

HOUSE BILL No. 1015

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-6; IC 33-37; IC 35-33-8-5; IC 35-38.

Synopsis: DNA samples from felony arrestees. Requires every person arrested for a felony after June 30, 2016, to submit a DNA sample, and specifies that the sample may be obtained only by buccal swab. Provides for the expungement of a DNA sample taken from a person if the person is acquitted of all felony charges, all felony charges are dismissed, or no charges have been filed after 30 days. Requires the officer who obtains a DNA sample from a person to inform the person of the right to DNA expungement and to provide the person with a form that may be used for DNA expungement, and permits the use of evidence other than a court order for expungement. Increases the DNA sample processing fee from \$2 to \$4. Allocates \$500,000 semiannually to hold harmless all funds and to provide an additional amount to the DNA processing fund. Specifies that the discovery of DNA evidence tending to show previously unknown crimes committed by a person on bail may lead to revocation of bail or an increase in the amount of bail.

Effective: July 1, 2016.

Bauer, Steuerwald

January 5, 2016, read first time and referred to Committee on Courts and Criminal Code.



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

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

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

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

HOUSE BILL No. 1015

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 10-13-6-8, AS AMENDED BY P.L.142-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 8. (a) The superintendent may establish a data
4 base of DNA identification records of:
5 (1) convicted criminals;
6 **(2) persons arrested for a felony;**
7 ~~(2) (3) crime scene specimens;~~
8 ~~(3) (4) unidentified missing persons; and~~
9 ~~(4) (5) close biological relatives of missing persons.~~
10 (b) The superintendent shall maintain the Indiana DNA data base.
11 (c) The superintendent may contract for services to perform DNA
12 analysis of:
13 **(1) convicted offenders; and**
14 **(2) persons arrested for a felony;**
15 under section 10 of this chapter to assist federal, state, and local
16 criminal justice and law enforcement agencies in the putative
17 identification, detection, or exclusion of individuals who are subjects



1 of an investigation or prosecution of a sex offense, a violent crime, or
 2 another crime in which biological evidence is recovered from the crime
 3 scene.

4 (d) The superintendent:

5 (1) may perform or contract for performance of testing, typing, or
 6 analysis of a DNA sample collected from a person described in
 7 section 10 of this chapter at any time; and

8 (2) shall perform or contract for the performance of testing,
 9 typing, or analysis of a DNA sample collected from a person
 10 described in section 10 of this chapter if federal funds become
 11 available for the performance of DNA testing, typing, or analysis.

12 (e) The superintendent shall adopt rules under IC 4-22-2 necessary
 13 to administer and enforce the provisions and intent of this chapter.

14 (f) The detention, arrest, or conviction of a person based on a data
 15 base match or data base information is not invalidated if a court
 16 determines that the DNA sample was obtained or placed in the Indiana
 17 DNA data base by mistake.

18 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,
 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2016]: Sec. 10. (a) This section applies to the following:

21 **(1) A person arrested for a felony after June 30, 2016.**

22 ~~(+)~~ **(2)** A person convicted of a felony under IC 35-42 (offenses
 23 against the person) or IC 35-43-2-1 (burglary):

24 (A) after June 30, 1996, whether or not the person is sentenced
 25 to a term of imprisonment; or

26 (B) before July 1, 1996, if the person is held in jail or prison
 27 on or after July 1, 1996.

28 ~~(2)~~ **(3)** A person convicted of a criminal law in effect before
 29 October 1, 1977, that penalized an act substantially similar to a
 30 felony described in IC 35-42 or IC 35-43-2-1 or that would have
 31 been an included offense of a felony described in IC 35-42 or
 32 IC 35-43-2-1 if the felony had been in effect:

33 (A) after June 30, 1998, whether or not the person is sentenced
 34 to a term of imprisonment; or

35 (B) before July 1, 1998, if the person is held in jail or prison
 36 on or after July 1, 1998.

37 ~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a
 38 felony, or attempt to commit a felony:

39 (A) after June 30, 2005, whether or not the person is sentenced
 40 to a term of imprisonment; or

41 (B) before July 1, 2005, if the person is held in jail or prison
 42 on or after July 1, 2005.



1 (b) A person described in subsection (a) shall provide a DNA
2 sample to the:

3 (1) department of correction or the designee of the department of
4 correction if the offender is committed to the department of
5 correction;

6 (2) county sheriff or the designee of the county sheriff if the
7 offender is held in a county jail or other county penal facility,
8 placed in a community corrections program (as defined in
9 IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;

10 (3) agency that supervises the person, or the agency's designee, if
11 the person is on conditional release in accordance with
12 IC 35-38-1-27; or

13 **(4) sheriff, in the case of a person arrested for a felony.**

14 **A DNA sample provided under subdivision (4) may be obtained**
15 **only by buccal swab.** A person is not required to submit a blood
16 sample if doing so would present a substantial and an unreasonable risk
17 to the person's health.

18 (c) The detention, arrest, or conviction of a person based on a data
19 base match or data base information is not invalidated if a court
20 determines that the DNA sample was obtained or placed in the Indiana
21 DNA data base by mistake.

22 **(d) The officer, employee, or designee who obtains a DNA**
23 **sample from a person under this section shall:**

24 **(1) inform the person of the person's right to DNA**
25 **expungement under section 18 of this chapter; and**

26 **(2) provide the person with a form that may be used for DNA**
27 **expungement.**

28 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) A person whose
30 DNA profile has been included in the Indiana DNA data base may
31 request expungement of the profile from the DNA data base on the
32 grounds that:

33 **(1) the conviction on which the authority for inclusion in the**
34 **Indiana DNA data base was founded has been reversed and the**
35 **case has been dismissed; or**

36 **(2) the person was arrested for a felony, and:**

37 **(A) the person was acquitted of all felony charges;**

38 **(B) all felony charges have been dismissed; or**

39 **(C) thirty (30) days have passed since the person's arrest**
40 **and no felony charges have been filed against the person.**

41 (b) All identifiable information in the Indiana DNA data base
42 pertaining to a person requesting expungement under subsection (a)



1 shall be expunged, and all samples from the person shall be destroyed,
2 upon receipt of:

3 (1) a ~~written request for letter or form requesting~~ expungement
4 under subsection (a);

5 (2) a certified copy of ~~the a court order reversing and dismissing~~
6 ~~the conviction; or other evidence sufficient to establish or~~
7 **permit the superintendent to establish that:**

8 (A) **all of the person's felony convictions have been**
9 **reversed or the cases dismissed, as described in subsection**
10 **(a)(1);**

11 (B) **the person has been acquitted of all felony charges, as**
12 **described in subsection (a)(2)(A);**

13 (C) **all felony charges in the case have been dismissed, as**
14 **described in subsection (a)(2)(B); or**

15 (D) **thirty (30) days have passed since the person's arrest**
16 **and no felony charges have been filed against the person,**
17 **as described in subsection (a)(2)(C); and**

18 (3) any other information necessary to ascertain the validity of the
19 request.

20 (c) Upon expungement of a person's DNA profile from the Indiana
21 DNA data base, the superintendent shall request expungement of the
22 person's DNA profile from the national DNA data base.

23 SECTION 4. IC 10-13-6-19 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. (a) **The DNA data**
25 **base is confidential.** Access to the Indiana DNA data base is limited
26 to federal, state, and local law enforcement agencies through their
27 servicing forensic DNA laboratories.

28 (b) The superintendent shall take appropriate measures to ensure
29 that the Indiana DNA data base is protected against unauthorized
30 access.

31 SECTION 5. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006,
32 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2016]: Sec. 26.2. In each action in which a person is:

34 (1) convicted of an offense;

35 (2) required to pay a pretrial diversion fee;

36 (3) found to have committed an infraction; or

37 (4) found to have violated an ordinance;

38 the clerk shall collect a DNA sample processing fee of ~~two~~ **four** dollars
39 ~~(\$2): (\$4).~~

40 SECTION 6. IC 33-37-7-9, AS AMENDED BY P.L.229-2011,
41 SECTION 262, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) On June 30 and on December



1 31 of each year, the auditor of state shall transfer to the treasurer of
 2 state nine million ~~two seven~~ hundred seventy-seven thousand
 3 twenty-three dollars (~~\$9,277,023~~) (**\$9,777,023**) for distribution under
 4 subsection (b).

5 (b) On June 30 and on December 31 of each year, the treasurer of
 6 state shall deposit into:

7 (1) the family violence and victim assistance fund established by
 8 IC 5-2-6.8-3 an amount equal to ~~eight and three-hundredths seven~~
 9 **and sixty-two hundredths** percent (~~8.03%~~); (**7.62%**);

10 (2) the Indiana judges' retirement fund established by
 11 IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five~~
 12 **hundredths thirty-six and fifty-eight hundredths** percent
 13 (~~38.55%~~); (**36.58%**);

14 (3) the law enforcement academy building fund established by
 15 IC 5-2-1-13 an amount equal to two and ~~fifty-six hundredths~~
 16 **forty-three hundredths** percent (~~2.56%~~); (**2.43%**);

17 (4) the law enforcement training fund established by IC 5-2-1-13
 18 an amount equal to ~~ten and twenty-seven hundredths nine and~~
 19 **seventy-five hundredths** percent (~~10.27%~~); (**9.75%**);

20 (5) the violent crime victims compensation fund established by
 21 IC 5-2-6.1-40 an amount equal to eleven and ~~ninety-three~~
 22 **hundredths thirty-two hundredths** percent (~~11.93%~~); (**11.32%**);

23 (6) the motor vehicle highway account an amount equal to
 24 ~~nineteen and forty-nine hundredths eighteen and five-tenths~~
 25 **percent** (~~19.49%~~); (**18.5%**);

26 (7) the fish and wildlife fund established by IC 14-22-3-2 an
 27 amount equal to ~~twenty-five hundredths twenty-four hundredths~~
 28 **percent** (~~0.25%~~); (**0.24%**);

29 (8) the Indiana judicial center drug and alcohol programs fund
 30 established by IC 12-23-14-17 for the administration,
 31 certification, and support of alcohol and drug services programs
 32 under IC 12-23-14 an amount equal to one and ~~sixty-three~~
 33 **hundredths fifty-five hundredths** percent (~~1.63%~~); (**1.55%**); and

34 (9) the DNA sample processing fund established under
 35 IC 10-13-6-9.5 for the funding of the collection, shipment,
 36 analysis, and preservation of DNA samples and the conduct of a
 37 DNA data base program under IC 10-13-6 an amount equal to
 38 ~~seven and twenty-nine hundredths twelve and one hundredth~~
 39 **percent** (~~7.29%~~); (**12.01%**);

40 of the amount transferred by the auditor of state under subsection (a).

41 (c) On June 30 and on December 31 of each year, the auditor of
 42 state shall transfer to the treasurer of state for deposit into the public



1 defense fund established under IC 33-40-6-1 three million seven
2 hundred thousand dollars (\$3,700,000).

3 SECTION 7. IC 35-33-8-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Upon a showing
5 of good cause, the state or the defendant may be granted an alteration
6 or revocation of bail by application to the court before which the
7 proceeding is pending. In reviewing a motion for alteration or
8 revocation of bail, credible hearsay evidence is admissible to establish
9 good cause.

10 (b) When the state presents additional:

11 (1) evidence relevant to a high risk of nonappearance, based on
12 the factors set forth in section 4(b) of this chapter; or

13 (2) clear and convincing evidence:

14 (A) of the factors described in IC 35-40-6-6(1)(A) and
15 IC 35-40-6-6(1)(B); or

16 (B) that the defendant otherwise poses a risk to the physical
17 safety of another person or the community;

18 the court may increase bail. **If the additional evidence presented by**
19 **the state is DNA evidence tending to show that the defendant**
20 **committed additional crimes that were not considered at the time**
21 **the defendant was admitted to bail, the court may increase or**
22 **revoke bail.**

23 (c) When the defendant presents additional evidence of substantial
24 mitigating factors, based on the factors set forth in section 4(b) of this
25 chapter, which reasonably suggests that the defendant recognizes the
26 court's authority to bring the defendant to trial, the court may reduce
27 bail. However, the court may not reduce bail if the court finds by clear
28 and convincing evidence that the factors described in
29 IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant
30 otherwise poses a risk to the physical safety of another person or the
31 community.

32 (d) The court may revoke bail or an order for release on personal
33 recognizance upon clear and convincing proof by the state that:

34 (1) while admitted to bail the defendant:

35 (A) or the defendant's agent threatened or intimidated a victim,
36 prospective witnesses, or jurors concerning the pending
37 criminal proceeding or any other matter;

38 (B) or the defendant's agent attempted to conceal or destroy
39 evidence relating to the pending criminal proceeding;

40 (C) violated any condition of the defendant's current release
41 order;

42 (D) failed to appear before the court as ordered at any critical



- 1 stage of the proceedings; or
 2 (E) committed a felony or a Class A misdemeanor that
 3 demonstrates instability and a disdain for the court's authority
 4 to bring the defendant to trial;
 5 (2) the factors described in IC 35-40-6-6(1)(A) and
 6 IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a
 7 risk to the physical safety of another person or the community; or
 8 (3) a combination of the factors described in subdivisions (1) and
 9 (2) exists.
- 10 SECTION 8. IC 35-38-1-27, AS ADDED BY P.L.173-2006,
 11 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2016]: Sec. 27. (a) If a court imposes a sentence that does not
 13 involve a commitment to the department of correction, the court shall
 14 require a person:
 15 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
 16 **IC 10-13-6-10(a)**; and
 17 (2) who has not previously provided a DNA sample in accordance
 18 with IC 10-13-6;
 19 to provide a DNA sample as a condition of the sentence.
 20 (b) If a person described in subsection (a) is confined at the time of
 21 sentencing, the court shall order the person to provide a DNA sample
 22 immediately after sentencing.
 23 (c) If a person described in subsection (a) is not confined at the time
 24 of sentencing, the agency supervising the person after sentencing shall
 25 establish the date, time, and location for the person to provide a DNA
 26 sample. However, the supervising agency must require that the DNA
 27 sample be provided not more than seven (7) days after sentencing. A
 28 supervising agency's failure to obtain a DNA sample not more than
 29 seven (7) days after sentencing does not permit a person required to
 30 provide a DNA sample to challenge the requirement that the person
 31 provide a DNA sample at a later date.
 32 (d) A person's failure to provide a DNA sample is grounds for
 33 revocation of the person's probation, community corrections placement,
 34 or other conditional release.
- 35 SECTION 9. IC 35-38-2-2.3, AS AMENDED BY P.L.209-2015,
 36 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2016]: Sec. 2.3. (a) As a condition of probation, the court may
 38 require a person to do a combination of the following:
 39 (1) Work faithfully at suitable employment or faithfully pursue a
 40 course of study or career and technical education that will equip
 41 the person for suitable employment.
 42 (2) Undergo available medical or psychiatric treatment and



- 1 remain in a specified institution if required for that purpose.
2 (3) Attend or reside in a facility established for the instruction,
3 recreation, or residence of persons on probation.
4 (4) Participate in a treatment program, educational class, or
5 rehabilitative service provided by a probation department or by
6 referral to an agency.
7 (5) Support the person's dependents and meet other family
8 responsibilities.
9 (6) Make restitution or reparation to the victim of the crime for
10 damage or injury that was sustained by the victim. When
11 restitution or reparation is a condition of probation, the court shall
12 fix the amount, which may not exceed an amount the person can
13 or will be able to pay, and shall fix the manner of performance.
14 (7) Execute a repayment agreement with the appropriate
15 governmental entity to repay the full amount of public relief or
16 assistance wrongfully received, and make repayments according
17 to a repayment schedule set out in the agreement.
18 (8) Pay a fine authorized by IC 35-50.
19 (9) Refrain from possessing a firearm or other deadly weapon
20 unless granted written permission by the court or the person's
21 probation officer.
22 (10) Report to a probation officer at reasonable times as directed
23 by the court or the probation officer.
24 (11) Permit the person's probation officer to visit the person at
25 reasonable times at the person's home or elsewhere.
26 (12) Remain within the jurisdiction of the court, unless granted
27 permission to leave by the court or by the person's probation
28 officer.
29 (13) Answer all reasonable inquiries by the court or the person's
30 probation officer and promptly notify the court or probation
31 officer of any change in address or employment.
32 (14) Perform uncompensated work that benefits the community.
33 (15) Satisfy other conditions reasonably related to the person's
34 rehabilitation.
35 (16) Undergo home detention under IC 35-38-2.5.
36 (17) Undergo a laboratory test or series of tests approved by the
37 state department of health to detect and confirm the presence of
38 the human immunodeficiency virus (HIV) antigen or antibodies
39 to the human immunodeficiency virus (HIV), if:
40 (A) the person had been convicted of an offense relating to a
41 criminal sexual act and the offense created an
42 epidemiologically demonstrated risk of transmission of the



- 1 human immunodeficiency virus (HIV); or
 2 (B) the person had been convicted of an offense relating to a
 3 controlled substance and the offense involved:
 4 (i) the delivery by any person to another person; or
 5 (ii) the use by any person on another person;
 6 of a contaminated sharp (as defined in IC 16-41-16-2) or other
 7 paraphernalia that creates an epidemiologically demonstrated
 8 risk of transmission of HIV by involving percutaneous contact.
 9 (18) Refrain from any direct or indirect contact with an individual
 10 and, if convicted of an offense under IC 35-46-3, any animal
 11 belonging to the individual.
 12 (19) Execute a repayment agreement with the appropriate
 13 governmental entity or with a person for reasonable costs incurred
 14 because of the taking, detention, or return of a missing child (as
 15 defined in IC 10-13-5-4).
 16 (20) Periodically undergo a laboratory chemical test (as defined
 17 in IC 9-13-2-22) or series of chemical tests as specified by the
 18 court to detect and confirm the presence of a controlled substance
 19 (as defined in IC 35-48-1-9). The person on probation is
 20 responsible for any charges resulting from a test and shall have
 21 the results of any test under this subdivision reported to the
 22 person's probation officer by the laboratory.
 23 (21) If the person was confined in a penal facility, execute a
 24 reimbursement plan as directed by the court and make repayments
 25 under the plan to the authority that operates the penal facility for
 26 all or part of the costs of the person's confinement in the penal
 27 facility. The court shall fix an amount that:
 28 (A) may not exceed an amount the person can or will be able
 29 to pay;
 30 (B) does not harm the person's ability to reasonably be self
 31 supporting or to reasonably support any dependent of the
 32 person; and
 33 (C) takes into consideration and gives priority to any other
 34 restitution, reparation, repayment, or fine the person is
 35 required to pay under this section.
 36 (22) Refrain from owning, harboring, or training an animal.
 37 (23) Participate in a reentry court program.
 38 (24) Receive:
 39 (A) addiction counseling;
 40 (B) mental health counseling;
 41 (C) inpatient detoxification; and
 42 (D) medication assisted treatment, including a federal Food



- 1 and Drug Administration approved long acting, nonaddictive
 2 medication for the treatment of opioid or alcohol dependence.
- 3 (b) When a person is placed on probation, the person shall be given
 4 a written statement specifying:
- 5 (1) the conditions of probation; and
 6 (2) that if the person violates a condition of probation during the
 7 probationary period, a petition to revoke probation may be filed
 8 before the earlier of the following:
- 9 (A) One (1) year after the termination of probation.
 10 (B) Forty-five (45) days after the state receives notice of the
 11 violation.
- 12 (c) As a condition of probation, the court may require that the
 13 person serve a term of imprisonment in an appropriate facility at the
 14 time or intervals (consecutive or intermittent) within the period of
 15 probation the court determines.
- 16 (d) Intermittent service may be required only for a term of not more
 17 than sixty (60) days and must be served in the county or local penal
 18 facility. The intermittent term is computed on the basis of the actual
 19 days spent in confinement and shall be completed within one (1) year.
 20 A person does not earn good time credit while serving an intermittent
 21 term of imprisonment under this subsection. When the court orders
 22 intermittent service, the court shall state:
- 23 (1) the term of imprisonment;
 24 (2) the days or parts of days during which a person is to be
 25 confined; and
 26 (3) the conditions.
- 27 (e) Supervision of a person may be transferred from the court that
 28 placed the person on probation to a court of another jurisdiction, with
 29 the concurrence of both courts. Retransfers of supervision may occur
 30 in the same manner. This subsection does not apply to transfers made
 31 under IC 11-13-4 or IC 11-13-5.
- 32 (f) When a court imposes a condition of probation described in
 33 subsection (a)(18):
- 34 (1) the clerk of the court shall comply with IC 5-2-9; and
 35 (2) the prosecuting attorney shall file a confidential form
 36 prescribed or approved by the division of state court
 37 administration with the clerk.
- 38 (g) As a condition of probation, a court shall require a person:
- 39 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
 40 **IC 10-13-6-10(a);**
 41 (2) who has not previously provided a DNA sample in accordance
 42 with IC 10-13-6; and



1 (3) whose sentence does not involve a commitment to the
2 department of correction;
3 to provide a DNA sample as a condition of probation.

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

9 SECTION 10. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012,
10 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2016]: Sec. 6. An order for home detention of an offender
12 under section 5 of this chapter must include the following:

13 (1) A requirement that the offender be confined to the offender's
14 home at all times except when the offender is:

15 (A) working at employment approved by the court or traveling
16 to or from approved employment;

17 (B) unemployed and seeking employment approved for the
18 offender by the court;

19 (C) undergoing medical, psychiatric, mental health treatment,
20 counseling, or other treatment programs approved for the
21 offender by the court;

22 (D) attending an educational institution or a program approved
23 for the offender by the court;

24 (E) attending a regularly scheduled religious service at a place
25 of worship; or

26 (F) participating in a community work release or community
27 restitution or service program approved for the offender by the
28 court.

29 (2) Notice to the offender that violation of the order for home
30 detention may subject the offender to prosecution for the crime of
31 escape under IC 35-44.1-3-4.

32 (3) A requirement that the offender abide by a schedule prepared
33 by the probation department, or by a community corrections
34 program ordered to provide supervision of the offender's home
35 detention, specifically setting forth the times when the offender
36 may be absent from the offender's home and the locations the
37 offender is allowed to be during the scheduled absences.

38 (4) A requirement that the offender is not to commit another
39 crime during the period of home detention ordered by the court.

40 (5) A requirement that the offender obtain approval from the
41 probation department or from a community corrections program
42 ordered to provide supervision of the offender's home detention



1 before the offender changes residence or the schedule described
2 in subdivision (3).

3 (6) A requirement that the offender maintain:

4 (A) a working telephone in the offender's home; and

5 (B) if ordered by the court, a monitoring device in the
6 offender's home or on the offender's person, or both.

7 (7) A requirement that the offender pay a home detention fee set
8 by the court in addition to the probation user's fee required under
9 IC 35-38-2-1 or IC 31-40. However, the fee set under this
10 subdivision may not exceed the maximum fee specified by the
11 department of correction under IC 11-12-2-12.

12 (8) A requirement that the offender abide by other conditions of
13 probation set by the court under IC 35-38-2-2.3.

14 (9) A requirement that an offender:

15 (A) who is ~~convicted of an offense~~ described in ~~IC 10-13-6-10~~;
16 **IC 10-13-6-10(a)**;

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

19 (C) whose sentence does not involve a commitment to the
20 department of correction;

21 provide a DNA sample.

22 SECTION 11. IC 35-38-2.6-3, AS AMENDED BY P.L.179-2015,
23 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2016]: Sec. 3. (a) The court may, at the time of sentencing,
25 suspend the sentence and order a person to be placed in a community
26 corrections program as an alternative to commitment to the department
27 of correction. The court may impose reasonable terms on the placement
28 or require the director of the community corrections program to impose
29 reasonable terms on the placement. A court shall require a person:

30 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10~~;
31 **IC 10-13-6-10(a)**;

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

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

36 to provide a DNA sample as a term of placement.

37 (b) Placement in a community corrections program under this
38 chapter is subject to the availability of residential beds or home
39 detention units in a community corrections program.

40 (c) A person placed under this chapter is responsible for the person's
41 own medical care while in the placement program.

42 (d) Placement under this chapter is subject to the community



1 corrections program receiving a written presentence report or
2 memorandum from a county probation agency.

