



DIGEST OF SB 161 (Updated February 25, 2016 2:44 pm - DI 106)

Citations Affected: IC 33-23; IC 33-24; IC 35-48.

Synopsis: Methamphetamine matters. Requires the division of state court administration to report certain methamphetamine-related felonies to the National Precursor Log Exchange (NPLEx) so that NPLEx can generate a stop sale alert to prevent individuals convicted of those felonies from purchasing ephedrine or pseudoephedrine.

Effective: Upon passage; January 1, 2017.

Young R Michael, Kenley, Randolph Lonnie M, Steele, Miller Patricia

(HOUSE SPONSOR — FRIZZELL)

January 5, 2016, read first time and referred to Committee on Corrections & Criminal Law. January 21, 2016, reported favorably — Do Pass; reassigned to Committee on Appropriations.

January 28, 2016, reported favorably — Do Pass.
February 1, 2016, read second time, ordered engrossed. Engrossed.
February 2, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Public Health. February 22, 2016, amended, reported — Do Pass. February 25, 2016, read second time, amended, ordered engrossed.



Second Regular Session 119th General Assembly (2016)

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

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

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

ENGROSSED SENATE BILL No. 161

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 33-23-1-9.7 IS ADDED TO THE INDIANA CODE
2	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
3	UPON PASSAGE]: Sec. 9.7. "NPLEx" refers to the National
4	Precursor Log Exchange.
5	SECTION 2. IC 33-24-6-3, AS AMENDED BY P.L.284-2013,
6	SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7	UPON PASSAGE]: Sec. 3. (a) The division of state court
8	administration shall do the following:
9	(1) Examine the administrative and business methods and systems
10	employed in the offices of the clerks of court and other offices
11	related to and serving the courts and make recommendations for
12	necessary improvement.
13	(2) Collect and compile statistical data and other information on
14	the judicial work of the courts in Indiana. All justices of the
15	supreme court, judges of the court of appeals, judges of all trial
16	courts, and any city or town courts, whether having general or
17	special jurisdiction, court clerks, court reporters, and other



1	officers and employees of the courts shall, upon notice by the
2	executive director and in compliance with procedures prescribed
3	by the executive director, furnish the executive director the
4	information as is requested concerning the nature and volume of
5	judicial business. The information must include the following:
6	(A) The volume, condition, and type of business conducted by
7	the courts.
8	(B) The methods of procedure in the courts.
9	(C) The work accomplished by the courts.
10	(D) The receipt and expenditure of public money by and for
11	the operation of the courts.
12	(E) The methods of disposition or termination of cases.
13	(3) Prepare and publish reports, not less than one (1) or more than
14	two (2) times per year, on the nature and volume of judicial work
15	performed by the courts as determined by the information
16	required in subdivision (2).
17	(4) Serve the judicial nominating commission and the judicial
18	qualifications commission in the performance by the commissions
19	of their statutory and constitutional functions.
20	(5) Administer the civil legal aid fund as required by IC 33-24-12.
21	(6) Administer the judicial technology and automation project
22	fund established by section 12 of this chapter.
22 23	(7) By December 31, 2013, develop and implement a standard
24	protocol for sending and receiving court data:
25	(A) between the protective order registry, established by
26	IC 5-2-9-5.5, and county court case management systems;
27	(B) at the option of the county prosecuting attorney, for:
28	(i) a prosecuting attorney's case management system;
29	(ii) a county court case management system; and
30	(iii) a county court case management system developed and
31	operated by the division of state court administration;
32	to interface with the electronic traffic tickets, as defined by
33	IC 9-30-3-2.5; and
34	(C) between county court case management systems and the
35	case management system developed and operated by the
36	division of state court administration.
37	The standard protocol developed and implemented under this
38	subdivision shall permit private sector vendors, including vendors
39	providing service to a local system and vendors accessing the
40	system for information, to send and receive court information on
41	an equitable basis and at an equitable cost.
42	(8) Establish and administer an electronic system for receiving



1	information that relates to certain individuals who may be
2	prohibited from possessing a firearm and transmitting this
3	information to the Federal Bureau of Investigation for inclusion
4	in the NICS.
5	(9) Establish and administer an electronic system for
6	receiving felony conviction information for each felony
7	described in IC 35-48-4-14.5(h)(1) from courts. The division
8	shall notify NPLEx of each felony described in
9	IC 35-48-4-14.5(h)(1) entered after June 30, 2012, and do the
10	following:
11	(A) Provide NPLEx with the following information:
12	(i) The convicted individual's full name.
13	(ii) The convicted individual's date of birth.
14	(iii) The convicted individual's driver's license number,
15	state personal identification number, or other unique
16	number, if available.
17	(iv) The date the individual was convicted of the felony.
18	Upon receipt of the information from the division, a stop
19	sale alert must be generated through NPLEx for each
20	individual reported under this clause.
21	(B) Notify NPLEx if the felony of an individual reported
22	under clause (A) has been:
23	(i) set aside;
24	(ii) reversed;
2526	(iii) expunged; or
27	(iv) vacated.
28	Upon receipt of information under this clause, NPLEx
29	shall remove the stop sale alert issued under clause (A) for the individual.
30	(9) (10) Staff the judicial technology oversight committee
31	established by IC 33-23-17-2.
32	(b) All forms to be used in gathering data must be approved by the
33	supreme court and shall be distributed to all judges and clerks before
34	the start of each period for which reports are required.
35	(c) The division may adopt rules to implement this section.
36	SECTION 3. IC 35-48-4-14.7, AS AMENDED BY P.L.193-2013,
37	SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38	JANUARY 1, 2017]: Sec. 14.7. (a) This section does not apply to the
39	following:
40	(1) Ephedrine or pseudoephedrine dispensed pursuant to a
41	prescription.
42	(2) The sale of a drug containing ephedrine or pseudoephedrine
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1	to a licensed health care provider, pharmacist, retail distributor,
2	wholesaler, manufacturer, or an agent of any of these persons if
3	the sale occurs in the regular course of lawful business activities.
4	However, a retail distributor, wholesaler, or manufacturer is
5	required to report a suspicious order to the state police department
6	in accordance with subsection (g).
7	(3) The sale of a drug containing ephedrine or pseudoephedrine
8	by a person who does not sell exclusively to walk-in customers for
9	the personal use of the walk-in customers. However, if the person
10	described in this subdivision is a retail distributor, wholesaler, or
11	manufacturer, the person is required to report a suspicious order
12	to the state police department in accordance with subsection (g).
13	(b) The following definitions apply throughout this section:
14	(1) "Constant video monitoring" means the surveillance by an
15	automated camera that:
16	(A) records at least one (1) photograph or digital image every
17	ten (10) seconds;
18	(B) retains a photograph or digital image for at least
19	seventy-two (72) hours;
20	(C) has sufficient resolution and magnification to permit the
21	identification of a person in the area under surveillance; and
22	(D) stores a recorded photograph or digital image at a location
23	that is immediately accessible to a law enforcement officer.
24	(2) "Convenience package" means a package that contains a drug
25	having as an active ingredient not more than sixty (60) milligrams
26	of ephedrine or pseudoephedrine, or both.
27	(3) "Ephedrine" means pure or adulterated ephedrine.
28	(4) "Pharmacy or NPLEx retailer" means:
29	(A) a pharmacy, as defined in IC 25-26-13-2;
30	(B) a retailer containing a pharmacy, as defined in
31	IC 25-26-13-2; or
32	(C) a retailer that electronically submits the required
33	information to the National Precursor Log Exchange (NPLEx).
34	administered by the National Association of Drug Diversion
35	Investigators (NADDI).
36	(5) "Pseudoephedrine" means pure or adulterated
37	pseudoephedrine.
38	(6) "Retailer" means a grocery store, general merchandise store,
39	or other similar establishment. The term does not include a
40	pharmacy or NPLEx retailer.

(7) "Suspicious order" means a sale or transfer of a drug

containing ephedrine or pseudoephedrine if the sale or transfer:



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1	(A) is a sale or transfer that the retail distributor, wholesaler,
2	or manufacturer is required to report to the United States Drug
2 3	Enforcement Administration;
4	(B) appears suspicious to the retail distributor, wholesaler, or
5	manufacturer in light of the recommendations contained in
6	Appendix A of the report to the United States attorney general
7	by the suspicious orders task force under the federal
8	Comprehensive Methamphetamine Control Act of 1996; or
9	(C) is for cash or a money order in a total amount of at least
10	two hundred dollars (\$200).
11	(8) "Unusual theft" means the theft or unexplained disappearance
12	from a particular pharmacy or NPLEx retailer of drugs containing
13	ten (10) grams or more of ephedrine, pseudoephedrine, or both in
14	a twenty-four (24) hour period.
15	(c) A drug containing ephedrine or pseudoephedrine may be sold
16	only by a pharmacy or NPLEx retailer. Except as provided in
17	subsection (f), a retailer may not sell a drug containing ephedrine or
18	pseudoephedrine.
19	(d) A pharmacy or NPLEx retailer may sell a drug that contains the
20	active ingredient of ephedrine, pseudoephedrine, or both only if the
21	pharmacy or NPLEx retailer complies with the following conditions:
22	(1) The pharmacy or NPLEx retailer does not sell the drug to a
23	person less than eighteen (18) years of age.
24	(2) The pharmacy or NPLEx retailer does not sell drugs
25	containing more than:
26	(A) three and six-tenths (3.6) grams of ephedrine or
27	pseudoephedrine, or both, to one (1) individual on one (1) day;
28	(B) seven and two-tenths (7.2) grams of ephedrine or
29	pseudoephedrine, or both, to one (1) individual in a thirty (30)
30	day period; or
31	(C) sixty-one and two-tenths (61.2) grams of ephedrine or
32	pseudoephedrine, or both, to one (1) individual in a three
33	hundred sixty-five (365) day period.
34	(3) The pharmacy or NPLEx retailer requires:
35	(A) the purchaser to produce a valid government issued photo
36	identification card showing the date of birth of the person;
37	(B) the purchaser to sign a written or electronic log attesting
38	to the validity of the information; and
39	(C) the clerk who is conducting the transaction to initial or
40	electronically record the clerk's identification on the log.
41	Records from the completion of a log must be retained for at least
42	two (2) years. A law enforcement officer has the right to inspect



and copy a log or the records from the completion of a log in accordance with state and federal law. A pharmacy or NPLEx retailer may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A pharmacy or NPLEx retailer that in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

- (4) The pharmacy or NPLEx retailer maintains a record of information for each sale of a nonprescription product containing pseudoephedrine or ephedrine. Required information includes:
 - (A) the name and address of each purchaser;
 - (B) the type of identification presented;
 - (C) the governmental entity that issued the identification;
 - (D) the identification number; and
 - (E) the ephedrine or pseudoephedrine product purchased, including the number of grams the product contains and the date and time of the transaction.
- (5) Beginning January 1, 2012, a pharmacy or NPLEx retailer shall, except as provided in subdivision (6), before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine, electronically submit the required information to the National Precursor Log Exchange (NPLEx), administered by the National Association of Drug Diversion Investigators (NADDI), if the NPLEx system is available to pharmacies or NPLEx retailers in the state without a charge for accessing the system. The pharmacy or NPLEx retailer may not complete the sale if the system generates a stop sale alert, including a stop sale alert for an individual convicted of a felony reported under IC 33-24-6-3.
- (6) If a pharmacy or NPLEx retailer selling an over-the-counter product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the pharmacy or NPLEx retailer shall maintain a written log or an alternative electronic recordkeeping mechanism until the pharmacy or NPLEx retailer is able to comply with the electronic sales tracking requirement.



(7) The pharmacy or NPLEx retailer stores the drug behind a
counter in an area inaccessible to a customer or in a locked
display case that makes the drug unavailable to a customer
without the assistance of an employee.
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- (e) A person may not purchase drugs containing more than:
 - (1) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day;
 - (2) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period; or
 - (3) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period.

These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

- (f) This subsection only applies to convenience packages. A retailer may sell convenience packages under this section without complying with the conditions listed in subsection (d):
 - (1) after June 30, 2013; and
 - (2) before January 1, 2014.

A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction. A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee. A retailer may not sell a drug containing ephedrine or pseudoephedrine after December 31, 2013.

- (g) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.
- (h) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the pharmacy or NPLEx retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular pharmacy or NPLEx retailer, the pharmacy or NPLEx retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular pharmacy or NPLEx retailer behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.
- (i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.



(j) A person who knowingly or intentionally violates this section
commits a Class C misdemeanor. However, the offense is a Class A
misdemeanor if the person has a prior unrelated conviction under this
section

- (k) A pharmacy or NPLEx retailer that uses the electronic sales tracking system in accordance with this section is immune from civil liability for any act or omission committed in carrying out the duties required by this section, unless the act or omission was due to negligence, recklessness, or deliberate or wanton misconduct. A pharmacy or NPLEx retailer is immune from liability to a third party unless the pharmacy or NPLEx retailer has violated a provision of this section and the third party brings an action based on the pharmacy's or NPLEx retailer's violation of this section.
 - (1) The following requirements apply to the NPLEx:
 - (1) Information contained in the NPLEx may be shared only with law enforcement officials.
 - (2) A law enforcement official may access Indiana transaction information maintained in the NPLEx for investigative purposes.
 - (3) NADDI may not modify sales transaction data that is shared with law enforcement officials.
 - (4) At least one (1) time per week, NADDI shall forward day, Indiana data contained in the NPLEx including data concerning a transaction that could not be completed due to the issuance of a stop sale alert, for the previous calendar day shall be forwarded to the state police department.

SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections & Criminal Law, to which was referred Senate Bill No. 161, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 161 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 161, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 161 as printed January 22, 2016.)

KENLEY, Chairperson

Committee Vote: Yeas 13, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 161, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 17, begin a new paragraph and insert: "SECTION 1. IC 33-23-1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. "Drug related felony" has the meaning set forth in IC 35-48-1-16.3.

SECTION 2. IC 33-23-1-9.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.7. "NPLEx" refers to the National Precursor Log Exchange.**



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SECTION 3. IC 33-24-6-3, AS AMENDED BY P.L.284-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division of state court administration shall do the following:

- (1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
- (2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:
 - (A) The volume, condition, and type of business conducted by the courts.
 - (B) The methods of procedure in the courts.
 - (C) The work accomplished by the courts.
 - (D) The receipt and expenditure of public money by and for the operation of the courts.
 - (E) The methods of disposition or termination of cases.
- (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).
- (4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.
- (5) Administer the civil legal aid fund as required by IC 33-24-12.
- (6) Administer the judicial technology and automation project fund established by section 12 of this chapter.
- (7) By December 31, 2013, develop and implement a standard protocol for sending and receiving court data:
 - (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
 - (B) at the option of the county prosecuting attorney, for:
 - (i) a prosecuting attorney's case management system;
 - (ii) a county court case management system; and



- (iii) a county court case management system developed and operated by the division of state court administration;
- to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
- (C) between county court case management systems and the case management system developed and operated by the division of state court administration.

The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost.

- (8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.
- (9) Establish and administer an electronic system for receiving drug related felony conviction information from courts. The division shall notify NPLEx of each drug related felony entered after June 30, 2012, and do the following:
 - (A) Provide NPLEx with the following information:
 - (i) The convicted individual's full name.
 - (ii) The convicted individual's date of birth.
 - (iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.
 - (iv) The date the individual was convicted of the drug related felony.

Upon receipt of the information from the division, a stop sale alert must be generated through NPLEx for each individual reported under this clause.

- (B) Notify NPLEx if the drug related felony of an individual reported under clause (A) has been:
 - (i) set aside;
 - (ii) reversed;
 - (iii) expunged; or
 - (iv) vacated.

Upon receipt of information under this clause, NPLEx shall remove the stop sale alert issued under clause (A) for the individual.

(9) (10) Staff the judicial technology oversight committee



established by IC 33-23-17-2.

- (b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.
 - (c) The division may adopt rules to implement this section.

SECTION 4. IC 35-48-1-16.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.3. "Drug related felony"** means a felony conviction for an offense described in:

- (1) IC 35-48-4-1 through IC 35-48-4-11.5; or
- (2) IC 35-48-4-13 through IC 35-48-4-14.7.".

Page 5, line 23, delete "IC 35-48-4-18(a));" and insert "IC 35-48-1-16.3);".

Page 8, line 27, delete "IC 10-11-2-31.5." and insert "IC 33-24-6-3.".

Page 10, delete lines 19 through 37.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 161 as printed January 29, 2016.)

KIRCHHOFER

Committee Vote: yeas 8, nays 2.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 161 be amended to read as follows:

Page 1, delete lines 1 through 4.

Page 3, line 10, delete "drug related".

Page 3, line 10, after "information" insert "for each felony described in IC 35-48-4-14.5(h)(1)".

Page 3, line 11, delete "drug related".

Page 3, line 12, after "felony" insert "**described in** IC 35-48-4-14.5(h)(1)".

Page 3, line 19, delete "drug".

Page 3, line 20, delete "related".

Page 3, line 24, delete "drug related".

Page 3, delete lines 39 through 42.

Delete pages 4 through 6.

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Page 7, delete lines 1 through 13. Page 10, line 11, delete "drug related". Renumber all SECTIONS consecutively.

(Reference is to ESB 161 as printed February 23, 2016.)

FRIZZELL

