

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

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1304

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

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

SECTION 1. IC 5-2-6-24, AS ADDED BY P.L.168-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) As used in this section, "criminal code reform" refers to statutory provisions relating to criminal law enacted by P.L.158-2013 and HEA 1006-2014.

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

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

- (1) local units of government;
- (2) the department of correction; and
- (3) the judicial center.

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

(e) The report required under this section must:

- (1) include an analysis of:
  - (A) the effect of criminal code reform on:
    - (i) county jails;
    - (ii) community corrections programs;

HEA 1304 — CC 1



- (iii) probation departments; and
  - (iv) courts;
  - (B) recidivism rates;
  - (C) reentry court programs; and
  - (D) data relevant to the availability and effectiveness of mental health and addiction programs for persons who are at risk of entering the criminal justice system, who are in the criminal justice system, and who have left the criminal justice system;
- and**

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

**(3) track, by age and offense, the number of juveniles under the jurisdiction of an adult court due to:**

**(A) lack of jurisdiction under IC 31-30-1-4; or**

**(B) waiver of jurisdiction under IC 31-30-3-2 through IC 31-30-3-6.**

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

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

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

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

SECTION 2. IC 11-10-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. The administration of a drug by the department for the purpose of controlling a mental or emotional disorder is subject to the following requirements:

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



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

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

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

**(5) A drug may be administered for the purpose of controlling substance abuse, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

SECTION 3. IC 11-10-11.5-11, AS AMENDED BY P.L.247-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) While assigned to a community transition program, a person must comply with:

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

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

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

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

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

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

**(1) addiction counseling;**

**(2) inpatient detoxification;**



- (3) case management;**
- (4) daily living skills; and**
- (5) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

SECTION 4. IC 11-12-1-2.5, AS AMENDED BY P.L.184-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter shall use evidence based services, programs, and practices that reduce the risk for recidivism among persons who participate in the community corrections programs.

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

- (1) educational;
- (2) mental health;
- (3) drug or alcohol abuse counseling; and
- (4) housing;

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

**(c) Drug or alcohol abuse counseling programs under subsection (b) may include:**

- (1) addiction counseling;**
- (2) inpatient detoxification; and**
- (3) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

SECTION 5. IC 11-12-3.7-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 2.5. As used in this chapter, "autism spectrum disorder" has the meaning set forth in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.**

SECTION 6. IC 11-12-3.7-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 2.8. As used in this chapter, "developmental disability" has the meaning set forth in IC 12-7-2-61.**

SECTION 7. IC 11-12-3.7-4, AS AMENDED BY P.L.192-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. As used in this chapter, "forensic diversion program" means a program designed to provide an adult:

- (1) who has **an intellectual disability, an autism spectrum**



**disorder**, a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder~~; **a combination of those conditions**; and

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

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

SECTION 8. IC 11-12-3.7-7, AS AMENDED BY P.L.2-2014, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) An advisory board shall develop a forensic diversion plan to provide an adult who:

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

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

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

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

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

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

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

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

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

~~(3)~~ **(6)** Post-conviction diversion for adults with mental illness.

~~(4)~~ **(7)** Post-conviction diversion for adults with addictive disorders.

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

**(9) Post-conviction diversion for adults with developmental disabilities.**

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

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



including:

- (1) a problem solving court established under IC 33-23-16;
- (2) a court alcohol and drug program certified under IC 12-23-14-13;
- (3) treatment providers certified by the division of mental health and addiction under IC 12-23-1-6 or IC 12-21-2-3(5); and
- (4) other public and private agencies.

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

(e) The advisory board may:

- (1) operate the program;
- (2) contract with existing public or private agencies to operate one (1) or more components of the program; or
- (3) take any combination of actions under subdivisions (1) or (2).

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

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

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

- (A) certified by the division of mental health and addiction under IC 12-21-2-3(5);
- (B) accredited by an accrediting body approved by the division of mental health and addiction; or
- (C) licensed to provide mental health services under IC 25.

SECTION 9. IC 11-12-3.7-11, AS AMENDED BY P.L.168-2014, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) A person is eligible to participate in a pre-conviction forensic diversion program only if the person meets the following criteria:

- (1) The person has **an intellectual disability, a developmental disability, an autism spectrum disorder**, a mental illness, an addictive disorder, or ~~both a mental illness and an addictive disorder.~~ **a combination of those conditions.**
- (2) The person has been charged with an offense that is:
  - (A) not a violent offense; and
  - (B) a Class A, B, or C misdemeanor, or a Level 6 felony that may be reduced to a Class A misdemeanor in accordance with IC 35-50-2-7.
- (3) The person does not have a conviction for a violent offense in the previous ten (10) years.



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

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

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

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

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

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

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

**(A) addiction counseling;**

**(B) inpatient detoxification;**

**(C) case management;**

**(D) daily living skills; and**

**(E) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

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

(6) The court shall determine, after considering a report from the forensic diversion program, whether the individual is successfully participating in or has successfully completed the program.

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



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

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

- (1) two (2) years, if the person has been charged with a misdemeanor; or
- (2) three (3) years, if the person has been charged with a felony.

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

- (1) failed to successfully participate in the forensic diversion program, or failed to successfully complete the program, the court shall lift its stay, enter judgment of conviction, and sentence the person accordingly; or
- (2) successfully completed the forensic diversion program, the court shall waive entry of the judgment of conviction and dismiss the charges.

SECTION 10. IC 11-12-3.7-12, AS AMENDED BY P.L.192-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) A person is eligible to participate in a post-conviction forensic diversion program only if the person meets the following criteria:

- (1) The person has **an intellectual disability, a developmental disability, an autism spectrum disorder, a mental illness, an addictive disorder, or both a mental illness and an addictive disorder: a combination of those conditions.**
- (2) The person has been convicted of an offense that is:
  - (A) not a violent offense; and
  - (B) not a drug dealing offense.
- (3) The person does not have a conviction for a violent offense in the previous ten (10) years.
- (4) The court has determined that the person is an appropriate candidate to participate in a post-conviction forensic diversion program.
- (5) The person has been accepted into a post-conviction forensic diversion program.

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

- (1) suspend all or a portion of the person's sentence;
- (2) place the person on probation for the suspended portion of the





person's sentence; and

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

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

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

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

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

- (1) two (2) years, if the person has been charged with a misdemeanor; or
- (2) three (3) years, if the person has been charged with a felony.

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

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

- (1) Revoke the person's probation.
- (2) Order all or a portion of the person's suspended sentence to be executed.
- (3) Modify the person's sentence.
- (4) Order the person to serve all or a portion of the person's suspended sentence in:

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

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

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

- (1) Lift its stay of execution of the nonsuspendible portion of the



sentence and remand the person to the department.

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

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

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

(3) Modify the person's sentence.

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

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

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

**(1) addiction counseling;**

**(2) inpatient detoxification; and**

**(3) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

SECTION 12. IC 11-13-3-4, AS AMENDED BY P.L.114-2012, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

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

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

(1) retained by the parolee;

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

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

(d) The parole board may modify parole conditions if the parolee



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

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

(1) consider:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) shall:

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

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined



in IC 35-31.5-2-285) for the period of parole, unless the sex offender obtains written approval from the parole board;

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

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

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

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

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

(F) prohibit the sex offender from:

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

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

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

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

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

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

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

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

to wear a monitoring device (as described in IC 35-38-2.5-3) that can



transmit information twenty-four (24) hours each day regarding a person's precise location, subject to the amount appropriated to the department for a monitoring program as a condition of parole.

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

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

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

- (1) addiction counseling;**
- (2) inpatient detoxification;**
- (3) case management;**
- (4) daily living skills; and**
- (5) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

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

SECTION 13. IC 12-23-1-11, AS AMENDED BY P.L.113-2014, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) This article does not repeal or modify Indiana law relating to the operation of a vehicle under the influence of liquor or drugs.

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

SECTION 14. IC 12-23-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:



### **Chapter 6.1. Addiction Services**

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

- (1) The offense is a forcible felony or burglary classified as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014).**
- (2) The defendant has a record that includes at least two (2) prior convictions for forcible felonies or a burglary classified as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014).**
- (3) Other criminal proceedings, not arising out of the same incident, alleging commission of a felony are pending against the defendant.**
- (4) The defendant was admitted to a treatment program under IC 12-23-7 or IC 12-23-8 (before their repeal) or under IC 12-23-7.1 or IC 12-23-8.1 (after June 30, 2015) on two (2) or more prior occasions within the preceding two (2) years.**

**SECTION 15. IC 12-23-7.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:**

### **Chapter 7.1. Continuance of Prosecution After Criminal Charge**

**Sec. 1. If:**

- (1) a court has reason to believe that an individual charged with an offense is a drug abuser or an alcoholic or the individual states that the individual is a drug abuser or an alcoholic;**
  - (2) the court finds that the individual is eligible to make the request for treatment provided for in IC 12-23-6.1; and**
  - (3) the defendant is not disqualified under IC 12-23-6.1-1;**
- the court may advise the individual that the prosecution of the charge may be continued if the individual requests to undergo treatment and is accepted for treatment by the division.**

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

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



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

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

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

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

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

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

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

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

(2) Transmit to the division the following:

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

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

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

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

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

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

the individual may be held to answer the charge.

Sec. 8. If the court determines that an individual is a drug abuser or an alcoholic and is likely to be rehabilitated through



treatment, the court may, with the consent of the prosecuting attorney:

- (1) defer the trial; or
- (2) without a jury, conduct the trial of the individual but may, with the consent of the prosecuting attorney, do the following:
  - (A) Defer entering general findings with respect to the individual until the time that prosecution may be resumed.
  - (B) Place the individual under the supervision of the division for treatment for a maximum of three (3) years.

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

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

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

- (1) continued without final disposition; and
- (2) dismissed if the division certifies to the court that the individual has successfully completed the treatment program.

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

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

**Sec. 13.** If a criminal proceeding is resumed and the individual subsequently completes the treatment program, the individual is entitled to accrued time for the time spent in institutional care.

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

SECTION 16. IC 12-23-8.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 8.1. Treatment and Probation Following Criminal Conviction**





**Sec. 1. If:**

- (1) a court has reason to believe that an individual convicted of an offense is a drug abuser or an alcoholic or the individual states that the individual is a drug abuser or an alcoholic; and
- (2) the court finds that the individual is eligible to make the request for treatment provided for under IC 12-23-6.1;

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

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

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

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

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

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

**Sec. 6.** The court shall do the following:

- (1) Transmit to the division a summary of an individual's criminal history.
- (2) Transmit to the division a copy of the reports on all background and presentence investigations conducted by or for the court.

**Sec. 7.** Within a reasonable time after receiving an order to conduct an examination and after the court submits the required supporting documents and certification of eligibility, the division shall do the following:

- (1) Report to the court the results of the examination.
- (2) Recommend whether the individual should be placed on probation and supervision for treatment.

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



- (1) an individual is not a drug abuser or an alcoholic; or
- (2) the individual is not likely to be rehabilitated through treatment;

the court shall sentence the individual as in other cases.

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

- (1) Place the individual on probation under IC 35-38-2 and under the supervision of the division for treatment.
- (2) Require progress reports on the individual from the probation officer and the division that the court finds necessary.

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

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

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

SECTION 17. IC 12-23-9-4, AS AMENDED BY P.L.113-2014, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) An individual who by medical examination is found to be incapacitated by alcohol at the time of admission or to have become incapacitated by alcohol at any time after admission may not be detained at a facility:

- (1) after the individual is no longer incapacitated by alcohol; or
- (2) if the individual remains incapacitated by alcohol for more than forty-eight (48) hours after admission as a patient, **unless the individual is committed under IC 12-23-7.1 through IC 12-23-8.1.**

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

SECTION 18. IC 12-23-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 10.1. Voluntary Treatment by Division for Drug Abusers**

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



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

- (1) the individual is a drug abuser; and**
- (2) the individual should be admitted to an existing treatment facility or program.**

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

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

SECTION 19. IC 12-23-11.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

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

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

- (1) an alcoholic;**
- (2) incapacitated by alcohol; or**
- (3) a drug abuser;**

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

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

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

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

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

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

SECTION 20. IC 12-23-14-16, AS AMENDED BY P.L.136-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) The court may require an eligible individual to pay a fee for a service of a program.



(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for program services.

(c) The fee for program services, excluding reasonable fees for education or treatment and rehabilitation services, may not exceed four hundred dollars (\$400).

(d) ~~A fee collected~~ **An alcohol and drug services program or the clerk of the court shall collect fees** under this chapter. ~~shall be deposited in the city or county~~ **The fees must be transferred within thirty (30) days after the fees are collected for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.**

SECTION 21. IC 12-23-18-7, AS ADDED BY P.L.131-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The division shall adopt rules under IC 4-22-2 to establish standards and protocols for opioid treatment programs to do the following:

- (1) Assess new opioid treatment program patients to determine the most effective opioid treatment medications to start the patient's opioid treatment.
- (2) Ensure that each patient voluntarily chooses maintenance treatment and that relevant facts concerning the use of opioid treatment medications are clearly and adequately explained to the patient.
- (3) Have appropriate opioid treatment program patients who are receiving methadone for opioid treatment move to receiving other approved opioid treatment medications.

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

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

- (1) Buprenorphine.
- (2) Buprenorphine combination products containing naloxone.
- (3) Naltrexone injectable and extended release.**
- (4) A federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**
- ~~(5)~~ **(5)** Any other medication that has been approved by:
  - (A) the federal Food and Drug Administration for use in the treatment of opioid addiction; and
  - (B) the division under subsection (e).



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

(e) The division may adopt rules under IC 4-22-2 to provide for other medications, **including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence**, as alternatives to methadone that may be used under subsection (a).

SECTION 22. IC 12-24-12-10, AS AMENDED BY P.L.113-2014, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) Upon admission to a state institution administered by the division of mental health and addiction, the gatekeeper is one (1) of the following:

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

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

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

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

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

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

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

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

SECTION 23. IC 16-42-19-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18. (a) A person may not possess ~~or have under control~~ with intent to:

(1) violate this chapter; **or**

(2) **commit an offense described in IC 35-48-4;**

a hypodermic syringe or needle or an instrument adapted for the use of a **controlled substance or** legend drug by injection in a human being.

**(b) A person who violates subsection (a) commits a Level 6**



**felony.**

SECTION 24. IC 16-42-19-27, AS AMENDED BY SEA 294-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) **Unless otherwise specified**, a person who knowingly violates this chapter, except sections 24, 25(b), and 30(c) of this chapter, commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or IC 16-6-8-10(a) before its repeal.

(b) A person who violates section 24 of this chapter commits a Class B misdemeanor.

(c) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Level 5 felony. However, the offense is a Level 4 felony if the person delivered the anabolic steroid to a person who is:

- (1) less than eighteen (18) years of age; and
- (2) at least three (3) years younger than the delivering person.

(d) A person who violates section 30(c) of this chapter commits a Class A infraction.

SECTION 25. IC 29-3-7-7, AS AMENDED BY P.L.168-2014, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. A court may not appoint a person to serve as the guardian or permit a person to continue to serve as a guardian if the person:

- (1) is a sexually violent predator (as described in IC 35-38-1-7.5);
- (2) was at least eighteen (18) years of age at the time of the offense and was convicted of child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

- (A) by using or threatening the use of deadly force;
- (B) while armed with a deadly weapon; or
- (C) that resulted in serious bodily injury; or

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

(A) an offense described in:

- (i) IC 35-42-4-1;
- (ii) IC 35-42-4-2 (before its repeal);
- (iii) IC 35-42-4-3 as a Class A or Class B felony (for crimes committed before July 1, 2014) or as a **Level 1**, **Level 2**, **Level 3**, or Level 4 felony (for crimes committed after June 30, 2014);
- (iv) IC 35-42-4-5(a)(1);
- (v) IC 35-42-4-5(a)(2);



- (vi) IC 35-42-4-5(a)(3);
  - (vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony (for crimes committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for crimes committed after June 30, 2014);
  - (viii) IC 35-42-4-5(b)(2); or
  - (ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony (for crimes committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for crimes committed after June 30, 2014);
- (B) an attempt or conspiracy to commit a crime listed in clause (A); or
- (C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 26. IC 31-30-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. Upon motion of the prosecuting attorney and after full investigation and hearing, the juvenile court shall waive jurisdiction if it finds that:

- (1) the child is charged with an act that would be murder if committed by an adult;
- (2) there is probable cause to believe that the child has committed the act; and
- (3) the child was at least ~~ten (10)~~ **twelve (12)** years of age when the act charged was allegedly committed;

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

SECTION 27. IC 31-30.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**ARTICLE 30.5. JUVENILE LAW: PRELIMINARY PROCEEDINGS**

**Chapter 1. Custodial Interrogations**

**Sec. 1. The following definitions apply throughout this chapter:**

- (1) "Custodial interrogation" has the meaning set forth in Indiana Evidence Rule 617.
- (2) "Electronic recording" has the meaning set forth in Indiana Evidence Rule 617.
- (3) "Place of detention" has the meaning set forth in Indiana Evidence Rule 617.

**Sec. 2. A statement made during the custodial interrogation of**



a juvenile that is conducted at a place of detention is not admissible against the juvenile in a juvenile proceeding unless the interrogation complies with the requirements of Indiana Evidence Rule 617.

**Sec. 3. (a)** This section applies only to the custodial interrogation of a juvenile that is:

- (1) not conducted at a place of detention; and
- (2) conducted at a school or another place where a juvenile is detained in connection with the investigation.

(b) A statement made during a custodial interrogation described in subsection (a) is admissible against the juvenile in a felony criminal prosecution or in a juvenile proceeding only if:

- (1) the interrogation complies with Indiana Evidence Rule 617; or
- (2) the interrogation:
  - (A) is recorded by using audio equipment; and
  - (B) complies with every requirement of Indiana Evidence Rule 617, except for the requirement that an electronic recording be an audio-visual recording.

**Sec. 4.** A law enforcement agency shall retain a copy of a custodial interrogation of a juvenile recorded under this chapter:

- (1) if the juvenile is adjudicated a delinquent child for committing an act that would be a crime if committed by an adult, until the juvenile has exhausted all appeals related to the adjudication;
- (2) if the juvenile is convicted of a felony as an adult, until:
  - (A) the felony conviction is final; and
  - (B) the juvenile has exhausted all direct and habeas corpus appeals related to the conviction; or
- (3) until a prosecution of the juvenile for a felony is barred by law.

**Sec. 5.** A custodial interrogation recorded under this chapter is confidential at the discretion of the court.

#### **Chapter 2. Restraining Juveniles in Court**

**Sec. 1. (a)** Except as provided in subsection (b), a juvenile shall not be restrained in court unless the court has determined on the record, after considering the recommendation of the sheriff or transport officer, that the juvenile is dangerous or potentially dangerous.

(b) A court may order a juvenile restrained without considering the recommendation of the sheriff or transport officer if the juvenile has caused a physical disruption while in open court.





SECTION 28. IC 31-37-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child leaves home **or a specific location previously designated by the child's parent, guardian, or custodian:**

- (1) without reasonable cause; and
- (2) without permission of the parent, guardian, or custodian, who requests the child's return.

SECTION 29. IC 31-37-19-1.7, AS ADDED BY HEA 1434-2015, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.7. (a) For a child who is at least fourteen (14) years of age, the **department probation officer** shall consult with the child in the development of the child's case plan or transitional services plan. If the **department probation officer** determines that the child is unable to participate effectively in the development of a case plan or transitional services plan due to a physical, mental, emotional, or intellectual disability, the **department probation officer** may excuse the child from this requirement by documenting in the plan the reasons for the child's inability to participate in the development of the applicable plan. If the child refuses to participate in the development of the applicable plan for reasons other than a physical, mental, emotional, or intellectual disability, the **department probation officer** shall record the refusal and document efforts made to obtain the child's input or participation in the development of the applicable plan.

(b) The child may select not more than two (2) child representatives to represent the child in the development of the child's case plan or transitional services plan. A child representative selected under this section:

- (1) must be:
  - (A) at least eighteen (18) years of age; and
  - (B) a member of the case planning team;
- (2) may not be a foster parent of or caseworker for the child; and
- (3) must be approved by the child's probation officer.

(c) The child may select one (1) of the child representatives who is a member of the child's case planning team to also be the child's adviser and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.

(d) The probation officer may reject an individual selected by a child to be a member of the case planning team at any time if the probation officer has good cause to believe that the individual would not act in the best interests of the child.

SECTION 30. IC 31-37-20-8, AS ADDED BY HEA 1434-2015,



SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) This section applies to an individual who:

- (1) is leaving foster care because the individual is at least eighteen (18) years of age; and
- (2) has been in foster care for at least six (6) months.

(b) Before an individual described in subsection (a) leaves foster care, the ~~department~~ **probation officer** shall provide to the individual the following documents that are applicable to the individual:

- (1) An official or certified copy of the individual's United States birth certificate.
- (2) A Social Security card issued for the individual by the Social Security Administration.
- (3) Insurance records for the individual.
- (4) A copy of the individual's medical records.
- (5) The individual's driver's license or identification card issued by the state.

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

- (1) a child is placed in a shelter care facility or other place of residence as part of a court order with respect to a delinquent act under IC 31-37-2-2;
- (2) the child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;
- (3) the issuance of the warning was reflected in the records of the hearing;
- (4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and
- (5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;

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

SECTION 32. IC 31-37-22-6 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. Sec. 6. If:

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



before its repeal);

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

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

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

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

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

SECTION 33. IC 31-37-22-7 IS REPEALED [EFFECTIVE JANUARY 1, 2016]. Sec. 7. (a) If the juvenile court modifies its disposition order under section 5 or 6 of this chapter, the court may order the child placed under one (1) of the following alternatives:

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

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

(3) In a local secure public facility.

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

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

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

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

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



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

SECTION 34. IC 31-37-22-10, AS ADDED BY HEA 1434-2015, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) This section applies to an individual who:

- (1) is leaving foster care because the individual is eighteen (18) years of age or older; and
- (2) has been in foster care for at least six (6) months.

(b) Before an individual described in subsection (a) leaves foster care, the ~~department~~ **probation officer** shall provide to the individual all the following documents that are applicable to the individual:

- (1) An official or certified copy of the individual's United States birth certificate.
- (2) A Social Security card issued for the individual by the Social Security Administration.
- (3) Insurance records.
- (4) A copy of the individual's medical records.
- (5) A driver's license or identification card issued by the state.

SECTION 35. IC 31-41, AS ADDED BY HEA 1196-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

#### ARTICLE 41. DUAL STATUS

##### Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Dual status child" means:

- (1) a child who is alleged to be or is presently adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11 and is alleged to be or is presently adjudicated to be a delinquent child under IC 31-37-12 or IC 31-37-13;
- (2) a child who is presently named in an informal adjustment under IC 31-34-8 and who is adjudicated a delinquent child under IC 31-37-12 or IC 31-37-13;
- (3) a child who is presently named in an informal adjustment under IC 31-37-9 and who is adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11;
- (4) a child who:
  - (A) has been previously adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11; or
  - (B) was a participant in a program of informal adjustment under IC 31-34-8;



and who was under a wardship that had been terminated or was in a program of informal adjustment that had concluded before the current delinquency petition;

(5) a child who was:

(A) previously adjudicated to be a delinquent child under IC 31-37-12 or IC 31-37-13 that was closed; and

(B) a participant in a program of informal adjustment under IC 31-37-9 which was concluded prior to a child in need of services proceeding; and

(6) a child:

(A) who is eligible for release from commitment of the department of correction;

(B) whose parent, guardian, or custodian:

(i) cannot be located; or

(ii) is unwilling to take custody of the child; and

(C) for whom the department of correction is requesting a modification of the dispositional decree under IC 31-30-2-4.

Sec. 3. "Dual status screening tool" means a factual review of a child's status and history conducted by the case manager under IC 31-34 or the probation officer under IC 31-37 to determine whether a child meets the criteria for being a dual status child as defined by section 2 of this chapter.

Sec. 4. "Dual status assessment" means a review by a dual status assessment team to assess a dual status child's:

(1) status;

(2) best interests;

(3) need for services; and

(4) level of needs, strengths, and ~~risk~~ risks of the child.

Sec. 5. "Dual status assessment team" means a committee assembled and convened by a juvenile court to recommend the proper legal course for a dual status child.

#### Chapter 2. Dual Status Assessment Team

Sec. 1. After a juvenile court has determined that a child is a dual status child, the juvenile court shall refer the child to be assessed by a dual status assessment team.

Sec. 2. (a) The dual status assessment team shall include:

(1) if the child has a department of child services case manager, the case manager;

(2) if the child does not have a department of child services case manager, a representative of the department of child services appointed by the local department of child services director;

(3) if the child has a probation officer, that probation officer;



- (4) if the child does not have a probation officer, a probation officer appointed by the court; and
  - (5) a meeting facilitator, who may be a member of the dual status assessment team described in subdivisions (1) through (4) or may be a person appointed by the juvenile court.
- (b) The dual status assessment team may include:
- (1) the child if the juvenile court deems the child is age appropriate;
  - (2) the child's public defender or attorney;
  - (3) the child's parent, guardian, or custodian;
  - (4) the child's parent's attorney;
  - (5) a prosecuting attorney;
  - (6) the attorney for the department;
  - (7) a court appointed special advocate or a guardian at litem;
  - (8) a representative from the department of correction;
  - (9) a school representative;
  - (10) an educator;
  - (11) a therapist;
  - (12) the child's foster parent; and
  - (13) a service provider appointed by the team or the juvenile court.

Sec. 3. (a) The dual status assessment team shall meet within ten (10) days of the date ordered by the juvenile court.

(b) The dual status assessment team shall be convened by the facilitator described in section 2(a)(6) of this chapter.

- (c) The dual status assessment team shall consider:
- (1) any allegations of abuse or neglect suffered by the child; and
  - (2) any allegation that the child is a delinquent child under IC 31-37-1-1 or IC 31-37-2-1.

Sec. 4. All statements communicated in a dual status assessment team meeting are:

- (1) not admissible as evidence against the child in any judicial proceeding; and
- (2) not discoverable in any litigation.

Sec. 5. The dual status assessment team shall consider the child's best interests and well-being, including:

- (1) the child's mental health, including any diagnosis;
- (2) the child's school records, including attendance and achievement level;
- (3) the child's statements;
- (4) the statements of the child's parent, guardian, or custodian;
- (5) the impact of the child's behavior on any victim;



- (6) the safety of the community;
- (7) the child's needs, strengths, and risk;
- (8) the need for a parent participation plan;
- (9) the efficacy and availability of services and community providers;
- (10) whether appropriate supervision of the child can be achieved by the dismissal of a delinquency adjudication in deference to a child in need of services adjudication;
- (11) whether appropriate supervision of the child can be achieved by combining a delinquency adjudication or informal adjustment with a child in need of services petition;
- (12) the child's placement needs;
- (13) restorative justice practices that may be appropriate;
- (14) whether a child in need of services petition or informal adjustment should be filed or dismissed;
- (15) whether a delinquency petition or informal adjustment should be filed or dismissed;
- (16) the availability of coordinated services regardless of whether the child is adjudicated to be a child in need of services or a delinquent child;
- (17) whether the team recommends the exercise of dual adjudication and the lead agency to provide supervision of the child; and
- (18) any other information considered appropriate by the team.

Sec. 6. After a dual status assessment team has met to assess a child, the team shall:

- (1) designate a member to prepare the written report for the juvenile court; and
- (2) provide recommendations, including:
  - (A) whether the court should proceed with an additional initial hearing regarding the petition alleging the child is in need of services and dismiss a pending delinquency petition or informal adjustment at the conclusion of a child in need of services adjudication;
  - (B) whether the court should proceed with an additional initial hearing regarding a petition alleging that the child is a delinquent **child** under IC 31-37-1 and dismiss a pending child in need of services petition or informal adjustment upon conclusion of the delinquency adjudication;
  - (C) whether the court should proceed with an additional initial hearing and adjudication or informal adjustment concerning a child in need of services petition and a delinquency petition



under IC 31-37-1;

(D) what agency should be the lead agency in a child's supervision; and

(E) any other matters relevant to the child's best interests, including any services to be included in a dispositional decree.

**If the probation department of the juvenile court is designated as the lead agency under IC 31-41-3, any recommendations made by the dual status assessment team under subdivision (2) must be consistent with the funding provisions of IC 31-37.**

Chapter 3. Determination of Lead Agency

Sec. 1. (a) If a child has been adjudicated to be a:

- (1) child in need of services under IC 31-34; and
- (2) delinquent child under IC 31-37;

unless the court adopts a contrary recommendation by a dual status assessment team, the court making the later adjudication may determine if the department of child services or the probation department of the juvenile court shall be the lead agency that will supervise the dual status child.

(b) In making a determination under subsection (a), the court shall consider:

- (1) the child's social and family situation;
- (2) the child's experiences with the department of child services;
- (3) the child's prior adjudications of delinquency;
- (4) the recommendations of the dual status assessment team; and
- (5) the needs, strengths, and risks of the child.

(c) The court may require the department of child services and the probation department of the juvenile court to work together in the supervision of a dual status child and for the purposes of filing a modification under IC 31-34-23 or IC 31-37-22. **If the probation department of the juvenile court is designated as the lead agency under this chapter, any recommendations made by the probation department under this subsection must be consistent with the funding provisions of IC 31-37.**

(d) A court may order any service for a dual status child under this chapter that is available:

- (1) to a child in need of services under IC 31-34; or
- (2) to a delinquent child under IC 31-37.

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





- (1) addiction counseling;**
- (2) inpatient detoxification;**
- (3) case management;**
- (4) daily living skills; and**
- (5) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

SECTION 37. IC 33-37-5-8, AS AMENDED BY P.L.97-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) This section applies to criminal, infraction, and ordinance violation actions. However, it does not apply to a case excluded under IC 33-37-4-2(d).

(b) **Subject to IC 12-23-14-16(d)**, the clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a county that has established an alcohol and drug services program.

(c) In each action in which a defendant is found to have:

- (1) committed a crime;
- (2) violated a statute defining an infraction; or
- (3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program fee of four dollars (\$4).

SECTION 38. IC 33-37-8-4, AS AMENDED BY P.L.229-2011, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

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

- (1) Personnel expenses related to the operation of the program.
- (2) Special training for:
  - (A) a prosecuting attorney;
  - (B) a deputy prosecuting attorney;
  - (C) support staff for a prosecuting attorney or deputy prosecuting attorney; or
  - (D) a law enforcement officer.
- (3) Employment of a deputy prosecutor or prosecutorial support staff.
- (4) Victim assistance.



- (5) Electronic legal research.
- (6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.
- (7) Expenses of a criminal investigation and prosecution.
- (8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:
  - (A) substance abuse;
  - (B) child abuse;
  - (C) domestic violence;
  - (D) operating while intoxicated; and
  - (E) juvenile delinquency.

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

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

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

SECTION 39. IC 33-37-8-6, AS AMENDED BY P.L.229-2011, SECTION 264, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

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

- (1) Personnel expenses related to the operation of the program.
- (2) Special training for:
  - (A) a prosecuting attorney;
  - (B) a deputy prosecuting attorney;



- (C) support staff for a prosecuting attorney or deputy prosecuting attorney; or
- (D) a law enforcement officer.
- (3) Employment of a deputy prosecutor or prosecutorial support staff.
- (4) Victim assistance.
- (5) Electronic legal research.
- (6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.
- (7) Expenses of a criminal investigation and prosecution.
- (8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:
  - (A) substance abuse;
  - (B) child abuse;
  - (C) domestic violence;
  - (D) operating while intoxicated; and
  - (E) juvenile delinquency.

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

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

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

SECTION 40. IC 33-39-1-8, AS AMENDED BY P.L.168-2014, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).



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

- (1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or
- (2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:
  - (A) intoxication; or
  - (B) the operation of a vehicle;

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

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

- (1) who is arrested for or charged with an offense under:
  - (A) IC 7.1-5-7-7, if the alleged offense occurred while the person was operating a motor vehicle;
  - (B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;
  - (C) IC 35-44.1-2-13(b)(1); or
  - (D) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and
- (2) who held a probationary license (as defined in IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.

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

- (1) the person is charged with a misdemeanor, a Level 6 felony, or a Level 5 felony;
- (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;
- (3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and
- (4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

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

- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;
- (2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip



the person for suitable employment;

(3) undergo available medical treatment or **mental health counseling** and remain in a specified facility required for that purpose, **including:**

**(A) addiction counseling;**

**(B) inpatient detoxification; and**

**(C) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

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

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

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

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

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

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

~~(9)~~ **(10)** participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

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

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

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

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

~~(e)~~**(7):**

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

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

SECTION 41. IC 33-40-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The commission



shall do the following:

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

(A) Determining indigency and eligibility for legal representation.

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

(C) Determining conflicts of interest.

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

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

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

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

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

(D) Qualifications of attorneys to represent indigent defendants at public expense.

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

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

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

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

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

SECTION 42. IC 34-30-2-148.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 148.6. IC 35-36-12-7 (Concerning a court appointed forensic advocate, an employee of a county court appointed forensic advocate program, or a volunteer for a court appointed forensic advocate program for good faith performance**



of duties relating to assistance of a person with an intellectual disability, a developmental disability, or an autism spectrum disorder).

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

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

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

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

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

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

SECTION 44. IC 35-31.5-2-83.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 83.3. "Dangerous sexually transmitted disease" means:**

**(1) the human immunodeficiency virus (HIV);**

**(2) herpes;**

**(3) gonorrhea;**

**(4) syphilis;**

**(5) chlamydia; or**

**(6) hepatitis.**

SECTION 45. IC 35-31.5-2-279.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 279.5. "Rolling paper" means a small sheet, roll, or leaf of paper that is used for rolling a cigarette containing tobacco or another substance.**

SECTION 46. IC 35-36-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 12. Court Appointed Forensic Advocate for Persons**



**With Intellectual Disabilities, Developmental Disabilities, or Autism Spectrum Disorders**

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

**Sec. 2.** A court appointed forensic advocate shall assist the person with an intellectual disability, a developmental disability, or an autism spectrum disorder to whom the advocate has been appointed.

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

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

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

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

**Sec. 7.** Except for gross misconduct:

- (1) a court appointed forensic advocate;
- (2) an employee of a county court appointed forensic advocate program; and
- (3) a volunteer for a court appointed forensic advocate program;

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

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

- (1) court appointed forensic advocate program; or
- (2) individual who served as a court appointed forensic advocate;

for the services provided under this chapter.





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

- (1) The court may order the person with an intellectual disability, a developmental disability, or an autism spectrum disorder to pay the user fee to the court appointed forensic advocate program that provided the services.**
- (2) The court may order the person with an intellectual disability, a developmental disability, or an autism spectrum disorder to pay the user fee to the individual court appointed forensic advocate that provided the services.**

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

SECTION 47. IC 35-38-2-2.3, AS AMENDED BY SEA 175-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Participate in a treatment program, educational class, or rehabilitative service provided by a probation department or by referral to an agency.
- (5) Support the person's dependents and meet other family responsibilities.
- (6) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- (7) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- (8) Pay a fine authorized by IC 35-50.
- (9) Refrain from possessing a firearm or other deadly weapon



unless granted written permission by the court or the person's probation officer.

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

(11) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(12) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(13) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(14) Perform uncompensated work that benefits the community.

(15) Satisfy other conditions reasonably related to the person's rehabilitation.

(16) Undergo home detention under IC 35-38-2.5.

(17) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(18) Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.

(19) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(20) Periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is



responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

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

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

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

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

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

(23) Participate in a reentry court program.

**(24) Receive:**

**(A) addiction counseling;**

**(B) mental health counseling;**

**(C) inpatient detoxification; and**

**(D) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.**

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

(1) the conditions of probation; and

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

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

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

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

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual



days spent in confinement and shall be completed within one (1) year. A person does not earn good time credit while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

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

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

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

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

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

- (1) convicted of an offense described in IC 10-13-6-10;
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
- (3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

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

SECTION 48. IC 35-42-4-3, AS AMENDED BY P.L.168-2014, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A person who, with a child under fourteen (14) years of age, knowingly or intentionally performs or submits to sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) commits child molesting, a Level 3 felony. However, the offense is a Level 1 felony if:

- (1) it is committed by a person at least twenty-one (21) years of age;
- (2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;



- (3) it results in serious bodily injury; ~~or~~
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; **or**
- (5) it results in the transmission of a dangerous sexually transmitted disease and the person knew that the person was infected with the disease.**

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Level 4 felony. However, the offense is a Level 2 felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon; or
- (3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person may be convicted of attempted child molesting of an individual at least fourteen (14) years of age if the person believed the individual to be a child under fourteen (14) years of age at the time the person attempted to commit the offense.

(d) It is a defense to a prosecution under this section that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct, unless:

- (1) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
- (2) the offense results in serious bodily injury; or
- (3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

SECTION 49. IC 35-48-4-8.3, AS AMENDED BY P.L.158-2013, SECTION 635, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) ~~A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:~~

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



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

(3) enhancing the effect of a controlled substance;

in violation of this chapter commits a ~~Class A~~ infraction for possessing paraphernalia. **This section does not apply to a rolling paper.**

(b) A person who knowingly or intentionally violates subsection (a) possesses an instrument, a device, or another object that the person intends to use for:

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

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

(3) enhancing the effect of a controlled substance;

commits a ~~Class A~~ **Class C** misdemeanor. However, the offense is a ~~Level 6 felony~~ **Class A misdemeanor** if the person has a prior unrelated judgment or conviction under this section.

SECTION 50. IC 35-50-2-9, AS AMENDED BY SEA 8-2015, SECTION 1, AS AMENDED BY SEA 175-2015, SECTION 29, AND AS AMENDED BY SEA 420-2015, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

(A) Arson (IC 35-43-1-1).

(B) Burglary (IC 35-43-2-1).

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

(D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

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

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

(G) Robbery (IC 35-42-5-1).

(H) Carjacking (IC 35-42-5-2) (before its repeal).



- (I) Criminal gang activity (IC 35-45-9-3).
  - (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
  - (K) Criminal confinement (IC 35-42-3-3).
- (2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.
- (3) The defendant committed the murder by lying in wait.
- (4) The defendant who committed the murder was hired to kill.
- (5) The defendant committed the murder by hiring another person to kill.
- (6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:
- (A) the victim was acting in the course of duty; or
  - (B) the murder was motivated by an act the victim performed while acting in the course of duty.
- (7) The defendant has been convicted of another murder.
- (8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
- (9) The defendant was:
- (A) under the custody of the department of correction;
  - (B) under the custody of a county sheriff;
  - (C) on probation after receiving a sentence for the commission of a felony; or
  - (D) on parole;
- at the time the murder was committed.
- (10) The defendant dismembered the victim.
- (11) The defendant:
- (A) burned, mutilated, or tortured the victim; or
  - (B) decapitated or attempted to decapitate the victim;
- while the victim was alive.
- (12) The victim of the murder was less than twelve (12) years of age.
- (13) The victim was a victim of any of the following offenses for which the defendant was convicted:
- (A) Battery committed before July 1, 2014, as a Class D felony or as a Class C felony under IC 35-42-2-1 or battery committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.
  - (B) Kidnapping (IC 35-42-3-2).



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

(D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

**(17) The defendant knowingly or intentionally:**

**(A) committed the murder:**

**(i) in a building primarily used for an educational purpose;**

**(ii) on school property; and**

**(iii) when students are present; or**

**(B) committed the murder:**

**(i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and**

**(ii) at a time when classes are in session.**

**(18) The murder is committed:**

**(A) in a building that is primarily used for religious worship; and**

**(B) at a time when persons are present for religious worship or education.**

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of





another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.



(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole; only if it makes the findings described in subsection (1).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the



sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

- (1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and
- (2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.

SECTION 51. IC 35-50-6-3.3, AS AMENDED BY SEA 175-2015, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.3. (a) In addition to any educational credit a person earns under subsection (b), or good time credit a person earns under section 3 or 3.1 of this chapter, a person earns educational credit if the person:

- (1) is in credit Class I, Class A, or Class B;
- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:
  - (A) A general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person has not previously obtained a high school diploma.
  - (B) Except as provided in subsection (o), a high school diploma, if the person has not previously obtained a general educational development (GED) diploma.



(C) An associate degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) earned during the person's incarceration.

(D) A bachelor degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) earned during the person's incarceration.

(b) In addition to any educational credit that a person earns under subsection (a), or good time credit a person earns under section 3 or 3.1 of this chapter, a person may earn educational credit if, while confined by the department of correction, the person:

- (1) is in credit Class I, Class A, or Class B;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical or vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(D) A certificate of completion of a reformatory program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning educational credit under subsection (b). A person may not earn educational credit under both subsections (a) and (b) for the same program of study. The department of correction, in consultation with the department of workforce development, shall approve a program only if the program is likely to lead to an employable occupation.

(d) The amount of educational credit a person may earn under this section is the following:

(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18.

(2) One (1) year for graduation from high school.

(3) Not more than one (1) year for completion of an associate degree.

(4) Not more than two (2) years for completion of a bachelor degree.

(5) Not more than a total of one (1) year, as determined by the department of correction, for the completion of one (1) or more



career and technical or vocational education programs approved by the department of correction.

(6) Not more than a total of six (6) months, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

(7) Not more than a total of six (6) months, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

(8) Not more than a total of six (6) months, as determined by the department of correction, for completion of one (1) or more reformatory programs approved by the department of correction. However, a person who is serving a sentence for an offense listed under IC 11-8-8-4.5 may not earn educational credit under this subdivision.

However, a person who does not have a substance abuse problem that qualifies the person to earn educational credit in a substance abuse program may earn not more than a total of twelve (12) months of educational credit, as determined by the department of correction, for the completion of one (1) or more career and technical or vocational education programs approved by the department of correction. If a person earns more than six (6) months of educational credit for the completion of one (1) or more career and technical or vocational education programs, the person is ineligible to earn educational credit for the completion of one (1) or more substance abuse programs.

(e) Educational credit earned under this section must be directly proportional to the time served and course work completed while incarcerated. The department of correction shall adopt rules under IC 4-22-2 necessary to implement this subsection.

(f) Educational credit earned by a person under this section is subtracted from the release date that would otherwise apply to the person by the sentencing court after subtracting all other credit time earned by the person.

(g) A person does not earn educational credit under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(h) A person does not earn educational credit under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(i) Educational credit earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted



from:

(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or

(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:

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

(B) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

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

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

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

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

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

(H) Sexual misconduct with a minor (IC 35-42-4-9) as a:

(i) Class A felony, Class B felony, or Class C felony for a crime committed before July 1, 2014; or

(ii) Level 1, Level 2, or Level 4 felony, for a crime committed after June 30, 2014.

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

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

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(j) The maximum amount of educational credit a person may earn under this section is the lesser of:

(1) two (2) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(k) Educational credit earned under this section by an offender serving a sentence for **stalking (IC 35-45-10-5)**, a felony against a person under IC 35-42, or for a crime listed in IC 11-8-8-5, shall be reduced to the extent that application of the educational credit would otherwise result in:

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program; in less than forty-five (45) days after the person earns the educational credit.



(l) A person may earn educational credit for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

(m) A person may not earn educational credit:

- (1) for a general educational development (GED) diploma if the person has previously earned a high school diploma; or
- (2) for a high school diploma if the person has previously earned a general educational development (GED) diploma.

(n) A person may not earn educational credit under this section if the person:

- (1) commits an offense listed in IC 11-8-8-4.5 while the person is required to register as a sex or violent offender under IC 11-8-8-7; and
- (2) is committed to the department of correction after being convicted of the offense listed in IC 11-8-8-4.5.

(o) For a person to earn educational credit under subsection (a)(3)(B) for successfully completing the requirements for a high school diploma through correspondence courses, each correspondence course must be approved by the department before the person begins the correspondence course. The department may approve a correspondence course only if the entity administering the course is recognized and accredited by the department of education in the state where the entity is located.

**SECTION 52. [EFFECTIVE JULY 1, 2015] (a) As used in this SECTION, "autism" means autism spectrum disorder as defined by the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.**

**(b) As used in this SECTION, "individual with dual diagnosis" means an individual with:**

- (1) a mental illness; and**
- (2) one (1) or more of the following:**
  - (A) An intellectual disability.**
  - (B) A developmental disability.**
  - (C) Autism.**

**(c) Before September 1, 2017, the division of mental health and addiction and the division of disability and rehabilitative services shall provide to the legislative council a report setting forth the following concerning evidence based mental health and addiction forensic treatment services provided by community mental health**



centers to individuals with dual diagnosis to reduce the risk of recidivism:

- (1) Mental health and addiction services provided by community mental health centers that are available in Indiana for an individual with dual diagnosis in Indiana.
- (2) Barriers to providing mental health and addiction services to an individual with dual diagnosis.
- (3) To what extent the mental health and addiction services for an individual with dual diagnosis are coordinated and integrated across health care delivery systems.
- (4) Mental health and addiction services that are needed in Indiana for an individual with dual diagnosis.
- (5) The roles of private sector providers and the public sector, including local and state government, for services identified under subdivisions (1) through (4).

A report to the legislative council under this subsection must be submitted in an electronic format under IC 5-14-6.

(d) The report required under subsection (c) may use existing family and social services administration (FSSA) data and must include recommendations to enhance, coordinate, and integrate the response of Indiana's community mental health centers to individuals with dual diagnosis to reduce the risk of recidivism, including an evaluation of the need for or better use of the following:

- (1) Appropriate screening and assessment tools.
  - (2) Training and expertise.
  - (3) Reimbursement strategies.
  - (4) Adequate staffing.
  - (5) Linkage to community based services.
  - (6) Other issues identified by the division of mental health and addiction.
- (e) This SECTION expires December 31, 2017.





\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

