fees upon a showing of indigency. file the petition in a~~
 29 **city court, town court, circuit court, or superior court in the county**
 30 **of conviction.**
- 31 (e) If the court finds by clear and convincing evidence that:
 32 (1) the period required by this section has elapsed;
 33 (2) no charges are pending against the person;
 34 (3) the person does not have an existing or pending driver's
 35 license suspension;
 36 (4) the person has successfully completed the person's sentence,
 37 including any term of supervised release, **paid all fines, fees, and**
 38 **court costs**, and satisfied ~~all other obligations any restitution~~
 39 **obligation** placed on the person as part of the sentence; and
 40 (5) the person has not been convicted of a ~~crime felony~~
 41 **previous eight (8) years (or within a shorter period agreed to**
 42 **by the prosecuting attorney if the prosecuting attorney has**



1 **consented to a shorter period under subsection (c);**
 2 the court may order the conviction records described in subsection (c)
 3 **marked as expunged in accordance with section 7 section 6** of this
 4 chapter. **A person whose records have been ordered marked as**
 5 **expunged under this section is considered to have had the person's**
 6 **records expunged for all purposes other than the disposition of the**
 7 **records.**

8 SECTION 21. IC 35-38-9-5, AS ADDED BY P.L.159-2013,
 9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2014]: Sec. 5. (a) Except as provided in subsection (b), this
 11 section applies to a person convicted of a felony, including:

12 (1) an elected official convicted of an offense while serving the
 13 official's term or as a candidate for public office; and

14 (2) a person convicted of a felony that resulted in serious bodily
 15 injury to another person.

16 (b) This section does not apply to the following:

17 (1) A sex or violent offender (as defined in IC 11-8-8-5).

18 (2) A person convicted of official misconduct (IC 35-44.1-1-1).

19 (3) A person convicted of an offense described in:

20 (A) IC 35-42-1;

21 (B) IC 35-42-3.5; or

22 (C) IC 35-42-4.

23 (c) Not earlier than ten (10) years after the completion of the
 24 person's sentence (including the completion of any term of supervised
 25 release and the satisfaction of all other obligations placed on the person
 26 as part of the sentence, unless the prosecuting attorney consents in
 27 writing to an earlier period), the person convicted of the felony may
 28 petition ~~the sentencing a court to expunge all~~ conviction records,
 29 **including records** contained in:

30 (1) a court's files;

31 (2) the files of the department of correction;

32 (3) the files of the bureau of motor vehicles; and

33 (4) the files of any other person who provided treatment or
 34 services to the petitioning person under a court order;

35 that relate to the person's felony conviction.

36 (d) A person who files a petition to expunge conviction records shall
 37 ~~pay the filing fees required for filing a civil action, and the clerk shall~~
 38 ~~distribute the fees as in the case of a civil action. A person who files a~~
 39 ~~petition to expunge conviction records may not receive a waiver or~~
 40 ~~reduction of fees upon a showing of indigency. file the petition in a~~
 41 **city court, town court, circuit court, or superior court in the county**
 42 **of conviction.**



- 1 (e) If the court finds by clear and convincing evidence that:
- 2 (1) the period required by this section has elapsed;
- 3 (2) no charges are pending against the person;
- 4 (3) the person does not have an existing or pending driver's
- 5 license suspension;
- 6 (4) the person has successfully completed the person's sentence,
- 7 including any term of supervised release, **paid all fines, fees, and**
- 8 **court costs**, and satisfied ~~all other obligations~~ **any restitution**
- 9 **obligation** placed on the person as part of the sentence;
- 10 (5) the person has not been convicted of a ~~crime felony~~ within the
- 11 previous ten (10) years **(or within a shorter period agreed to by**
- 12 **the prosecuting attorney if the prosecuting attorney has**
- 13 **consented to a shorter period under subsection (c));** and
- 14 (6) the prosecuting attorney has consented in writing to the
- 15 expungement of the person's criminal records;

16 the court may order the conviction records described in subsection (c)
 17 marked as expunged in accordance with section 7 of this chapter. A
 18 person whose records have been ordered marked as expunged under
 19 this section is considered to have had the person's records expunged for
 20 all purposes other than the disposition of the records.

21 SECTION 22. IC 35-38-9-8, AS ADDED BY P.L.159-2013,
 22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2014]: Sec. 8. (a) This section applies only to a petition to
 24 expunge conviction records under sections 2 through 5 of this chapter.
 25 This section does not apply to a petition to ~~seal~~ **expunge** arrest records
 26 under section 1 of this chapter.

27 (b) Any person may seek an expungement under sections 2 through
 28 5 of this chapter by filing a verified petition for expungement. The
 29 petition must include the following:

- 30 (1) The petitioner's full name and all other legal names or aliases
- 31 by which the petitioner is or has been known.
- 32 (2) The petitioner's date of birth.
- 33 (3) The petitioner's addresses from the date of the offense to the
- 34 date of the petition.
- 35 (4) **A certified copy of the petitioner's records from the**
- 36 **bureau of motor vehicles.**
- 37 (5) The petitioner shall affirm that no criminal investigation or
- 38 charges are pending against the petitioner.
- 39 ~~(5)~~ (6) The petitioner shall affirm that the petitioner has not
- 40 committed another crime within the period required for
- 41 expungement.
- 42 ~~(6)~~ (7) The petitioner shall list all convictions and the date of the



conviction, **and any appeals from the conviction and the date any appellate opinion was handed down, if applicable.**

(7) **(8)** The petitioner shall affirm that the required period has elapsed or attach a copy of the prosecuting attorney's written consent to a shorter period.

(8) **(9)** The petitioner shall describe any other petitions that the petitioner has filed under this chapter.

(9) **(10)** For a petition filed under section 5 of this chapter, the petitioner shall attach a copy of the prosecuting attorney's written consent.

(10) **(11)** The petitioner shall provide evidence that the petitioner has successfully completed all terms of the sentence previously imposed, including:

(A) payment of restitution, fines, **fees**, and court costs; and

(B) completion of any terms of probation, parole, or community corrections.

(c) The petitioner may include any other information that the petitioner believes may assist the court.

(d) The petitioner shall serve a copy of the petition upon the prosecuting attorney in accordance with the Indiana Rules of Trial Procedure.

(e) The prosecuting attorney shall ~~promptly forward a copy of the petition to the last known address of the victim; and inform the victim of the victim's right to be present and address the court.~~ **inform the victim of the victim's rights under IC 35-40-6.**

(f) The prosecuting attorney shall reply to the petition not later than thirty (30) days after receipt.

SECTION 23. IC 35-38-9-9, AS ADDED BY P.L.159-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) If:

(1) the prosecuting attorney does not object; or

(2) the crime did not result in injury or loss of property to another person;

the court may grant the petition for expungement without a hearing.

(b) The court may summarily deny a petition, if the petition does not meet the requirements of section 8 of this chapter, or if the statements contained in the petition demonstrate that the petitioner is not entitled to relief.

(c) If the prosecuting attorney objects to the petition **and the crime resulted in injury or loss to another person**, the court shall set the matter for hearing not sooner than sixty (60) days after service of the petition on the prosecuting attorney.



1 (d) A victim of the offense for which expungement is sought may
 2 submit an oral or written statement in support of or in opposition to the
 3 petition at the time of the hearing. ~~The court shall consider the victim's~~
 4 ~~statement before making its determination.~~

5 (e) The petitioner must prove by clear and convincing evidence that
 6 the facts alleged in the verified petition are true.

7 (f) (e) The **grant or** denial of a petition is an appealable final order.

8 (g) (f) If the court grants the petition for expungement, the court
 9 shall issue an order of expungement as described in ~~section sections 6~~
 10 **and 7** of this chapter.

11 (h) (g) This subsection applies only to a petition to expunge
 12 conviction records filed under sections 2 through 5 of this chapter. This
 13 subsection does not apply to a petition to ~~seal~~ **expunge** arrest records
 14 under section 1 of this chapter. A petitioner may seek to expunge more
 15 than one (1) conviction at the same time. The petitioner shall
 16 consolidate all convictions that the petitioner wishes to expunge from
 17 the same county in one (1) petition. A petitioner who wishes to
 18 expunge convictions from separate counties must file a petition in each
 19 county in which a conviction was entered.

20 (i) (h) This subsection applies only to a petition to expunge
 21 conviction records filed under sections 2 through 5 of this chapter. This
 22 subsection does not apply to a petition to ~~seal~~ **expunge** arrest records
 23 under section 1 of this chapter. Except as provided in ~~subsection (j)~~
 24 **subsections (i) and (j)**, a petitioner may file ~~only one (1)~~ **a** petition for
 25 expungement **only one (1) time** during the petitioner's lifetime. For
 26 purposes of this subsection, all petitions for expungement filed in
 27 separate counties for offenses committed in those counties count as one
 28 (1) petition if they are filed in one (1) three hundred sixty-five (365)
 29 day period.

30 (j) (i) A petitioner whose petition for expungement has been denied,
 31 ~~on the merits~~, in whole or in part, may file a subsequent petition for
 32 expungement with respect to one (1) or more convictions included in
 33 the initial expungement petition that were not expunged. **However, if**
 34 **the petition was denied due to the court's exercise of its discretion**
 35 **under section 4 or 5 of this chapter**, a subsequent petition for
 36 expungement may be filed ~~not earlier than~~ **only after the elapse of**
 37 **three (3) years following from the date on which the denial of a**
 38 **previous expungement petition was denied.** A subsequent petition for
 39 expungement may not include any conviction that was not included in
 40 the initial expungement petition.

41 (j) **A court may permit a petitioner to file a subsequent petition**
 42 **for expungement with respect to one (1) or more convictions that**



1 were not included in the initial expungement petition only if the
2 court finds that:

- 3 (1) the petitioner intended in good faith to comply with
4 subsections (g) and (h);
5 (2) the petitioner's failure to comply with subsections (g) and
6 (h) was due to:
7 (A) excusable neglect; or
8 (B) circumstances beyond the petitioner's control; and
9 (3) permitting the petitioner to file a subsequent petition for
10 expungement is in the best interests of justice.

11 SECTION 24. IC 35-42-1-5, AS AMENDED BY P.L.158-2013,
12 SECTION 415, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2014]: Sec. 5. A person who recklessly kills
14 another human being commits reckless homicide, a Level 5 felony.
15 **However, the offense is a Level 4 felony if:**

- 16 (1) it is committed by means of a firearm; or
17 (2) the victim is less than eighteen (18) years of age.

18 SECTION 25. IC 35-42-3.5-1, AS AMENDED BY P.L.55-2013,
19 SECTION 1, AND AS AMENDED BY P.L.158-2013, SECTION 436,
20 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who, by force, threat
22 of force, **coercion**, or fraud, knowingly or intentionally recruits,
23 harbors, or transports another person:

- 24 (1) to engage the other person in:
25 (A) forced labor; or
26 (B) involuntary servitude; or
27 (2) to force the other person into:
28 (A) marriage;
29 (B) prostitution; or
30 (C) participating in sexual conduct (as defined by
31 IC 35-42-4-4);

32 commits promotion of human trafficking, a ~~Class B Level 4~~ **Level 2**
33 felony.

34 (b) A person who knowingly or intentionally recruits, harbors, or
35 transports a child less than:

- 36 (1) ~~sixteen (16)~~ *eighteen (18)* years of age with the intent of:
37 ~~(A)~~ (A) engaging the child in:
38 ~~(A)~~ (i) forced labor; or
39 ~~(B)~~ (ii) involuntary servitude; or
40 ~~(B)~~ (B) inducing or causing the child to:
41 ~~(A)~~ (i) engage in prostitution; or
42 (ii) engage in a performance or incident that includes sexual



- 1 *conduct in violation of IC 35-42-4-4(b) (child exploitation);*
 2 *or*
 3 ~~(B)~~ (2) *sixteen (16) years of age with the intent of inducing or*
 4 *causing the child to participate in sexual conduct (as defined by*
 5 *IC 35-42-4-4);*
 6 commits promotion of human trafficking of a minor, a ~~Class B Level 3~~
 7 **Level 2** felony. Except as provided in subsection (e), it is not a defense
 8 to a prosecution under this subsection that the child consented to
 9 engage in prostitution or to participate in sexual conduct.
- 10 (c) A person who is at least eighteen (18) years of age who
 11 knowingly or intentionally sells or transfers custody of a child less than
 12 ~~sixteen (16)~~ *eighteen (18)* years of age for the purpose of prostitution
 13 or participating in sexual conduct (as defined by IC 35-42-4-4)
 14 commits sexual trafficking of a minor, a ~~Class A Level 2~~ **Level 1**
 15 felony.
- 16 (d) A person who knowingly or intentionally pays, offers to pay, or
 17 agrees to pay money or other property to another person for an
 18 individual who the person knows has been forced into:
 19 (1) forced labor;
 20 (2) involuntary servitude; or
 21 (3) prostitution;
 22 commits human trafficking, a ~~Class C Level 5~~ **Level 2** felony.
- 23 (e) It is a defense to a prosecution under subsection ~~(b)(2)(B)~~ (b)(2)
 24 if:
 25 (1) the child is at least fourteen (14) years of age but less than
 26 sixteen (16) years of age and the person is less than eighteen (18)
 27 years of age; or
 28 (2) all the following apply:
 29 (A) The person is not more than four (4) years older than the
 30 victim.
 31 (B) The relationship between the person and the victim was a
 32 dating relationship or an ongoing personal relationship. The
 33 term "ongoing personal relationship" does not include a family
 34 relationship.
 35 (C) The crime:
 36 (i) was not committed by a person who is at least twenty-one
 37 (21) years of age;
 38 (ii) was not committed by using or threatening the use of
 39 deadly force;
 40 (iii) was not committed while armed with a deadly weapon;
 41 (iv) did not result in serious bodily injury;
 42 (v) was not facilitated by furnishing the victim, without the



1 victim's knowledge, with a drug (as defined in
2 IC 16-42-19-2(1)) or a controlled substance (as defined in
3 IC 35-48-1-9) or knowing that the victim was furnished with
4 the drug or controlled substance without the victim's
5 knowledge; and

6 (vi) was not committed by a person having a position of
7 authority or substantial influence over the victim.

8 (D) The person has not committed another sex offense (as
9 defined in IC 11-8-8-5.2), including a delinquent act that
10 would be a sex offense if committed by an adult, against any
11 other person.

12 SECTION 26. IC 35-42-4-4, AS AMENDED BY P.L.214-2013,
13 SECTION 38, AND AS AMENDED BY P.L.158-2013, SECTION
14 440, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The following definitions
16 apply throughout this section:

17 (1) "Disseminate" means to transfer possession for free or for a
18 consideration.

19 (2) "Matter" has the same meaning as in IC 35-49-1-3.

20 (3) "Performance" has the same meaning as in IC 35-49-1-7.

21 (4) "Sexual conduct" means ~~(A)~~ sexual intercourse, ~~(B)~~ *deviate*
22 *other* sexual conduct (as defined in IC 35-31.5-2-221.5), ~~(C)~~;
23 exhibition of the ~~(i)~~ uncovered genitals *or* ~~(ii)~~ *female breast with*
24 *less than a fully opaque covering of any part of the nipple;*
25 intended to satisfy or arouse the sexual desires of any person, ~~(D)~~
26 sadomasochistic abuse, ~~(E)~~ sexual intercourse or *deviate other*
27 *sexual conduct (as defined in IC 35-31.5-2-221.5)* with an animal,
28 or ~~(F)~~ any fondling or touching of a child by another person or of
29 another person by a child intended to arouse or satisfy the sexual
30 desires of either the child or the other person.

31 (b) A person who:

32 (1) knowingly or intentionally ~~(i)~~ manages, produces, sponsors,
33 presents, exhibits, photographs, films, videotapes, or creates a
34 digitized image of any performance or incident that includes
35 sexual conduct by a child under eighteen (18) years of age;

36 (2) *knowingly or intentionally* disseminates, exhibits to another
37 person, offers to disseminate or exhibit to another person, or
38 sends or brings into Indiana for dissemination or exhibition matter
39 that depicts or describes sexual conduct by a child under eighteen
40 (18) years of age; ~~or~~

41 (3) *knowingly or intentionally* makes available to another person
42 a computer, knowing that the computer's fixed drive or peripheral



1 device contains matter that depicts or describes sexual conduct by
 2 a child less than eighteen (18) years of age; or
 3 (4) with the intent to satisfy or arouse the sexual desires of any
 4 person:

5 (A) knowingly or intentionally:

6 (i) manages;

7 (ii) produces;

8 (iii) sponsors;

9 (iv) presents;

10 (v) exhibits;

11 (vi) photographs;

12 (vii) films;

13 (viii) videotapes; or

14 (ix) creates a digitized image of;

15 any performance or incident that includes the uncovered
 16 genitals of a child less than eighteen (18) years of age or the
 17 exhibition of the female breast with less than a fully opaque
 18 covering of any part of the nipple by a child less than eighteen
 19 (18) years of age;

20 (B) knowingly or intentionally:

21 (i) disseminates to another person;

22 (ii) exhibits to another person;

23 (iii) offers to disseminate or exhibit to another person; or

24 (iv) sends or brings into Indiana for dissemination or
 25 exhibition;

26 matter that depicts the uncovered genitals of a child less than
 27 eighteen (18) years of age or the exhibition of the female
 28 breast with less than a fully opaque covering of any part of the
 29 nipple by a child less than eighteen (18) years of age; or

30 (C) makes available to another person a computer, knowing
 31 that the computer's fixed drive or peripheral device contains
 32 matter that depicts the uncovered genitals of a child less than
 33 eighteen (18) years of age or the exhibition of the female
 34 breast with less than a fully opaque covering of any part of the
 35 nipple by a child less than eighteen (18) years of age;

36 commits child exploitation, a ~~Class C Level 5~~ **Level 4** felony.

37 (c) A person who knowingly or intentionally possesses:

38 (1) a picture;

39 (2) a drawing;

40 (3) a photograph;

41 (4) a negative image;

42 (5) undeveloped film;



- 1 (6) a motion picture;
 2 (7) a videotape;
 3 (8) a digitized image; or
 4 (9) any pictorial representation;
 5 that depicts or describes sexual conduct by a child who the person
 6 knows is less than ~~sixteen (16)~~ *eighteen (18)* years of age or who
 7 appears to be less than ~~sixteen (16)~~ *eighteen (18)* years of age, and that
 8 lacks serious literary, artistic, political, or scientific value commits
 9 possession of child pornography, a ~~Class D Level 6~~ felony.
- 10 (d) Subsections (b) and (c) do not apply to a bona fide school,
 11 museum, or public library that qualifies for certain property tax
 12 exemptions under IC 6-1.1-10, or to an employee of such a school,
 13 museum, or public library acting within the scope of the employee's
 14 employment when the possession of the listed materials is for
 15 legitimate scientific or educational purposes.
- 16 (e) It is a defense to a prosecution under this section that:
 17 (1) the person is a school employee; and
 18 (2) the acts constituting the elements of the offense were
 19 performed solely within the scope of the person's employment as
 20 a school employee.
- 21 (f) Except as provided in subsection (g), it is a defense to a
 22 prosecution under *subsection (b) or (c) subsection (b)(1), subsection*
 23 *(b)(2), or subsection (e)* if all of the following apply:
 24 (1) A cellular telephone, another wireless or cellular
 25 communications device, or a social networking web site was used
 26 to possess, produce, or disseminate the image.
 27 (2) The defendant is not more than four (4) years older or younger
 28 than the person who is depicted in the image or who received the
 29 image.
 30 (3) The relationship between the defendant and the person who
 31 received the image or who is depicted in the image was a dating
 32 relationship or an ongoing personal relationship. For purposes of
 33 this subdivision, the term "ongoing personal relationship" does
 34 not include a family relationship.
 35 (4) The crime was committed by a person less than twenty-two
 36 (22) years of age.
 37 (5) The person receiving the image or who is depicted in the
 38 image acquiesced in the defendant's conduct.
- 39 (g) The defense to a prosecution described in subsection (f) does not
 40 apply if:
 41 (1) the person who receives the image disseminates it to a person
 42 other than the person:



- 1 (A) who sent the image; or
 2 (B) who is depicted in the image;
 3 (2) the image is of a person other than the person who sent the
 4 image or received the image; or
 5 (3) the dissemination of the image violates:
 6 (A) a protective order to prevent domestic or family violence
 7 issued under IC 34-26-5 (or, if the order involved a family or
 8 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
 9 their repeal);
 10 (B) an ex parte protective order issued under IC 34-26-5 (or,
 11 if the order involved a family or household member, an
 12 emergency order issued under IC 34-26-2 or IC 34-4-5.1
 13 before their repeal);
 14 (C) a workplace violence restraining order issued under
 15 IC 34-26-6;
 16 (D) a no contact order in a dispositional decree issued under
 17 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
 18 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
 19 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
 20 repeal) that orders the person to refrain from direct or indirect
 21 contact with a child in need of services or a delinquent child;
 22 (E) a no contact order issued as a condition of pretrial release,
 23 including release on bail or personal recognizance, or pretrial
 24 diversion, and including a no contact order issued under
 25 IC 35-33-8-3.6;
 26 (F) a no contact order issued as a condition of probation;
 27 (G) a protective order to prevent domestic or family violence
 28 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
 29 before their repeal);
 30 (H) a protective order to prevent domestic or family violence
 31 issued under IC 31-14-16-1 in a paternity action;
 32 (I) a no contact order issued under IC 31-34-25 in a child in
 33 need of services proceeding or under IC 31-37-25 in a juvenile
 34 delinquency proceeding;
 35 (J) an order issued in another state that is substantially similar
 36 to an order described in clauses (A) through (I);
 37 (K) an order that is substantially similar to an order described
 38 in clauses (A) through (I) and is issued by an Indian:
 39 (i) tribe;
 40 (ii) band;
 41 (iii) pueblo;
 42 (iv) nation; or



1 (v) organized group or community, including an Alaska
 2 Native village or regional or village corporation as defined
 3 in or established under the Alaska Native Claims Settlement
 4 Act (43 U.S.C. 1601 et seq.);

5 that is recognized as eligible for the special programs and
 6 services provided by the United States to Indians because of
 7 their special status as Indians;

8 (L) an order issued under IC 35-33-8-3.2; or

9 (M) an order issued under IC 35-38-1-30.

10 SECTION 27. IC 35-42-5-1, AS AMENDED BY P.L.158-2013,
 11 SECTION 450, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who knowingly or
 13 intentionally takes property from another person or from the presence
 14 of another person:

15 (1) by using or threatening the use of force on any person; or

16 (2) by putting any person in fear;

17 commits robbery, a Level 5 felony.

18 **(b) The offense described in subsection (a) is a:**

19 **(1) However, the offense is a Level 3 felony if it:**

20 **(A) is committed while armed with a deadly weapon; or**

21 **(B) results in bodily injury to any person other than a**
 22 **defendant; and a**

23 **(2) Level 2 felony if it results in serious bodily injury to any**
 24 **person other than a defendant; and**

25 **(3) Level 1 felony if it:**

26 **(A) is committed while armed with a deadly weapon; and**

27 **(B) results in serious bodily injury to any person other**
 28 **than a defendant.**

29 SECTION 28. IC 35-43-2-1, AS AMENDED BY P.L.158-2013,
 30 SECTION 460, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2014]: Sec. 1. A person who breaks and enters
 32 the building or structure of another person, with intent to commit a
 33 felony or theft in it, commits burglary, a Level 5 felony. However, the
 34 offense is:

35 (1) a ~~Level 4~~ **Level 3** felony if the building or structure is a:

36 **(A) dwelling; or**

37 **(B) structure used for religious worship;**

38 **(2) a Level 3 felony if it results in bodily injury to any person**
 39 **other than a defendant;**

40 ~~(3)~~ **(2) a Level 2 felony if it:**

41 **(A) is committed while armed with a deadly weapon; or**

42 **(B) results in serious bodily injury to any person other than a**



- 1 defendant; and
 2 ~~(4)~~ **(3)** a Level 1 felony if:
 3 (A) the building or structure is a dwelling; and
 4 (B) it results in serious bodily injury to any person other than
 5 a defendant.
- 6 SECTION 29. IC 35-43-4-2, AS AMENDED BY P.L.158-2013,
 7 SECTION 463, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who knowingly or
 9 intentionally exerts unauthorized control over property of another
 10 person, with intent to deprive the other person of any part of its value
 11 or use, commits theft, a ~~Class A misdemeanor~~. **Level 6 felony**.
 12 However, the offense is a **Level 5 felony if**:
 13 ~~(1)~~ a Level 6 felony if:
 14 (A) the value of the property is at least seven hundred fifty
 15 dollars (\$750) and less than fifty thousand dollars (\$50,000);
 16 or
 17 ~~(B)~~ the person has a prior unrelated conviction for:
 18 ~~(i)~~ theft under this section; or
 19 ~~(ii)~~ criminal conversion under section 3 of this chapter; and
 20 ~~(2)~~ a Level 5 felony if:
 21 ~~(A)~~ **(1)** the value of the property is at least fifty thousand dollars
 22 (\$50,000); or
 23 ~~(B)~~ **(2)** the property that is the subject of the theft is a valuable
 24 metal (as defined in IC 25-37.5-1-1) and:
 25 ~~(i)~~ **(A)** relates to transportation safety;
 26 ~~(ii)~~ **(B)** relates to public safety; or
 27 ~~(iii)~~ **(C)** is taken from a:
 28 **(i)** hospital or other health care facility;
 29 **(ii)** telecommunications provider;
 30 **(iii)** public utility (as defined in IC 32-24-1-5.9(a)); or
 31 **(iv)** key facility;
 32 and the absence of the property creates a substantial risk of bodily
 33 injury to a person.
- 34 (b) In determining the value of property under this section, acts of
 35 theft ~~committed in a single episode of criminal conduct (as defined in~~
 36 ~~IC 35-50-1-2(b)) that are closely related in time, place, and~~
 37 **circumstance** may be charged in a single count.
- 38 (c) For purposes of this section, "the value of property" means:
 39 (1) the fair market value of the property at the time and place the
 40 offense was committed; or
 41 (2) if the fair market value of the property cannot be satisfactorily
 42 determined, the cost to replace the property within a reasonable



1 time after the offense was committed.

2 A price tag or price marking on property displayed or offered for sale
3 constitutes prima facie evidence of the value of the property.

4 SECTION 30. IC 35-43-4-2.8 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2014]: **Sec. 2.8. (a) As used in this section,
7 "retail merchant" has the meaning set forth in IC 6-2.5-1-8.**

8 **(b) As used in this section, "retail property" means:**

9 **(1) merchandise of a retail merchant; or**

10 **(2) any item offered for sale by a retail merchant.**

11 **(c) A person who knowingly or intentionally exerts
12 unauthorized control over retail property, with intent to deprive a
13 retail merchant of any part of its value or use, commits retail theft,
14 a Class A misdemeanor. However, the offense is a:**

15 **(1) Level 6 felony if:**

16 **(A) the value of the property (as defined in section 2 of this
17 chapter) is at least seven hundred fifty dollars (\$750); or**

18 **(B) the person has a prior unrelated conviction under this
19 section; and**

20 **(2) Level 5 felony if the value of the property is at least fifty
21 thousand dollars (\$50,000).**

22 SECTION 31. IC 35-43-5-2, AS AMENDED BY P.L.158-2013,
23 SECTION 469, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2014]: **Sec. 2. (a) A person who knowingly or
25 intentionally:**

26 **(1) makes or utters a written instrument in such a manner that it
27 purports to have been made:**

28 **(A) by another person;**

29 **(B) at another time;**

30 **(C) with different provisions; or**

31 **(D) by authority of one who did not give authority; or**

32 **(2) possesses more than one (1) written instrument knowing that
33 the written instruments were made in a manner that they purport
34 to have been made:**

35 **(A) by another person;**

36 **(B) at another time;**

37 **(C) with different provisions; or**

38 **(D) by authority of one who did not give authority;**

39 **commits counterfeiting, a Level 6 felony.**

40 **(b) A person who, with intent to defraud:**

41 **(1) makes or delivers to another person:**

42 **(A) a false sales receipt;**



1 (B) a duplicate of a sales receipt; or
 2 (C) a label or other item with a false universal product code
 3 (UPC) or other product identification code; or
 4 (2) places a false universal product code (UPC) or another
 5 product identification code on property displayed or offered for
 6 sale;
 7 commits making or delivering a false sales document, a Level 6 felony.
 8 (c) A person who, with intent to defraud, possesses:
 9 (1) a retail sales receipt;
 10 (2) a label or other item with a universal product code (UPC); or
 11 (3) a label or other item that contains a product identification code
 12 that applies to an item other than the item to which the label or
 13 other item applies;
 14 commits possession of a fraudulent sales document, a Class A
 15 misdemeanor. However, the offense is a Level 6 felony if the person
 16 possesses at least fifteen (15) retail sales receipts, at least fifteen (15)
 17 labels containing a universal product code (UPC), at least fifteen (15)
 18 labels containing another product identification code, or at least fifteen
 19 (15) of any combination of the items described in subdivisions (1)
 20 through (3).
 21 (d) A person who, with intent to defraud, makes, utters, or possesses
 22 a written instrument in such a manner that it purports to have been
 23 made:
 24 (1) by another person;
 25 (2) at another time;
 26 (3) with different provisions; or
 27 (4) by authority of one who did not give authority;
 28 commits forgery, a Level 6 felony. **However, the offense is a Level 5**
 29 **felony if the person has a prior unrelated conviction for forgery.**
 30 (e) This subsection applies to a person who applies for a driver's
 31 license (as defined in IC 9-13-2-48) or a state identification card (as
 32 described in IC 9-24-16). A person who:
 33 (1) knowingly or intentionally uses a false or fictitious name or
 34 gives a false or fictitious address in an application for a driver's
 35 license or a state identification card or for a renewal or a duplicate
 36 of a driver's license or a state identification card; or
 37 (2) knowingly or intentionally makes a false statement or conceals
 38 a material fact in an application for a driver's license or a state
 39 identification card;
 40 commits application fraud, a Level 6 felony.
 41 SECTION 32. IC 35-43-5-3.5, AS AMENDED BY P.L.158-2013,
 42 SECTION 471, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2014]: Sec. 3.5. (a) Except as provided in
 2 subsection (c), a person who knowingly or intentionally obtains,
 3 possesses, transfers, or uses the identifying information of another
 4 person, including the identifying information of a person who is
 5 deceased:

- 6 (1) without the other person's consent; and
- 7 (2) with intent to:
 - 8 (A) harm or defraud another person;
 - 9 (B) assume another person's identity; or
 - 10 (C) profess to be another person;

11 commits identity deception, a ~~Level 6~~ **Level 5** felony.

12 (b) However, the offense defined in subsection (a) is a ~~Level 5~~
 13 **Level 4** felony if:

- 14 (1) a person obtains, possesses, transfers, or uses the identifying
 15 information of more than one hundred (100) persons;
- 16 (2) the fair market value of the fraud or harm caused by the
 17 offense is at least fifty thousand dollars (\$50,000); or
- 18 (3) a person obtains, possesses, transfers, or uses the identifying
 19 information of a person who is less than eighteen (18) years of
 20 age and is:
 - 21 (A) the person's son or daughter;
 - 22 (B) a dependent of the person;
 - 23 (C) a ward of the person; or
 - 24 (D) an individual for whom the person is a guardian.

25 (c) The conduct prohibited in subsections (a) and (b) does not apply
 26 to:

- 27 (1) a person less than twenty-one (21) years of age who uses the
 28 identifying information of another person to acquire an alcoholic
 29 beverage (as defined in IC 7.1-1-3-5);
- 30 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 31 information of another person to acquire:
 - 32 (A) a cigarette, an electronic cigarette (as defined in
 33 IC 35-46-1-1.5), or a tobacco product (as defined in
 34 IC 6-7-2-5);
 - 35 (B) a periodical, a videotape, or other communication medium
 36 that contains or depicts nudity (as defined in IC 35-49-1-5);
 - 37 (C) admittance to a performance (live or film) that prohibits
 38 the attendance of the minor based on age; or
 - 39 (D) an item that is prohibited by law for use or consumption by
 40 a minor; or
- 41 (3) any person who uses the identifying information for a lawful
 42 purpose.



1 (d) It is not a defense in a prosecution under subsection (a) or (b)
2 that no person was harmed or defrauded.

3 SECTION 33. IC 35-46-1-5, AS AMENDED BY P.L.158-2013,
4 SECTION 552, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A person who knowingly or
6 intentionally fails to provide support to the person's dependent child
7 commits nonsupport of a child, a Level 6 felony. However, the offense
8 is a Level 5 felony if the total amount of unpaid support that is due and
9 owing for one (1) or more children is at least fifteen thousand dollars
10 (\$15,000). **the person has a previous conviction under this section.**

11 (b) It is a defense that the child had abandoned the home of the
12 child's family without the consent of the child's parent or on the order
13 of a court, but it is not a defense that the child had abandoned the home
14 of the child's family if the cause of the child's leaving was the fault of
15 the child's parent.

16 (c) It is a defense that the accused person, in the legitimate practice
17 of the person's religious belief, provided treatment by spiritual means
18 through prayer, in lieu of medical care, to the person's dependent child.

19 (d) It is a defense that the accused person was unable to provide
20 support.

21 SECTION 34. IC 35-46-3-0.5, AS AMENDED BY P.L.111-2009,
22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2014]: Sec. 0.5. The following definitions apply throughout
24 this chapter:

25 (1) "Abandon" means to desert an animal or to leave the animal
26 permanently in a place without making provision for adequate
27 long term care of the animal. The term does not include leaving
28 an animal in a place that is temporarily vacated for the protection
29 of human life during a disaster.

30 (2) "Beat" means to unnecessarily or cruelly strike an animal, or
31 to throw the animal against an object causing the animal to suffer
32 **severe pain or** injury. The term does not include reasonable
33 training or disciplinary techniques.

34 (3) "Mutilate" means to wound, injure, maim, or disfigure an
35 animal by irreparably damaging the animal's body parts or to
36 render any part of the animal's body useless. The term includes
37 bodily injury involving:

- 38 (A) serious permanent disfigurement;
39 (B) serious temporary disfigurement;
40 (C) permanent or protracted loss or impairment of the function
41 of a bodily part or organ; or
42 (D) a fracture.



- 1 (4) "Neglect" means:
 2 (A) endangering an animal's health by failing to provide or
 3 arrange to provide the animal with food or drink, if the animal
 4 is dependent upon the person for the provision of food or
 5 drink;
 6 (B) restraining an animal for more than a brief period in a
 7 manner that endangers the animal's life or health by the use of
 8 a rope, chain, or tether that:
 9 (i) is less than three (3) times the length of the animal;
 10 (ii) is too heavy to permit the animal to move freely; or
 11 (iii) causes the animal to choke;
 12 (C) restraining an animal in a manner that seriously endangers
 13 the animal's life or health;
 14 (D) failing to:
 15 (i) provide reasonable care for; or
 16 (ii) seek veterinary care for;
 17 an injury or illness to a dog or cat that seriously endangers the
 18 life or health of the dog or cat; or
 19 (E) leaving a dog or cat outside and exposed to:
 20 (i) excessive heat without providing the animal with a means
 21 of shade from the heat; or
 22 (ii) excessive cold if the animal is not provided with straw
 23 or another means of protection from the cold;
 24 regardless of whether the animal is restrained or kept in a
 25 kennel.
- 26 (5) "Torture" means:
 27 (A) to inflict extreme physical ~~pain or~~ injury on an animal;
 28 ~~with the intent of increasing or prolonging the animal's pain;~~
 29 or
 30 (B) to administer poison to a domestic animal (as defined in
 31 section 12(d) of this chapter) or expose a domestic animal to
 32 a poisonous substance with the intent that the domestic animal
 33 ingest the substance and suffer harm, pain, or physical injury.
- 34 SECTION 35. IC 35-46-3-7, AS AMENDED BY P.L.158-2013,
 35 SECTION 558, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) A person who:
 37 (1) has a vertebrate animal in the person's custody; and
 38 (2) recklessly, knowingly, or intentionally abandons or neglects
 39 the animal;
 40 commits cruelty to an animal, a ~~Class A misdemeanor~~ **Level 6 felony**.
 41 ~~However, except for a conviction under section 4 of this chapter, the~~
 42 ~~offense is a Level 6 felony if the person has a prior unrelated~~



1 conviction under this chapter.

2 (b) It is a defense to a prosecution for abandoning a vertebrate
3 animal under this section that the person who had the animal in the
4 person's custody reasonably believed that the vertebrate animal was
5 capable of surviving on its own.

6 (c) For purposes of this section, an animal that is feral is not in a
7 person's custody.

8 SECTION 36. IC 35-46-3-9, AS AMENDED BY P.L.158-2013,
9 SECTION 560, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2014]: Sec. 9. A person who: ~~knowingly or~~
11 ~~intentionally:~~

- 12 (1) promotes or stages an animal fighting contest;
13 (2) uses an animal in a fighting contest; or
14 (3) attends an animal fighting contest having an animal in the
15 person's possession;
16 commits a Level 6 felony.

17 SECTION 37. IC 35-47-4-5, AS AMENDED BY P.L.158-2013,
18 SECTION 590, AND AS AMENDED BY P.L.214-2013, SECTION
19 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) As used in this section,
21 "serious violent felon" means a person who has been convicted of:

- 22 (1) committing a serious violent felony in:
23 (A) Indiana; or
24 (B) any other jurisdiction in which the elements of the crime
25 for which the conviction was entered are substantially similar
26 to the elements of a serious violent felony; or
27 (2) attempting to commit or conspiring to commit a serious
28 violent felony in:
29 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
30 or
31 (B) any other jurisdiction in which the elements of the crime
32 for which the conviction was entered are substantially similar
33 to the elements of attempting to commit or conspiring to
34 commit a serious violent felony.

- 35 (b) As used in this section, "serious violent felony" means:
36 (1) murder (IC 35-42-1-1);
37 (2) voluntary manslaughter (IC 35-42-1-3);
38 (3) reckless homicide not committed by means of a vehicle
39 (IC 35-42-1-5);
40 (4) battery (IC 35-42-2-1) as a:
41 (A) Class A felony, ~~(IC 35-42-2-1(a)(5))~~; Class B felony, or
42 Class C felony, for a crime committed before July 1, 2014; or



- 1 (B) ~~Class B felony (IC 35-42-2-1(a)(4))~~; or Level 2 felony,
 2 Level 3 felony, Level 4 felony, or Level 5 felony, for a crime
 3 committed after June 30, 2014;
 4 ~~(C) Class C felony (IC 35-42-2-1(a)(3))~~;
 5 (5) aggravated battery (IC 35-42-2-1.5);
 6 (6) kidnapping (IC 35-42-3-2);
 7 (7) criminal confinement (IC 35-42-3-3);
 8 (8) rape (IC 35-42-4-1);
 9 (9) criminal deviate conduct (IC 35-42-4-2) (repealed);
 10 (10) child molesting (IC 35-42-4-3);
 11 (11) sexual battery (IC 35-42-4-8) as a:
 12 (A) Class C felony, ~~(IC 35-42-4-8)~~ for a crime committed
 13 before July 1, 2014; or
 14 (B) Level 5 felony, for a crime committed after June 30, 2014;
 15 (12) robbery (IC 35-42-5-1);
 16 (13) carjacking (IC 5-42-5-2) (repealed);
 17 (14) arson (IC 35-43-1-1(a)) as a:
 18 (A) Class A felony or Class B felony, ~~(IC 35-43-1-1(a))~~; for a
 19 crime committed before July 1, 2014; or
 20 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
 21 crime committed after June 30, 2014;
 22 (15) burglary (IC 35-43-2-1) as a:
 23 (A) Class A felony or Class B felony, ~~(IC 35-43-2-1)~~; for a
 24 crime committed before July 1, 2014; or
 25 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
 26 felony, for a crime committed after June 30, 2014;
 27 (16) assisting a criminal (IC 35-44.1-2-5) as a:
 28 (A) Class C felony, ~~(IC 35-44.1-2-5)~~; for a crime committed
 29 before July 1, 2014; or
 30 (B) Level 5 felony, for a crime committed after June 30, 2014;
 31 (17) resisting law enforcement (IC 35-44.1-3-1) as a:
 32 (A) Class B felony or Class C felony, ~~(IC 35-44.1-3-1)~~; for a
 33 crime committed before July 1, 2014; or
 34 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
 35 crime committed after June 30, 2014;
 36 (18) escape (IC 35-44.1-3-4) as a:
 37 (A) Class B felony or Class C felony, ~~(IC 35-44.1-3-4)~~; for a
 38 crime committed before July 1, 2014; or
 39 (B) Level 4 felony or Level 5 felony, for a crime committed
 40 after June 30, 2014;
 41 (19) trafficking with an inmate (IC 35-44.1-3-5) as a:
 42 (A) Class C felony, ~~(IC 35-44.1-3-5)~~; for a crime committed



- 1 *before July 1, 2014; or*
 2 *(B) Level 5 felony, for a crime committed after June 30, 2014;*
 3 (20) criminal gang intimidation (IC 35-45-9-4);
 4 (21) stalking (IC 35-45-10-5) as a:
 5 *(A) Class B felony or Class C felony, ~~(IC 35-45-10-5)~~, for a*
 6 *crime committed before July 1, 2014; or*
 7 *(B) Level 4 felony or Level 5 felony, for a crime committed*
 8 *after June 30, 2014;*
 9 (22) incest (IC 35-46-1-3);
 10 (23) dealing in or manufacturing cocaine or a narcotic drug
 11 (IC 35-48-4-1);
 12 (24) dealing in methamphetamine (IC 35-48-4-1.1);
 13 (25) dealing in a schedule I, II, or III controlled substance
 14 (IC 35-48-4-2);
 15 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
 16 or
 17 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).
 18 (c) A serious violent felon who knowingly or intentionally possesses
 19 a firearm commits unlawful possession of a firearm by a serious violent
 20 felon, a ~~Class B Level 4~~ **Level 3** felony.
 21 SECTION 38. IC 35-48-1-16.5, AS ADDED BY P.L.158-2013,
 22 SECTION 619, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2014]: Sec. 16.5. "Enhancing circumstance"
 24 means one (1) or more of the following:
 25 (1) The person has a prior conviction, **in any jurisdiction**, for
 26 dealing in a controlled substance that is not marijuana, hashish,
 27 hash oil, salvia divinorum, or a synthetic drug, **including an**
 28 **attempt or conspiracy to commit the offense.**
 29 (2) The person committed the offense while in possession of a
 30 firearm.
 31 (3) The person committed the offense:
 32 (A) on a school bus; or
 33 (B) in, on, or within ~~five hundred (500)~~ **one thousand (1,000)**
 34 feet of:
 35 (i) school property; ~~while a person under eighteen (18) years~~
 36 ~~of age was reasonably expected to be present; or~~
 37 (ii) a public park; ~~while a person under eighteen (18) years~~
 38 ~~of age was reasonably expected to be present.~~
 39 **(iii) a family housing complex; or**
 40 **(iv) a youth program center.**
 41 (4) The person delivered or financed the delivery of the drug to a
 42 person under eighteen (18) years of age at least three (3) years



1 junior to the person.

2 (5) The person manufactured or financed the manufacture of the
3 drug.

4 SECTION 39. IC 35-48-1-18, AS AMENDED BY P.L.158-2013,
5 SECTION 620, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2014]: Sec. 18. "Manufacture" means: ~~the~~
7 following:

8 ~~(1) For offenses not involving marijuana, hashish, or hash oil:~~

9 ~~(A) (1) the production, preparation, propagation, compounding,~~
10 ~~conversion, or processing of a controlled substance, either directly~~
11 ~~or indirectly by extraction from substances of natural origin,~~
12 ~~independently by means of chemical synthesis, or by a~~
13 ~~combination of extraction and chemical synthesis, and includes~~
14 ~~any packaging or repackaging of the substance or labeling or~~
15 ~~relabeling of its container. It does not include the preparation,~~
16 ~~compounding, packaging, or labeling of a controlled substance:~~

17 ~~(i) (A) by a practitioner as an incident to administering or~~
18 ~~dispensing of a controlled substance in the course of a~~
19 ~~professional practice; or~~

20 ~~(ii) (B) by a practitioner, or by the practitioner's authorized~~
21 ~~agent under the practitioner's supervision, for the purpose of,~~
22 ~~or as an incident to, research, teaching, or chemical analysis~~
23 ~~and not for sale; or~~

24 ~~(B) (2) the organizing or supervising of an activity described in~~
25 ~~clause (A): **subdivision (1).**~~

26 ~~(2) For offenses involving marijuana, hashish, or hash oil:~~

27 ~~(A) the preparation, compounding, conversion, or processing~~
28 ~~of marijuana, hashish, or hash oil; either directly or indirectly~~
29 ~~by extraction from substances of natural origin; independently~~
30 ~~by means of chemical synthesis; or by a combination of~~
31 ~~extraction and chemical synthesis; and includes any packaging~~
32 ~~or repackaging of the marijuana, hashish, or hash oil; or~~
33 ~~labeling or relabeling of its container. It does not include~~
34 ~~planting, growing, cultivating, or harvesting a plant; or the~~
35 ~~preparation, compounding, packaging, or labeling of~~
36 ~~marijuana, hashish, or hash oil:~~

37 ~~(i) by a practitioner as an incident to lawfully administering~~
38 ~~or dispensing of marijuana, hashish, or hash oil in the course~~
39 ~~of a professional practice; or~~

40 ~~(ii) by a practitioner, or by the practitioner's authorized agent~~
41 ~~under the practitioner's supervision; for the purpose of; or as~~
42 ~~an incident to; research; teaching; or chemical analysis and~~



1 not for sale; or
 2 ~~(B) the organizing or supervising of an activity described in~~
 3 ~~clause (A).~~

4 SECTION 40. IC 35-48-4-1, AS AMENDED BY P.L.158-2013,
 5 SECTION 622, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who:

7 (1) knowingly or intentionally:
 8 (A) manufactures;
 9 (B) finances the manufacture of;
 10 (C) delivers; or
 11 (D) finances the delivery of;
 12 cocaine or a narcotic drug, pure or adulterated, classified in
 13 schedule I or II; or
 14 (2) possesses, with intent to:
 15 (A) manufacture;
 16 (B) finance the manufacture of;
 17 (C) deliver; or
 18 (D) finance the delivery of;
 19 cocaine or a narcotic drug, pure or adulterated, classified in
 20 schedule I or II;
 21 commits dealing in cocaine or a narcotic drug, a ~~Level 5~~ **Level 4**
 22 felony, except as provided in subsections (b) ~~through (d)~~ **and (c)**.

23 (b) The offense is a ~~Level 4~~ **Level 3** felony if:
 24 (1) the amount of the drug involved is at least three (3) but less
 25 than ten (10) grams; or
 26 (2) ~~the amount of the drug involved is less than three (3) grams~~
 27 ~~and an enhancing circumstance applies.~~
 28 (c) The offense is a ~~Level 3~~ **Level 2** felony if:
 29 (1) the amount of the drug involved is at least ten (10) ~~but less~~
 30 ~~than twenty-eight (28) grams~~; or
 31 (2) the amount of the drug involved is at least three (3) but less
 32 than ten (10) grams and an enhancing circumstance applies.
 33 ~~(d) The offense is a Level 2 felony if:~~
 34 ~~(1) the amount of the drug involved is at least twenty-eight (28)~~
 35 ~~grams; or~~
 36 ~~(2) the amount of the drug involved is at least ten (10) but less~~
 37 ~~than twenty-eight (28) grams and an enhancing circumstance~~
 38 ~~applies.~~

39 SECTION 41. IC 35-48-4-1.1, AS AMENDED BY P.L.158-2013,
 40 SECTION 623, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) A person who:

42 (1) knowingly or intentionally:



- 1 (A) manufactures;
 2 (B) finances the manufacture of;
 3 (C) delivers; or
 4 (D) finances the delivery of;
 5 methamphetamine, pure or adulterated; or
 6 (2) possesses, with intent to:
 7 (A) manufacture;
 8 (B) finance the manufacture of;
 9 (C) deliver; or
 10 (D) finance the delivery of;
 11 methamphetamine, pure or adulterated;
 12 commits dealing in methamphetamine, a ~~Level 5~~ **Level 4** felony, except
 13 as provided in subsections (b) through (d).
 14 (b) The offense is a ~~Level 4~~ **Level 3** felony if:
 15 (1) the amount of the drug involved is at least three (3) but less
 16 than ten (10) grams; or
 17 (2) ~~the amount of the drug involved is less than three (3) grams~~
 18 ~~and an enhancing circumstance applies.~~
 19 (c) The offense is a ~~Level 3~~ **Level 2** felony if:
 20 (1) the amount of the drug involved is at least ten (10) ~~but less~~
 21 ~~than twenty-eight (28) grams; or~~
 22 (2) the amount of the drug involved is at least three (3) but less
 23 than ten (10) grams and an enhancing circumstance applies.
 24 (d) The offense is a ~~Level 2~~ **Level 1** felony if **the person**
 25 **manufactures the drug within one thousand (1,000) feet of a**
 26 **dwelling.**
 27 ~~(1) the amount of the drug involved is at least twenty-eight (28)~~
 28 ~~grams;~~
 29 ~~(2) the amount of the drug involved is at least ten (10) but less~~
 30 ~~than twenty-eight (28) grams and an enhancing circumstance~~
 31 ~~applies; or~~
 32 ~~(3) the person is manufacturing the drug and the manufacture~~
 33 ~~results in an explosion causing serious bodily injury to a person~~
 34 ~~other than the manufacturer.~~
 35 SECTION 42. IC 35-48-4-2, AS AMENDED BY P.L.158-2013,
 36 SECTION 624, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who:
 38 (1) knowingly or intentionally:
 39 (A) manufactures;
 40 (B) finances the manufacture of;
 41 (C) delivers; or
 42 (D) finances the delivery of;



- 1 a controlled substance, pure or adulterated, classified in schedule
 2 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
 3 synthetic ~~cannabinoid~~; **drug**; or
 4 (2) possesses, with intent to:
 5 (A) manufacture;
 6 (B) finance the manufacture of;
 7 (C) deliver; or
 8 (D) finance the delivery of;
 9 a controlled substance, pure or adulterated, classified in schedule
 10 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
 11 synthetic ~~cannabinoid~~; **drug**;
 12 commits dealing in a schedule I, II, or III controlled substance, a ~~Level~~
 13 **5 Level 4** felony, except as provided in subsections (b) ~~through (d)~~
 14 **and (c)**.
 15 (b) The offense is a ~~Level 4~~ **Level 3** felony if:
 16 (1) the amount of the drug involved is at least three (3) but less
 17 than ten (10) grams; or
 18 (2) ~~the amount of the drug involved is less than three (3) grams~~
 19 ~~and an enhancing circumstance applies.~~
 20 (c) The offense is a ~~Level 3~~ **Level 2** felony if:
 21 (1) the amount of the drug involved is at least ten (10) ~~but less~~
 22 ~~than twenty-eight (28) grams~~; or
 23 (2) the amount of the drug involved is at least three (3) but less
 24 than ten (10) grams and an enhancing circumstance applies.
 25 ~~(d) The offense is a Level 2 felony if:~~
 26 ~~(1) the amount of the drug involved is at least twenty-eight (28)~~
 27 ~~grams; or~~
 28 ~~(2) the amount of the drug involved is at least ten (10) but less~~
 29 ~~than twenty-eight (28) grams and an enhancing circumstance~~
 30 ~~applies.~~
 31 SECTION 43. IC 35-48-4-3, AS AMENDED BY P.L.158-2013,
 32 SECTION 625, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) A person who:
 34 (1) knowingly or intentionally:
 35 (A) manufactures;
 36 (B) finances the manufacture of;
 37 (C) delivers; or
 38 (D) finances the delivery of;
 39 a controlled substance, pure or adulterated, classified in schedule
 40 IV; or
 41 (2) possesses, with intent to manufacture or deliver, a controlled
 42 substance, pure or adulterated, classified in schedule IV;



1 commits dealing in a schedule IV controlled substance, a ~~Level 6~~ **Level**
2 **5** felony, except as provided in subsections (b) ~~through (d)~~: **and (c)**.

3 (b) The offense is a ~~Level 5~~ **Level 4** felony if:

4 (1) the amount of the drug involved is at least three (3) but less
5 than ten (10) grams; or

6 (2) ~~the amount of the drug involved is less than three (3) grams~~
7 ~~and an enhancing circumstance applies.~~

8 (c) The offense is a ~~Level 4~~ **Level 3** felony if:

9 (1) the amount of the drug involved is at least ten (10) ~~but less~~
10 ~~than twenty-eight (28) grams; or~~

11 (2) the amount of the drug involved is at least three (3) but less
12 than ten (10) grams and an enhancing circumstance applies.

13 ~~(d) The offense is a Level 3 felony if:~~

14 ~~(1) the amount of the drug involved is at least twenty-eight (28)~~
15 ~~grams; or~~

16 ~~(2) the amount of the drug involved is at least ten (10) but less~~
17 ~~than twenty-eight (28) grams and an enhancing circumstance~~
18 ~~applies.~~

19 SECTION 44. IC 35-48-4-4, AS AMENDED BY P.L.158-2013,
20 SECTION 626, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) A person who:

22 (1) knowingly or intentionally:

23 (A) manufactures;

24 (B) finances the manufacture of;

25 (C) delivers; or

26 (D) finances the delivery of;

27 a controlled substance, pure or adulterated, classified in schedule
28 V; or

29 (2) possesses, with intent to:

30 (A) manufacture;

31 (B) finance the manufacture of;

32 (C) deliver; or

33 (D) finance the delivery of;

34 a controlled substance, pure or adulterated, classified in schedule
35 V;

36 commits dealing in a schedule V controlled substance, a ~~Class A~~
37 ~~misdemeanor~~ **Level 6 felony**, except as provided in subsections (b)
38 ~~through (d)~~: **and (c)**.

39 (b) The offense is a ~~Level 6~~ **Level 5** felony if:

40 (1) the amount of the drug involved is at least three (3) but less
41 than ten (10) grams; or

42 (2) ~~the amount of the drug involved is less than three (3) grams~~



- 1 ~~and~~ an enhancing circumstance applies.
- 2 (c) The offense is a ~~Level 5~~ **Level 4** felony if:
- 3 (1) the amount of the drug involved is at least ten (10) ~~but less~~
- 4 ~~than twenty-eight (28)~~ grams; or
- 5 (2) the amount of the drug involved is at least three (3) but less
- 6 than ten (10) grams and an enhancing circumstance applies.
- 7 ~~(d)~~ The offense is a ~~Level 4~~ felony if:
- 8 ~~(1)~~ the amount of the drug involved is at least ~~twenty-eight (28)~~
- 9 ~~grams; or~~
- 10 ~~(2)~~ the amount of the drug involved is at least ~~ten (10)~~ but less
- 11 ~~than twenty-eight (28)~~ grams and an enhancing circumstance
- 12 ~~applies.~~
- 13 SECTION 45. IC 35-48-4-6, AS AMENDED BY P.L.158-2013,
- 14 SECTION 631, IS AMENDED TO READ AS FOLLOWS
- 15 [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person who, without a valid
- 16 prescription or order of a practitioner acting in the course of the
- 17 practitioner's professional practice, knowingly or intentionally
- 18 possesses cocaine (pure or adulterated) or a narcotic drug (pure or
- 19 adulterated) classified in schedule I or II, commits possession of
- 20 cocaine or a narcotic drug, a Level 6 felony, except as provided in
- 21 subsections (b) ~~through (d)~~. **and (c).**
- 22 (b) The offense is a Level 5 felony if:
- 23 (1) the amount of the drug involved is at least three (3) but less
- 24 than ten (10) grams; or
- 25 (2) ~~the amount of the drug involved is less than three (3) grams~~
- 26 **and** an enhancing circumstance applies.
- 27 (c) The offense is a Level 4 felony if:
- 28 (1) the amount of the drug involved is at least ten (10) ~~but less~~
- 29 ~~than twenty-eight (28)~~ grams; or
- 30 (2) the amount of the drug involved is at least three (3) but less
- 31 than ten (10) grams and an enhancing circumstance applies.
- 32 ~~(d)~~ The offense is a ~~Level 3~~ felony if:
- 33 ~~(1)~~ the amount of the drug involved is at least ~~twenty-eight (28)~~
- 34 ~~grams; or~~
- 35 ~~(2)~~ the amount of the drug involved is at least ~~ten (10)~~ but less
- 36 ~~than twenty-eight (28)~~ grams and an enhancing circumstance
- 37 ~~applies.~~
- 38 SECTION 46. IC 35-48-4-6.1, AS AMENDED BY P.L.158-2013,
- 39 SECTION 632, IS AMENDED TO READ AS FOLLOWS
- 40 [EFFECTIVE JULY 1, 2014]: Sec. 6.1. (a) A person who, without a
- 41 valid prescription or order of a practitioner acting in the course of the
- 42 practitioner's professional practice, knowingly or intentionally



1 possesses methamphetamine (pure or adulterated) commits possession
 2 of methamphetamine, a Level 6 felony, except as provided in
 3 subsections (b) ~~through (d)~~: **and (c)**.

4 (b) The offense is a Level 5 felony if:

5 (1) the amount of the drug involved is at least three (3) but less
 6 than ten (10) grams; or

7 (2) ~~the amount of the drug involved is less than three (3) grams~~
 8 **and an enhancing circumstance applies.**

9 (c) The offense is a Level 4 felony if:

10 (1) the amount of the drug involved is at least ten (10) ~~but less~~
 11 ~~than twenty-eight (28) grams~~; or

12 (2) the amount of the drug involved is at least three (3) but less
 13 than ten (10) grams and an enhancing circumstance applies.

14 ~~(d) The offense is a Level 3 felony if:~~

15 ~~(1) the amount of the drug involved is more than twenty-eight~~
 16 ~~(28) grams; or~~

17 ~~(2) the amount of the drug involved is at least ten (10) but less~~
 18 ~~than twenty-eight (28) grams and an enhancing circumstance~~
 19 ~~applies.~~

20 SECTION 47. IC 35-48-4-7, AS AMENDED BY P.L.158-2013,
 21 SECTION 633, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) A person who, without a valid
 23 prescription or order of a practitioner acting in the course of the
 24 practitioner's professional practice, knowingly or intentionally
 25 possesses a controlled substance (pure or adulterated) classified in
 26 schedule I, II, III, or IV, except marijuana, hashish, salvia, or a
 27 synthetic ~~cannabinoid drug~~, commits possession of a controlled
 28 substance, a ~~Class A misdemeanor~~ **Level 6 felony**, except as provided
 29 in ~~subsection~~ **subsections (b) and (c)**.

30 (b) The offense is a ~~Level 6~~ **Level 5** felony if:

31 **(1) the amount of the drug involved is at least three (3) but**
 32 **less than ten (10) grams; or**

33 **(2) the person commits the offense and an enhancing**
 34 **circumstance applies.**

35 (c) **The offense is a Level 4 felony if:**

36 **(1) the amount of the drug involved is at least ten (10) grams;**
 37 **or**

38 **(2) the amount of the drug involved is at least three (3) but**
 39 **less than ten (10) grams and an enhancing circumstance**
 40 **applies.**

41 ~~(e)~~ **(d)** A person who, without a valid prescription or order of a
 42 practitioner acting in the course of the practitioner's professional



1 practice, knowingly or intentionally obtains:

2 (1) more than four (4) ounces of schedule V controlled substances
3 containing codeine in any given forty-eight (48) hour period
4 unless pursuant to a prescription;

5 (2) a schedule V controlled substance pursuant to written or
6 verbal misrepresentation; or

7 (3) possession of a schedule V controlled substance other than by
8 means of a prescription or by means of signing an exempt
9 narcotic register maintained by a pharmacy licensed by the
10 Indiana state board of pharmacy;

11 commits a Class A misdemeanor.

12 SECTION 48. IC 35-48-4-11, AS AMENDED BY P.L.196-2013,
13 SECTION 23, AND AS AMENDED BY P.L.158-2013, SECTION
14 638, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) A person who:

16 (1) knowingly or intentionally possesses (pure or adulterated)
17 marijuana, hash oil, hashish, or salvia; ~~or a synthetic drug;~~

18 (2) knowingly or intentionally grows or cultivates marijuana; or

19 (3) knowing that marijuana is growing on the person's premises,
20 fails to destroy the marijuana plants;

21 commits possession of marijuana, hash oil, hashish, or salvia, ~~or a~~
22 ~~synthetic drug~~, a ~~Class A Class B~~ misdemeanor, ~~except as provided in~~
23 ~~subsections (b) through (c). However, the offense is a Class D felony~~
24 ~~if the amount involved is more than thirty (30) grams of marijuana or~~
25 ~~two (2) grams of hash oil, hashish, or salvia, or a synthetic drug; or if~~
26 ~~the person has a prior conviction of an offense involving marijuana,~~
27 ~~hash oil, or hashish, or salvia, or a synthetic drug.~~

28 (b) ~~The offense described in subsection (a) is a Class A~~
29 ~~misdemeanor if the person has a prior conviction for a drug controlled~~
30 ~~substance offense.~~

31 (c) ~~The offense described in subsection (a) is a Level 6 felony if:~~

32 (1) ~~the person has a prior conviction for a drug offense~~
33 ~~controlled substance offense; and~~

34 (2) ~~the person possesses:~~

35 (A) ~~at least thirty (30) grams of marijuana; or~~

36 (B) ~~at least two (2) grams of hash oil, hashish, or salvia. or a~~
37 ~~synthetic drug.~~

38 SECTION 49. IC 35-50-1-2, AS AMENDED BY P.L.214-2013,
39 SECTION 43, AND AS AMENDED BY P.L.158-2013, SECTION
40 650, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2014]: Sec. 2. ~~(a) As used in this section;~~
42 ~~"crime of violence" means the following:~~



- 1 (1) Murder (IC 35-42-1-1);
 2 (2) Attempted murder (IC 35-41-5-1);
 3 (3) Voluntary manslaughter (IC 35-42-1-3);
 4 (4) Involuntary manslaughter (IC 35-42-1-4);
 5 (5) Reckless homicide (IC 35-42-1-5);
 6 (6) Aggravated battery (IC 35-42-2-1.5);
 7 (7) Kidnapping (IC 35-42-3-2);
 8 (8) Rape (IC 35-42-4-1);
 9 (9) Criminal deviate conduct (IC 35-42-4-2) (*before its repeal on*
 10 *July 1, 2014*) (*repealed*);
 11 (10) Child molesting (IC 35-42-4-3);
 12 (11) Sexual misconduct with a minor as a *Class A Level 1* felony
 13 under IC 35-42-4-9(a)(2) or a *Class B Level 2* felony under
 14 IC 35-42-4-9(b)(2);
 15 (12) Robbery as a *Class A Level 2* felony or a *Class B Level 3*
 16 felony (IC 35-42-5-1);
 17 (13) Burglary as a *Class A Level 2* felony, *Level 3* felony, or *Class*
 18 *B Level 4* felony (IC 35-43-2-1);
 19 (14) Operating a vehicle while intoxicated causing death (IC
 20 9-30-5-5);
 21 (15) Operating a vehicle while intoxicated causing serious bodily
 22 injury to another person (IC 9-30-5-4);
 23 (16) Resisting law enforcement as a felony (IC 35-44-3-3);
 24 IC 35-44.1-3-1);
 25 (b) As used in this section, "episode of criminal conduct" means
 26 offenses or a connected series of offenses that are closely related in
 27 time, place, and circumstance.
 28 (c) (a) Except as provided in subsection (d) (b) or (c), the court
 29 shall determine whether terms of imprisonment shall be served
 30 concurrently or consecutively. The court may consider the:
 31 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
 32 (2) mitigating circumstances in IC 35-38-1-7.1(b);
 33 in making a determination under this subsection. The court may order
 34 terms of imprisonment to be served consecutively even if the sentences
 35 are not imposed at the same time. However, except for crimes of
 36 violence, the total of the consecutive terms of imprisonment, exclusive
 37 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10 to
 38 which the defendant is sentenced for felony convictions arising out of
 39 an episode of criminal conduct shall not exceed the advisory sentence
 40 for a felony which is one (1) class of felony higher than the most
 41 serious of the felonies for which the person has been convicted;
 42 (d) (b) If, after being arrested for one (1) crime, a person commits



- 1 another crime:
 2 (1) before the date the person is discharged from probation,
 3 parole, or a term of imprisonment imposed for the first crime; or
 4 (2) while the person is released:
 5 (A) upon the person's own recognizance; or
 6 (B) on bond;

7 the terms of imprisonment for the crimes shall be served consecutively,
 8 regardless of the order in which the crimes are tried and sentences are
 9 imposed.

10 (e) (c) If the factfinder determines under IC 35-50-2-11 that a
 11 person used a firearm in the commission of the offense for which the
 12 person was convicted, the term of imprisonment for the underlying
 13 offense and the additional term of imprisonment imposed under
 14 IC 35-50-2-11 must be served consecutively.

15 SECTION 50. IC 35-50-2-1.3 IS REPEALED [EFFECTIVE JULY
 16 1, 2014]. Sec. 1.3: (a) For purposes of sections 3 through 7 of this
 17 chapter, "advisory sentence" means a guideline sentence that the court
 18 may voluntarily consider as the midpoint between the maximum
 19 sentence and the minimum sentence:

20 (b) Except as provided in subsection (c), a court is not required to
 21 use an advisory sentence:

- 22 (c) In imposing:
 23 (1) consecutive sentences for felony convictions that are not
 24 crimes of violence (as defined in IC 35-50-1-2(a)) arising out of
 25 an episode of criminal conduct, in accordance with IC 35-50-1-2;
 26 (2) an additional fixed term to an habitual offender under section
 27 8 of this chapter; or
 28 (3) an additional fixed term to a repeat sexual offender under
 29 section 14 of this chapter;

30 a court is required to use the appropriate advisory sentence in imposing
 31 a consecutive sentence or an additional fixed term. However, the court
 32 is not required to use the advisory sentence in imposing the sentence
 33 for the underlying offense:

34 (d) This section does not require a court to use an advisory sentence
 35 in imposing consecutive sentences for felony convictions that do not
 36 arise out of an episode of criminal conduct.

37 SECTION 51. IC 35-50-2-2.2, AS ADDED BY P.L.158-2013,
 38 SECTION 654, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2014]: Sec. 2.2. (a) Except as provided in
 40 subsection subsections (b) or (c) through (d), the court may suspend
 41 any part of a sentence for a felony.

42 (b) If a person is convicted of a Level 1 felony or a Level 2 felony



1 **or Level 3 felony** and has any prior unrelated felony conviction, the
 2 court may suspend only that part of a sentence that is in excess of the
 3 minimum sentence for the:

- 4 (1) ~~Level 1~~ **Level 2** felony; or
 5 (2) ~~Level 2~~ **Level 3** felony.

6 **(c) If:**

- 7 **(1) a person is convicted of a Level 4 or Level 5 felony;**
 8 **(2) the person has a prior unrelated felony conviction; and**
 9 **(3) less than ten (10) years have passed since the person**
 10 **completed the sentence imposed for the unrelated prior felony**
 11 **conviction;**

12 **the court may suspend only that part of the sentence that is in**
 13 **excess of the minimum sentence for the Level 4 or Level 5 felony**
 14 **conviction.**

15 ~~(c)~~ **(d)** The court may suspend only that part of a sentence for
 16 murder **or a Level 1 felony conviction** that is in excess of the
 17 minimum sentence for murder **or the Level 1 felony conviction.**

18 SECTION 52. IC 35-50-2-4, AS AMENDED BY P.L.158-2013,
 19 SECTION 655, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2014]: Sec. 4. **(a)** A person who commits a
 21 Class A felony (for a crime committed before July 1, 2014) ~~or a Level~~
 22 ~~1 felony (for a crime committed after June 30, 2014)~~ shall be
 23 imprisoned for a fixed term of between twenty (20) and fifty (50) years,
 24 with the advisory sentence being thirty (30) years. In addition, the
 25 person may be fined not more than ten thousand dollars (\$10,000).

26 **(b) A person who commits a Level 1 felony (for a crime**
 27 **committed after June 30, 2014) shall be imprisoned for a fixed**
 28 **term of between twenty (20) and fifty (50) years. In addition, the**
 29 **person may be fined not more than ten thousand dollars (\$10,000).**

30 SECTION 53. IC 35-50-2-4.5, AS ADDED BY P.L.158-2013,
 31 SECTION 656, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2014]: Sec. 4.5. A person who commits a Level
 33 2 felony shall be imprisoned for a fixed term of between ten (10) and
 34 thirty (30) years. ~~with the advisory sentence being seventeen and~~
 35 ~~one-half (17 1/2) years.~~ In addition, the person may be fined not more
 36 than ten thousand dollars (\$10,000).

37 SECTION 54. IC 35-50-2-5, AS AMENDED BY P.L.158-2013,
 38 SECTION 657, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A person who commits a
 40 Class B felony (for a crime committed before July 1, 2014) shall be
 41 imprisoned for a fixed term of between six (6) and twenty (20) years,
 42 with the advisory sentence being ten (10) years. In addition, the person



1 may be fined not more than ten thousand dollars (\$10,000).

2 (b) A person who commits a Level 3 felony (for a crime committed
3 after June 30, 2014) shall be imprisoned for a fixed term of between
4 three (3) and twenty (20) years. ~~with the advisory sentence being six~~
5 ~~(6) years~~. In addition, the person may be fined not more than ten
6 thousand dollars (\$10,000).

7 SECTION 55. IC 35-50-2-5.5, AS ADDED BY P.L.158-2013,
8 SECTION 658, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2014]: Sec. 5.5. A person who commits a Level
10 4 felony shall be imprisoned for a fixed term of between two (2) and
11 twelve (12) years. ~~with the advisory sentence being four (4) years~~. In
12 addition, the person may be fined not more than ten thousand dollars
13 (\$10,000).

14 SECTION 56. IC 35-50-2-6, AS AMENDED BY P.L.158-2013,
15 SECTION 659, IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person who commits a
17 Class C felony (for a crime committed before July 1, 2014) shall be
18 imprisoned for a fixed term of between two (2) and eight (8) years, with
19 the advisory sentence being four (4) years. In addition, the person may
20 be fined not more than ten thousand dollars (\$10,000).

21 (b) ~~Notwithstanding subsection (a), if a person has committed~~
22 ~~nonsupport of a child as a Class C felony under IC 35-46-1-5 (for a~~
23 ~~crime committed before July 1, 2014), upon motion of the prosecuting~~
24 ~~attorney, the court may enter judgment of conviction of a Class D~~
25 ~~felony under IC 35-46-1-5 and sentence the person accordingly. The~~
26 ~~court shall enter in the record detailed reasons for the court's action~~
27 ~~when the court enters a judgment of conviction of a Class D felony~~
28 ~~under this subsection.~~

29 (c) (b) A person who commits a Level 5 felony (for a crime
30 committed after June 30, 2014) shall be imprisoned for a fixed term of
31 between one (1) and six (6) years. ~~with the advisory sentence being two~~
32 ~~(2) years~~. In addition, the person may be fined not more than ten
33 thousand dollars (\$10,000).

34 (d) ~~Notwithstanding subsection (c), if a person has committed~~
35 ~~nonsupport of a child as a Level 5 felony under IC 35-46-1-5 (for a~~
36 ~~crime committed after June 30, 2014), upon motion of the prosecuting~~
37 ~~attorney, the court may enter judgment of conviction of a Level 6~~
38 ~~felony under IC 35-46-1-5 and sentence the person accordingly. The~~
39 ~~court shall enter in the record detailed reasons for the court's action~~
40 ~~when the court enters a judgment of conviction of a Level 6 felony~~
41 ~~under this subsection.~~

42 (c) **Notwithstanding subsections (a) and (b), if a person commits**



1 nonsupport of a child as a Class C felony (for a crime committed
2 before July 1, 2014) or a Level 5 felony (for a crime committed
3 after June 30, 2014) under IC 35-46-1-5, the sentencing court may
4 convert the Class C felony conviction to a Class D felony or a Level
5 5 felony conviction to a Level 6 felony if, after receiving a verified
6 petition as described in subsection (d) and after conducting a
7 hearing in which the prosecuting attorney has been notified, the
8 court makes the following findings:

9 (1) The person has successfully completed probation as
10 required by the person's sentence.

11 (2) The person has satisfied other obligations imposed on the
12 person as required by the person's sentence.

13 (3) The person has paid in full all child support arrearages
14 due that are named in the information.

15 (4) The person has not been convicted of another felony since
16 the person was sentenced for the underlying nonsupport of a
17 child felony.

18 (5) There are no criminal charges pending against the person.

19 (6) The prosecuting attorney agrees to the reduction of the
20 penalty.

21 (d) A petition filed under subsection (c) must be verified and set
22 forth the following:

23 (1) A statement that the person was convicted of nonsupport
24 of a child under IC 35-46-1-5.

25 (2) The date of the conviction.

26 (3) The date the person completed the person's sentence.

27 (4) The amount of the child support arrearage due at the time
28 of conviction.

29 (5) The date the child support arrearage was paid in full.

30 (6) A verified statement that no further child support
31 arrearage is due.

32 (7) Any other obligations imposed on the person as part of the
33 person's sentence.

34 (8) The date the obligations were satisfied.

35 (9) A verified statement that there are no criminal charges
36 pending against the person.

37 (e) A prosecuting attorney may petition the court to convert a
38 person's conviction that was reduced under subsection (c) back to
39 the original sentence if the person is convicted of a felony within
40 five (5) years after the conversion occurred under subsection (c).

41 (f) A court shall convert a sentence back to the original sentence
42 if the court finds that the person has been convicted of a felony as



1 described in subsection (e).

2 (g) A person whose conviction has been converted to a lower
3 penalty under this section is eligible to seek expungement under
4 IC 35-38-9-2 with the date of conversion used as the date of
5 conviction to calculate time frames under IC 35-38-2.

6 SECTION 57. IC 35-50-2-7, AS AMENDED BY P.L.159-2013,
7 SECTION 5, AND AS AMENDED BY P.L.158-2013, SECTION 660,
8 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) A person who commits a
10 Class D felony (*for a crime committed before July 1, 2014*) shall be
11 imprisoned for a fixed term of between six (6) months and three (3)
12 years, with the advisory sentence being one and one-half (1 1/2) years.
13 In addition, the person may be fined not more than ten thousand dollars
14 (\$10,000).

15 (b) *A person who commits a Level 6 felony (for a crime committed*
16 *after June 30, 2014) shall be imprisoned for a fixed term of between six*
17 *(6) months and two and one-half (2 1/2) years. with the advisory*
18 *sentence being one (1) year. In addition, the person may be fined not*
19 *more than ten thousand dollars (\$10,000).*

20 (c) Notwithstanding ~~subsection~~ subsections (a) and (b), if a person
21 has committed a Class D felony (*for a crime committed before July 1,*
22 *2014) or a Level 6 felony (for a crime committed after June 30, 2014),*
23 the court may enter judgment of conviction of a Class A misdemeanor
24 and sentence accordingly. However, the court shall enter a judgment of
25 conviction of a Class D felony (*for a crime committed before July 1,*
26 *2014) or a Level 6 felony (for a crime committed after June 30, 2014)*
27 if:

28 (1) the court finds that:

29 (A) the person has committed a prior, unrelated felony for
30 which judgment was entered as a conviction of a Class A
31 misdemeanor; and

32 (B) the prior felony was committed less than three (3) years
33 before the second felony was committed;

34 (2) the offense is domestic battery as a Class D felony (*for a crime*
35 *committed before July 1, 2014) or a Level 6 felony (for a crime*
36 *committed after June 30, 2014) under IC 35-42-2-1.3; or*

37 (3) the offense is possession of child pornography
38 (IC 35-42-4-4(c)).

39 The court shall enter in the record, in detail, the reason for its action
40 whenever it exercises the power to enter judgment of conviction of a
41 Class A misdemeanor granted in this subsection.

42 ~~(c)~~ (d) Notwithstanding ~~subsection~~ subsections (a) and (b), the



1 sentencing court may convert a Class D felony conviction (*for a crime*
 2 *committed before July 1, 2014*) or a Level 6 felony conviction (*for a*
 3 *crime committed after June 30, 2014*) to a Class A misdemeanor
 4 conviction if, after receiving a verified petition as described in
 5 subsection ~~(d)~~ (e) and after conducting a hearing of which the
 6 prosecuting attorney has been notified, the court makes the following
 7 findings:

8 (1) The person is not a sex or violent offender (as defined in
 9 IC 11-8-8-5).

10 (2) The person was not convicted of a Class D felony (*for a crime*
 11 *committed before July 1, 2014*) or a Level 6 felony (*for a crime*
 12 *committed after June 30, 2014*) that resulted in bodily injury to
 13 another person.

14 (3) The person has not been convicted of perjury under
 15 IC 35-44.1-2-1 (or IC 35-44-2-1 before its repeal) or official
 16 misconduct under IC 35-44.1-1-1 (or IC 35-44-1-2 before its
 17 repeal).

18 (4) At least three (3) years have passed since the person:

19 (A) completed the person's sentence; and

20 (B) satisfied any other obligation imposed on the person as
 21 part of the sentence;
 22 for the Class D or Level 6 felony.

23 (5) The person has not been convicted of a felony since the
 24 person:

25 (A) completed the person's sentence; and

26 (B) satisfied any other obligation imposed on the person as
 27 part of the sentence;

28 for the Class D or Level 6 felony.

29 (6) No criminal charges are pending against the person.

30 ~~(d)~~ (e) A petition filed under *subsection* ~~subsections~~ ~~(c)~~ (d) or ~~(e)~~ (f)
 31 must be verified and set forth:

32 (1) the crime the person has been convicted of;

33 (2) the date of the conviction;

34 (3) the date the person completed the person's sentence;

35 (4) any obligations imposed on the person as part of the sentence;

36 (5) the date the obligations were satisfied; and

37 (6) a verified statement that there are no criminal charges pending
 38 against the person.

39 ~~(e)~~ (f) If a person whose Class D or Level 6 felony conviction has
 40 been converted to a Class A misdemeanor conviction under subsection
 41 ~~(c)~~ (d) is convicted of a felony *within not later than* five (5) years after
 42 the conversion under subsection ~~(c)~~ (d), a prosecuting attorney may



1 petition a court to convert the person's Class A misdemeanor
 2 conviction back to a Class D felony conviction (*for a crime committed*
 3 *before July 1, 2014*) or a Level 6 felony conviction (*for a crime*
 4 *committed after June 30, 2014*).

5 SECTION 58. IC 35-50-2-10.1 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2014]: **Sec. 10.1. (a) As used in this section,**
 8 **"vehicular substance offense" means a misdemeanor or felony in**
 9 **which the:**

- 10 (1) operation of a motor vehicle while intoxicated;
 11 (2) operation of a motor vehicle in excess of the statutory limit
 12 for alcohol in a person's blood or breath; or
 13 (3) operation of a motor vehicle with a controlled substance or
 14 its metabolite in a person's body;

15 is a material element of the misdemeanor or felony. The term
 16 includes an offense under IC 9-30-5, IC 9-24-6-15, and IC 9-11-2
 17 (before its repeal).

18 (b) The state may seek to have a person sentenced as a habitual
 19 vehicular substance offender for any vehicular substance offense
 20 by alleging, on a page separate from the rest of the charging
 21 instrument, that the person has accumulated two (2) prior
 22 unrelated vehicular substance offense convictions.

23 (c) After a person has been convicted and sentenced for a
 24 vehicular substance offense committed after sentencing for a prior
 25 unrelated vehicular substance offense conviction, the person has
 26 accumulated two (2) prior unrelated vehicular substance offense
 27 convictions. However, a conviction does not count for purposes of
 28 this subsection if:

- 29 (1) it has been set aside; or
 30 (2) it is a conviction for which the person has been pardoned.

31 (d) If the person was convicted of the vehicular substance
 32 offense in a jury trial, the jury shall reconvene for the sentencing
 33 hearing. If the trial was to the court, or the judgment was entered
 34 on a guilty plea, the court alone shall conduct the sentencing
 35 hearing under IC 35-38-1-3.

36 (e) A person is a habitual vehicular substance offender if the
 37 jury (if the hearing is by jury) or the court (if the hearing is to the
 38 court alone) finds that the state has proved beyond a reasonable
 39 doubt that the person had accumulated two (2) prior unrelated
 40 vehicular substance offense convictions.

41 (f) The court shall sentence a person found to be a habitual
 42 vehicular substance offender to an additional fixed term of at least



1 **one (1) year but not more than eight (8) years imprisonment, to be**
 2 **added to the term of imprisonment imposed under this chapter or**
 3 **IC 35-50-3.**

4 SECTION 59. IC 35-50-2-14, AS AMENDED BY P.L.125-2009,
 5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2014]: Sec. 14. (a) As used in this section, "sex offense"
 7 means a felony conviction:

8 (1) under IC 35-42-4-1 through IC 35-42-4-9 or under
 9 IC 35-46-1-3;

10 (2) for an attempt or conspiracy to commit an offense described
 11 in subdivision (1); or

12 (3) for an offense under the laws of another jurisdiction, including
 13 a military court, that is substantially similar to an offense
 14 described in subdivision (1).

15 (b) The state may seek to have a person sentenced as a repeat sexual
 16 offender for a sex offense described in subsection (a)(1) or (a)(2) by
 17 alleging, on a page separate from the rest of the charging instrument,
 18 that the person has accumulated one (1) prior unrelated felony
 19 conviction for a sex offense described in subsection (a).

20 (c) After a person has been convicted and sentenced for a felony
 21 described in subsection (a)(1) or (a)(2) after having been sentenced for
 22 a prior unrelated sex offense described in subsection (a), the person has
 23 accumulated one (1) prior unrelated felony sex offense conviction.
 24 However, a conviction does not count for purposes of this subsection,
 25 if:

26 (1) it has been set aside; or

27 (2) it is a conviction for which the person has been pardoned.

28 (d) If the person was convicted of the sex offense in a jury trial, the
 29 jury shall reconvene to hear evidence in the enhancement hearing. If
 30 the trial was to the court, or the judgment was entered on a guilty plea,
 31 the court alone shall hear evidence in the enhancement hearing.

32 (e) A person is a repeat sexual offender if the jury (if the hearing is
 33 by jury) or the court (if the hearing is to the court alone) finds that the
 34 state has proved beyond a reasonable doubt that the person had
 35 accumulated one (1) prior unrelated felony sex offense conviction.

36 (f) The court may sentence a person found to be a repeat sexual
 37 offender to an additional fixed term that ~~is the advisory sentence for the~~
 38 ~~underlying offense. However, the additional sentence may not exceed~~
 39 ten (10) years.

40 SECTION 60. IC 35-50-6-1, AS AMENDED BY P.L.105-2010,
 41 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2014]: Sec. 1. (a) Except as provided in subsection (d) or (e),



1 when a person imprisoned for a felony completes the person's fixed
 2 term of imprisonment, less the credit time the person has earned with
 3 respect to that term, the person shall be:

4 (1) released on parole for not more than twenty-four (24) months,
 5 as determined by the parole board, unless:

6 (A) the person is being placed on parole for the first time;

7 (B) the person is not being placed on parole for a conviction
 8 for a crime of violence; ~~(as defined in IC 35-50-1-2);~~

9 (C) the person is not a sex offender (as defined in
 10 IC 11-8-8-4.5); and

11 (D) in the six (6) months before being placed on parole, the
 12 person has not violated a rule of the department of correction
 13 or a rule of the penal facility in which the person is
 14 imprisoned;

15 (2) discharged upon a finding by the committing court that the
 16 person was assigned to a community transition program and may
 17 be discharged without the requirement of parole; or

18 (3) released to the committing court if the sentence included a
 19 period of probation.

20 A person described in subdivision (1) shall be released on parole for
 21 not more than twelve (12) months, as determined by the parole board.

22 (b) This subsection does not apply to a person described in
 23 subsection (d), (e), or (f). A person released on parole remains on
 24 parole from the date of release until the person's fixed term expires,
 25 unless the person's parole is revoked or the person is discharged from
 26 that term by the parole board. In any event, if the person's parole is not
 27 revoked, the parole board shall discharge the person after the period set
 28 under subsection (a) or the expiration of the person's fixed term,
 29 whichever is shorter.

30 (c) A person whose parole is revoked shall be imprisoned for all or
 31 part of the remainder of the person's fixed term. However, the person
 32 shall again be released on parole when the person completes that
 33 remainder, less the credit time the person has earned since the
 34 revocation. The parole board may reinstate the person on parole at any
 35 time after the revocation.

36 (d) This subsection does not apply to a person who is a sexually
 37 violent predator under IC 35-38-1-7.5. When a sex offender (as defined
 38 in IC 11-8-8-4.5) completes the sex offender's fixed term of
 39 imprisonment, less credit time earned with respect to that term, the sex
 40 offender shall be placed on parole for not more than ten (10) years.

41 (e) This subsection applies to a person who:

42 (1) is a sexually violent predator under IC 35-38-1-7.5;



1 (2) has been convicted of murder (IC 35-42-1-1); or

2 (3) has been convicted of voluntary manslaughter (IC 35-42-1-3).

3 When a person described in this subsection completes the person's
4 fixed term of imprisonment, less credit time earned with respect to that
5 term, the person shall be placed on parole for the remainder of the
6 person's life.

7 (f) This subsection applies to a parolee in another jurisdiction who
8 is a person described in subsection (e) and whose parole supervision is
9 transferred to Indiana from another jurisdiction. In accordance with
10 IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and
11 Parolees) and rules adopted under Article VII (d)(8) of the Interstate
12 Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who
13 is a person described in subsection (e) and whose parole supervision is
14 transferred to Indiana is subject to the same conditions of parole as a
15 person described in subsection (e) who was convicted in Indiana,
16 including:

17 (1) lifetime parole (as described in subsection (e)); and

18 (2) the requirement that the person wear a monitoring device (as
19 described in IC 35-38-2.5-3) that can transmit information
20 twenty-four (24) hours each day regarding a person's precise
21 location, if applicable.

22 (g) If a person being supervised on lifetime parole as described in
23 subsection (e) is also required to be supervised by a court, a probation
24 department, a community corrections program, a community transition
25 program, or another similar program upon the person's release from
26 imprisonment, the parole board may:

27 (1) supervise the person while the person is being supervised by
28 the other supervising agency; or

29 (2) permit the other supervising agency to exercise all or part of
30 the parole board's supervisory responsibility during the period in
31 which the other supervising agency is required to supervise the
32 person, if supervision by the other supervising agency will be, in
33 the opinion of the parole board:

34 (A) at least as stringent; and

35 (B) at least as effective;

36 as supervision by the parole board.

37 (h) The parole board is not required to supervise a person on
38 lifetime parole during any period in which the person is imprisoned.
39 However, upon the person's release from imprisonment, the parole
40 board shall recommence its supervision of a person on lifetime parole.

41 (i) If a court orders the parole board to place a sexually violent
42 predator whose sentence does not include a commitment to the



1 department of correction on lifetime parole under IC 35-38-1-29, the
2 parole board shall place the sexually violent predator on lifetime parole
3 and supervise the person in the same manner in which the parole board
4 supervises a sexually violent predator on lifetime parole whose
5 sentence includes a commitment to the department of correction.

