

HOUSE BILL No. 1344

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2-76.5; IC 9-24-15; IC 9-30; IC 12-23-5.

Synopsis: Ignition interlock devices. Provides that an "ignition interlock driver" is a designation of a person who is restricted by a court to operate only a motor vehicle that is equipped with a functioning certified ignition interlock device. Requires courts to designate certain individuals as "ignition interlock drivers". Changes the conditions under which a court is required to grant a hardship license with restricted driving privileges. Restricts a person to operating only a vehicle with a functioning and certified ignition interlock device in certain situations. Provides that if a court has granted a person restricted driving privileges for a restricted driver's license because of hardship, the person has violated the restrictions, and the bureau of motor vehicles (BMV) determines that the person has a functioning certified ignition interlock device installed in the vehicles the person expects to operate, the bureau may extend the suspension of the person's driving privileges and ignition interlock restrictions. Provides that if a person operates a vehicle in violation of a probationary license, the BMV may extend the suspension of the person's driving privileges and ignition interlock restrictions. Provides that a court may grant a person less than 21 years of age who operated a vehicle with a certain blood alcohol concentration probationary driving privileges restricting the person to operating only a vehicle equipped with an ignition interlock device. Provides that a court may grant a person convicted of operating a motorboat while intoxicated probationary driving privileges restricting the person to operating only vehicles equipped with an ignition interlock device. Provides that if a court grants a person certain probationary driving privileges, the person
(Continued next page)

Effective: July 1, 2014.

Kirchhofer

January 15, 2014, read first time and referred to Committee on Roads and Transportation.



Digest Continued

may operate only a vehicle equipped with an ignition interlock device. Changes the notice that must be provided to a person whose driving privileges are suspended for refusal to submit to a chemical test. Provides that if a person whose driving privileges have been suspended files an application for an issuance of an ignition interlock, the person waives the right to a judicial hearing. Provides that certain ignition interlock restrictions remain in effect until the BMV receives a notification from the ignition interlock vendor that certain incidents have not occurred. Creates the ignition interlock assistance fund to be administered by the BMV, to assist indigent persons in meeting ignition interlock device expenses. Requires an ignition interlock device vendor to collect a \$100 fee and to forward this fee to the BMV to fund the ignition interlock assistance fund. Changes certain driver's license suspension periods. Requires the bureau to keep and publish statistics concerning ignition interlock drivers. Raises the criminal penalty for tampering with an ignition interlock device to a Class A misdemeanor. Provides time frames, depending on the number of previous convictions for operating a vehicle or motorboat while intoxicated, for the length of a suspension of a person's driving privileges. Requires a court, if there is probable cause to believe that a person violated an operating while intoxicated law, to issue an order that as an alternative to suspending a person's driving privileges the person may operate a vehicle only if it is equipped with a functioning certified ignition interlock device. Strikes references to "disulfiram". Requires the state department of toxicology to adopt rules to establish standards and specifications for an ignition interlock device. (Current law requires the bureau to adopt these rules.) Requires the state department of toxicology to approve ignition interlock devices. Allows a person to petition for an ignition interlock device in certain situations. Creates the ignition interlock oversight committee.



Introduced

Second Regular Session 118th General Assembly (2014)

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

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

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

HOUSE BILL No. 1344

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

- 1 SECTION 1. IC 9-13-2-76.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 76.5. "Ignition interlock driver" means an individual**
4 **who has been restricted by a court to operate only a motor vehicle**
5 **that is equipped with a functioning certified ignition interlock**
6 **device.**
7 SECTION 2. IC 9-24-15-6.5, AS AMENDED BY P.L.158-2013,
8 SECTION 154, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2014]: Sec. 6.5. (a) The court shall **designate**
10 **a person as an ignition interlock driver and** grant a petition for
11 restricted driving privileges filed under this chapter by a person whose
12 driving privileges were suspended under IC 9-30-6-9(c) ~~or~~
13 ~~IC 35-48-4-15~~ if all of the following conditions exist:
14 (†) the person **is otherwise eligible and** was not convicted of one



- 1 (1) or more of the following:
- 2 ~~(A)~~ **(1)** A Class D felony under IC 9-30-5-4 before July 1, 1996,
- 3 or a Class D felony, a Class C felony, a Level 6 felony, or a Level
- 4 5 felony under IC 9-30-5-4 after June 30, 1996.
- 5 ~~(B)~~ **(2)** A Class C felony under IC 9-30-5-5 before July 1, 1996,
- 6 or a Class C felony, a Class B felony, a Level 5 felony, a Level 4
- 7 felony, or a Level 3 felony under IC 9-30-5-5 after June 30, 1996.
- 8 ~~(2) The driving that was the basis of the suspension was not in~~
- 9 ~~connection with the person's work.~~
- 10 ~~(3) The person does not have a previous conviction for operating~~
- 11 ~~while intoxicated.~~
- 12 ~~(4) The driving privileges of the person have not previously been~~
- 13 ~~suspended more than one (1) time for any reason.~~
- 14 ~~(5) The person is participating in a rehabilitation program~~
- 15 ~~certified by either the division of mental health and addiction or~~
- 16 ~~the Indiana judicial center.~~
- 17 (b) The person filing the petition for restricted driving privileges
- 18 shall include in the petition the information specified in subsection (a)
- 19 in addition to the information required by sections 3 through 4 of this
- 20 chapter.
- 21 (c) Whenever the court grants a person restricted driving privileges
- 22 under this chapter, that part of the court's order granting restricted
- 23 driving privileges shall: ~~not take effect until the person's driving~~
- 24 ~~privileges have been suspended for at least thirty (30) days under~~
- 25 ~~IC 9-30-6-9. In a county that provides for~~
- 26 **(1) require** the installation of an ignition interlock device under
- 27 **IC 9-30-8; installation of an and**
- 28 **(2) restrict the person to operating only a motor vehicle with**
- 29 **a functioning certified** ignition interlock device is required as a
- 30 **condition of restricted driving privileges** for the entire duration of
- 31 the restricted driving privileges.
- 32 (d) If a court requires installation of a **functioning** certified ignition
- 33 interlock device under subsection (c), the court shall order the bureau
- 34 to record this requirement in the person's driving record in accordance
- 35 with IC 9-14-3-7. When the person is no longer ~~required restricted~~
- 36 ~~operate operating~~ only a motor vehicle equipped with ~~an a~~
- 37 **functioning certified** ignition interlock device, the court shall notify
- 38 the bureau that the ignition interlock use requirement has expired and
- 39 order the bureau to update its records accordingly.
- 40 SECTION 3. IC 9-24-15-11, AS AMENDED BY P.L.85-2013,
- 41 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2014]: Sec. 11. (a) A person who:



- 1 (1) has been granted restricted driving privileges; and
 2 (2) operates a motor vehicle:
 3 (A) in violation of the terms, limitations, or restrictions set out
 4 by the court; and
 5 (B) during the period of suspension of the person's current
 6 ~~driving driver's~~ license;
 7 commits a Class B misdemeanor.

8 (b) **Except as provided in subsection (c)**, the bureau shall, upon
 9 receipt of notice of a conviction ~~for a violation of this section, of an~~
 10 **offense under subsection (a)**, do the following:

- 11 (1) Revoke the person's restricted driving privileges.
 12 (2) Suspend the person's current ~~driving driver's~~ license for any
 13 additional suspension period designated by the court.

14 In addition, the bureau may not issue restricted driving privileges to the
 15 person during the original existing or any additional period of
 16 suspension.

17 (c) **If:**

- 18 (1) **a court has granted a person restricted driving privileges**
 19 **under section 6.5(c) of this chapter;**
 20 (2) **the bureau has determined that the person has a**
 21 **functioning certified ignition interlock device installed in the**
 22 **vehicles that the person expects to operate; and**
 23 (3) **the person is convicted of an offense under subsection (a);**
 24 **the bureau may extend the suspension of the person's driving**
 25 **privileges for an additional period and extend the restriction**
 26 **allowing the person to operate only a vehicle with a functioning**
 27 **certified ignition interlock device throughout the additional period**
 28 **of suspension of the person's driving privileges.**

29 SECTION 4. IC 9-30-5-6, AS AMENDED BY P.L.125-2012,
 30 SECTION 337, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person who operates a
 32 vehicle in violation of any term of a probationary license issued under
 33 this chapter, IC 9-30-6, or IC 9-30-9 commits a Class C infraction.

34 (b) In addition to any other penalty imposed under this section, the
 35 court ~~may:~~ **shall:**

- 36 (1) suspend the person's driving privileges for a period of ~~not~~
 37 ~~more than~~ one (1) year; **or**
 38 (2) **if a court has granted a person restricted driving privileges**
 39 **under IC 9-24-15-6.5 and the bureau has determined that the**
 40 **person has a functioning certified ignition interlock device**
 41 **installed in the vehicles the person expects to operate, the**
 42 **bureau shall:**



1 (A) extend any previous suspension of the person's driving
 2 privileges under this chapter, IC 9-30-6, or IC 9-30-9 for
 3 not more than one (1) additional year; and

4 (B) extend the restriction under which the person may
 5 operate only a vehicle with a functioning certified ignition
 6 interlock device throughout the period of the previous
 7 suspension of the person's driving privileges and the
 8 extended period of suspension imposed under clause (A).

9 SECTION 5. IC 9-30-5-7 IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) ~~A person who violates a court~~
 11 ~~order issued under section 16 of this chapter commits a Class A~~
 12 ~~misdemeanor.~~

13 ~~(b) (a)~~ Except as provided in subsection ~~(c)~~; **(b)**, a person who
 14 knowingly assists another person who is restricted to the use of an
 15 ignition interlock device to violate a court order issued under this
 16 chapter commits a Class A misdemeanor.

17 ~~(c) (b)~~ Subsection ~~(b) (a)~~ does not apply if the starting of a motor
 18 vehicle, or the request to start a motor vehicle, equipped with an
 19 ignition interlock device:

20 (1) is done for the purpose of safety or mechanical repair of the
 21 device or the vehicle; and

22 (2) the restricted person does not operate the vehicle.

23 (d) A person who, except in an emergency, knowingly rents, leases,
 24 or loans a motor vehicle that is not equipped with a functioning ignition
 25 interlock device to a person who is restricted under a court order to the
 26 use of a vehicle with an ignition interlock device commits a Class A
 27 infraction.

28 (e) A person who is subject to an ignition interlock device
 29 restriction and drives another vehicle in an emergency situation must
 30 notify the court of the emergency within twenty-four (24) hours.

31 SECTION 6. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) A person who knowingly or
 33 intentionally tampers with an ignition interlock device for the purpose
 34 of:

35 (1) circumventing the ignition interlock device; or

36 (2) rendering the ignition interlock device inaccurate or
 37 inoperative;

38 commits a ~~Class B~~ **Class A** misdemeanor.

39 (b) A person who **knowingly or intentionally** solicits another
 40 person to:

41 (1) blow into an ignition interlock device; or

42 (2) start a motor vehicle equipped with an ignition interlock



1 device;
 2 for the purpose of providing an operable vehicle to a person who is
 3 restricted to driving a vehicle with the ignition interlock device
 4 commits a Class C ~~infraction~~. **misdemeanor.**

5 SECTION 7. IC 9-30-5-8.5 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8.5. (a) A person who:

- 7 (1) is less than twenty-one (21) years of age; and
 8 (2) operates a vehicle with an alcohol concentration equivalent to
 9 at least two-hundredths (0.02) gram but less than
 10 eight-hundredths (0.08) gram of alcohol per:

- 11 (A) one hundred (100) milliliters of the person's blood; or
 12 (B) two hundred ten (210) liters of the person's breath;
 13 commits a Class C infraction.

14 (b) In addition to the penalty imposed under this section, the court
 15 **may shall:**

- 16 (1) recommend the suspension of the driving privileges of ~~the~~
 17 ~~operator of the vehicle~~ **a person who commits an infraction**
 18 **under subsection (a)** for not more than one (1) year;
 19 (2) **grant the person probationary driving privileges that**
 20 **restrict the person to operating only vehicles equipped with a**
 21 **functioning certified interlock device under IC 9-30-8 during**
 22 **the period of suspension; and**
 23 (3) **designate the person as an ignition interlock driver.**

24 SECTION 8. IC 9-30-5-10, AS AMENDED BY P.L.85-2013,
 25 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2014]: Sec. 10. (a) In addition to a criminal penalty imposed
 27 for an offense under this chapter, IC 35-46-9, or IC 14-15-8 (before its
 28 repeal), the court shall:

- 29 (1) after reviewing the person's bureau driving record and other
 30 relevant evidence, recommend the suspension of the person's
 31 driving privileges for the fixed period of time specified under this
 32 section;

- 33 (2) **grant the person probationary driving privileges**
 34 **restricting the person to operating only vehicles equipped**
 35 **with a functioning certified ignition interlock device under**
 36 **IC 9-30-8 unless the person was convicted of a:**

- 37 (A) Level 6 or Level 5 penalty under IC 9-30-5-4; or
 38 (B) Level 4 or Level 3 penalty under IC 9-30-5-5; and

- 39 (3) **designate the person as an ignition interlock driver.**

40 (b) The court may require that a period of suspension recommended
 41 under ~~this section subsection (a)~~(1) be imposed, if applicable, before
 42 a period of incarceration or after a period of incarceration, or both



1 before and after a period of incarceration, as long as the suspension
 2 otherwise complies with the periods established in this section. **The**
 3 **court may also specify other restrictions on the person's driving**
 4 **privileges in addition to the ignition interlock device restriction**
 5 **under subsection (a)(2).**

6 **(c) If a court issues an order under subsection (a) or (b), the**
 7 **bureau may not add additional restrictions to a person's driving**
 8 **privileges other than those that are imposed through the court's**
 9 **order or that were on the person's driving record in effect at the**
 10 **time the person was arrested.**

11 **(d) A court may grant probationary driving privileges to a**
 12 **person to whom this section applies without requiring the**
 13 **installation of an ignition interlock device under subsection (a)(2)**
 14 **and without designating the person as an ignition interlock driver**
 15 **under subsection (a)(3) if the person is:**

- 16 **(1) participating in a court supervised alcohol treatment**
 17 **program; and**
 18 **(2) taking a substance that the court determines is effective in**
 19 **treating alcohol abuse.**

20 ~~(b)~~ **(e) If the person:**

- 21 **(1) does not have a previous conviction of operating a vehicle or**
 22 **a motorboat while intoxicated; or**
 23 **(2) has a previous conviction of operating a vehicle or a**
 24 **motorboat while intoxicated that occurred at least ten (10) years**
 25 **before the conviction under consideration by the court;**

26 **the court shall recommend the suspension of the person's driving**
 27 **privileges for at least ninety (90) days but not more than two (2) years.**

28 ~~(c)~~ **(f) If the person has a previous conviction of operating a vehicle**
 29 **or a motorboat while intoxicated, and the previous conviction occurred**
 30 **more than five (5) years but less than ten (10) years before the**
 31 **conviction under consideration by the court, the court shall recommend**
 32 **the suspension of the person's driving privileges for at least one**
 33 **hundred eighty (180) days but not more than two (2) years: one (1)**
 34 **year. The court may stay the execution of that part of the suspension**
 35 **that exceeds the minimum period of suspension. and grant the person**
 36 **probationary driving privileges for a period of time equal to the length**
 37 **of the stay.**

38 ~~(d)~~ **(g) If the person has a previous conviction two (2) convictions**
 39 **of operating a vehicle or a motorboat while intoxicated, and the**
 40 **previous conviction occurred less than five (5) years before the**
 41 **conviction under consideration by the court, the court shall recommend**
 42 **the suspension of the person's driving privileges for at least one (1)**



1 year but not more than two (2) years. The court may stay the execution
 2 of that part of the suspension that exceeds the minimum period of
 3 suspension. ~~and grant the person probationary driving privileges for a~~
 4 ~~period of time equal to the length of the stay. If the court grants~~
 5 ~~probationary driving privileges under this subsection; the court shall~~
 6 ~~order that the probationary driving privileges include the requirement~~
 7 ~~that the person may not operate a motor vehicle unless the motor~~
 8 ~~vehicle is equipped with a functioning certified ignition interlock~~
 9 ~~device under IC 9-30-8. However, the court may grant probationary~~
 10 ~~driving privileges under this subsection without requiring the~~
 11 ~~installation of an ignition interlock device if the person is successfully~~
 12 ~~participating in a court supervised alcohol treatment program in which~~
 13 ~~the person is taking ~~disulfiram~~ or a similar substance that the court~~
 14 ~~determines is effective in treating alcohol abuse. The person granted~~
 15 ~~probationary driving privileges under this subsection shall pay all costs~~
 16 ~~associated with the installation of an ignition interlock device unless~~
 17 ~~the sentencing court determines that the person is indigent.~~

18 **(h) If the person has three (3) previous convictions of operating**
 19 **a vehicle or a motorboat while intoxicated, the court shall**
 20 **recommend the suspension of the person's driving privileges for at**
 21 **least two (2) years but not more than three (3) years. The court**
 22 **may stay the execution of that part of the suspension that exceeds**
 23 **the minimum period of suspension.**

24 **(i) If the person has four (4) or more previous convictions of**
 25 **operating a vehicle or a motorboat while intoxicated, the court**
 26 **shall recommend the suspension of the person's driving privileges**
 27 **for at least three (3) years but not more than five (5) years. The**
 28 **court may stay the execution of that part of the suspension that**
 29 **exceeds the minimum period of suspension.**

30 **(e) (j) If the conviction under consideration by the court is for an**
 31 **offense under:**

- 32 (1) section 4 of this chapter;
- 33 (2) section 5 of this chapter;
- 34 (3) IC 14-15-8-8(b) (before its repeal);
- 35 (4) IC 14-15-8-8(c) (before its repeal);
- 36 (5) IC 35-46-9-6(b); or
- 37 (6) IC 35-46-9-6(c);

38 the court shall recommend the suspension of the person's driving
 39 privileges for at least two (2) years but not more than five (5) years.

40 **(f) (k) If the conviction under consideration by the court is for an**
 41 **offense involving the use of a controlled substance listed in schedule**
 42 **I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the**



1 offense, the court shall recommend the suspension or revocation of the
2 person's driving privileges for at least six (6) months.

3 ~~(g)~~ **(1)** The bureau shall fix the period of suspension in accordance
4 with the recommendation of the court under this section and in
5 accordance with IC 9-30-6-9. If the court fails to recommend a fixed
6 period of suspension, or recommends a fixed period that is less than the
7 minimum period required by statute, the bureau shall impose the
8 minimum period of suspension required under this section.

9 SECTION 9. IC 9-30-5-11, AS AMENDED BY P.L.125-2012,
10 SECTION 340, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) If a court grants a person
12 probationary driving privileges under section 12 of this chapter, the
13 person may operate a vehicle only as follows:

14 ~~(1) To and from the person's place of employment.~~

15 ~~(2) For specific purposes in exceptional circumstances.~~

16 ~~(3) To and from a court-ordered treatment program.~~ **if the vehicle**
17 **is equipped with a functioning certified ignition interlock**
18 **device under IC 9-30-8.**

19 (b) If the court grants the person probationary driving privileges
20 under section 12(a) of this chapter, that part of the court's order
21 granting probationary driving privileges does not take effect until the
22 ~~person's driving privileges have been suspended for at least thirty (30)~~
23 ~~days under IC 9-30-6-9.~~ **date indicated on the order or on the date**
24 **the person is eligible to apply to the bureau for probationary**
25 **driving privileges, whichever date is later.**

26 (c) The court shall notify a person who is granted probationary
27 driving privileges of the following:

28 (1) That the probationary driving period commences when the
29 bureau issues the probationary driving privileges.

30 **(2) That the bureau may not issue probationary driving**
31 **privileges until the person provides proof to the satisfaction**
32 **of the bureau that a functioning certified ignition interlock**
33 **device has been installed on all vehicles that the person**
34 **expects to operate during the period of probationary driving**
35 **privileges.**

36 ~~(2)~~ **(3)** That the bureau may not issue probationary driving
37 privileges until the bureau receives a reinstatement fee from the
38 person, if applicable, and the person otherwise qualifies for valid
39 driving privileges.

40 SECTION 10. IC 9-30-5-12, AS AMENDED BY P.L.85-2013,
41 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2014]: Sec. 12. (a) If:



1 (1) a court recommends suspension of a person's driving
 2 privileges under section ~~10(b)~~ **10(e)** of this chapter for an offense
 3 committed under this chapter; and

4 (2) the person did not refuse to submit to a chemical test offered
 5 under IC 9-30-6-2 during the investigation of the offense;

6 the court may stay the execution of the suspension of the person's
 7 driving privileges and grant the person probationary driving privileges
 8 for one hundred eighty (180) days.

9 (b) An order for probationary privileges must be issued in
 10 accordance with sections 11 and 13 of this chapter.

11 (c) If:

12 (1) a court recommends suspension of a person's driving
 13 privileges under section ~~10(c), 10(d), or 10(e)~~ **10(f), 10(g), or**
 14 **10(j)** of this chapter for an offense committed under this chapter;
 15 and

16 (2) the period of suspension recommended by the court exceeds
 17 the minimum permissible fixed period of suspension specified
 18 under section 10 of this chapter;

19 the court may stay the execution of that part of the suspension that
 20 exceeds the minimum fixed period of suspension and grant the person
 21 probationary driving privileges. ~~for a period of time equal to the length~~
 22 ~~of the stay.~~

23 (d) In addition to the other requirements of this section, if a person's
 24 driving privileges are suspended or revoked under section ~~10(f)~~ **10(k)**
 25 of this chapter, a court must find that compelling circumstances
 26 warrant the issuance of probationary driving privileges.

27 ~~(e) Before a court may grant probationary driving privileges under~~
 28 ~~this section, the person to whom the probationary driving privileges~~
 29 ~~will be granted must meet the burden of proving eligibility to receive~~
 30 ~~probationary driving privileges.~~

31 ~~(f) An order for probationary driving privileges issued under~~
 32 ~~subsection (a) or (c) must comply with section 16 of this chapter.~~

33 SECTION 11. IC 9-30-5-14, AS AMENDED BY P.L.85-2013,
 34 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2014]: Sec. 14. (a) A person whose driving privileges are
 36 suspended under section 10 of this chapter:

37 (1) is entitled to credit for any days during which the license was
 38 suspended under IC 9-30-6-9(c); and

39 (2) may not receive any credit for days during which the person's
 40 driving privileges were suspended under IC 9-30-6-9(b).

41 (b) A period of suspension of driving privileges imposed under
 42 section 10 of this chapter must be consecutive to any period of



1 suspension imposed under IC 9-30-6-9(b). However, if the court finds
 2 in the sentencing order that it is in the best interest of society, the court
 3 may terminate all or any part of the remaining suspension under
 4 IC 9-30-6-9(b).

5 (c) The bureau shall designate a period of suspension of driving
 6 privileges imposed under section 10 of this chapter as consecutive to
 7 any period of suspension imposed under IC 9-30-6-9(b) unless the
 8 sentencing order of the court, under subsection (b), in the best interest
 9 of society, terminates all or part of the remaining suspension under
 10 IC 9-30-6-9(b).

11 (c) A person whose driving privileges are suspended under
 12 section 10 of this chapter is entitled to credit for any days that the
 13 person maintained an ignition interlock during a suspension under
 14 IC 9-30-6-9.

15 SECTION 12. IC 9-30-5-16 IS REPEALED [EFFECTIVE JULY 1,
 16 2014]. Sec. 16: (a) Except as provided in subsections (b) and (c) and
 17 section 10 of this chapter, the court may, in granting probationary
 18 driving privileges under this chapter, also order that the probationary
 19 driving privileges include the requirement that a person may not
 20 operate a motor vehicle unless the vehicle is equipped with a
 21 functioning certified ignition interlock device under IC 9-30-8.

22 (b) An order granting probationary driving privileges:

23 (1) under:

24 (A) section 12(a) of this chapter, if the person has a previous
 25 conviction that occurred at least ten (10) years before the
 26 conviction under consideration by the court; or

27 (B) section 12(c) of this chapter; or

28 (2) to a person who has a prior unrelated conviction for an offense
 29 under this chapter of which the consumption of alcohol is an
 30 element;

31 must prohibit the person from operating a motor vehicle unless the
 32 vehicle is equipped with a functioning certified ignition interlock
 33 device under IC 9-30-8. However, a court is not required to order the
 34 installation of an ignition interlock device for a person described in
 35 subdivision (1) or (2) if the person is successfully participating in a
 36 court supervised alcohol treatment program in which the person is
 37 taking disulfiram or a similar substance that the court determines is
 38 effective in treating alcohol abuse.

39 (c) A court may not order the installation of an ignition interlock
 40 device on a vehicle operated by an employee to whom any of the
 41 following apply:

42 (1) Has been convicted of violating section 1 or 2 of this chapter.



- 1 (2) Is employed as the operator of a vehicle owned, leased, or
- 2 provided by the employee's employer.
- 3 (3) Is subject to a labor agreement that prohibits an employee who
- 4 is convicted of an alcohol related offense from operating the
- 5 employer's vehicle.

6 SECTION 13. IC 9-30-6-8, AS AMENDED BY P.L.85-2013,
 7 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2014]: Sec. 8. (a) Whenever a judicial officer has determined
 9 that there was probable cause to believe that a person has violated
 10 IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), the clerk of the
 11 court shall forward:

- 12 (1) a paper copy of the affidavit, or an electronic substitute; or
- 13 (2) a bureau certificate as described in section 16 of this chapter;
- 14 to the bureau.

15 (b) The probable cause affidavit required under section 7(b)(2) of
 16 this chapter must do the following:

- 17 (1) Set forth the grounds for the arresting officer's belief that there
- 18 was probable cause that the arrested person was operating a
- 19 vehicle in violation of IC 9-30-5 or a motorboat in violation of
- 20 IC 35-46-9 or IC 14-15-8 (before its repeal).
- 21 (2) State that the person was arrested for a violation of IC 9-30-5
- 22 or operating a motorboat in violation of IC 35-46-9 or IC 14-15-8
- 23 (before its repeal).
- 24 (3) State whether the person:
- 25 (A) refused to submit to a chemical test when offered; or
- 26 (B) submitted to a chemical test that resulted in prima facie
- 27 evidence that the person was intoxicated.
- 28 (4) Be sworn to by the arresting officer.

29 (c) Except as provided in subsection (d), if it is determined under
 30 subsection (a) that there was probable cause to believe that a person
 31 has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), at
 32 the initial hearing of the matter held under IC 35-33-7-1 the court shall
 33 recommend immediate suspension of the person's driving privileges to
 34 take effect on the date the order is entered, and forward to the bureau
 35 a copy of the order recommending immediate suspension of driving
 36 privileges.

37 (d) If it is determined under subsection (a) that there is probable
 38 cause to believe that a person violated IC 9-30-5, the court may, as an
 39 alternative to suspension of the person's driving privileges under
 40 subsection (c), issue an order recommending that the person be
 41 prohibited from operating a motor vehicle unless the motor vehicle is
 42 equipped with a functioning certified ignition interlock device under



1 IC 9-30-8 until the bureau is notified by a court that the criminal
 2 charges against the person have been resolved. **A person may petition**
 3 **a court to issue an order for an ignition interlock device under this**
 4 **subsection, and the court shall issue an order for an ignition**
 5 **interlock device absent a finding that an ignition interlock device**
 6 **is not appropriate.**

7 SECTION 14. IC 9-30-6-8.7 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8.7. (a) A person
 9 commits a Class B infraction if the person:

- 10 (1) operates a motor vehicle without a functioning certified
 11 ignition interlock device; and
 12 (2) is prohibited from operating a motor vehicle unless the motor
 13 vehicle is equipped with a functioning certified ignition interlock
 14 device. ~~under section 8(d) of this chapter.~~

15 (b) A person commits a Class B misdemeanor if the person:

- 16 (1) operates a motor vehicle without a functioning certified
 17 ignition interlock device; and
 18 (2) knows the person is prohibited from operating a motor vehicle
 19 unless the motor vehicle is equipped with a functioning certified
 20 ignition interlock device. ~~under section 8(d) of this chapter.~~

21 SECTION 15. IC 9-30-6-9, AS AMENDED BY P.L.85-2013,
 22 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2014]: Sec. 9. (a) This section does not apply if an ignition
 24 interlock device order is issued under section 8(d) of this chapter.

25 (b) If the affidavit under section 8(b) of this chapter states that a
 26 person refused to submit to a chemical test, the bureau shall suspend
 27 the driving privileges of the person:

- 28 (1) for:
 29 (A) one (1) year; or
 30 (B) if the person has at least one (1) previous conviction for
 31 operating while intoxicated, two (2) years; or
 32 (2) until the suspension is ordered terminated under IC 9-30-5.

33 (c) If the affidavit under section 8(b) of this chapter states that a
 34 chemical test resulted in prima facie evidence that a person was
 35 intoxicated, the bureau shall suspend the driving privileges of the
 36 person:

- 37 (1) for one hundred eighty (180) days; or
 38 (2) until the bureau is notified by a court that the charges have
 39 been disposed of;
 40 whichever occurs first.

41 (d) Whenever the bureau is required to suspend a person's driving
 42 privileges under this section, the bureau shall immediately do the



- 1 following:
- 2 (1) Mail notice to the person's address contained in the records of
- 3 the bureau stating that the person's driving privileges will be
- 4 suspended for a specified period, commencing:
- 5 (A) seven (7) days after the date of the notice; or
- 6 (B) on the date the court enters an order recommending
- 7 suspension of the person's driving privileges under section 8(c)
- 8 of this chapter;
- 9 whichever occurs first.
- 10 (2) Notify the person:
- 11 (A) of the right to a judicial review under section 10 of this
- 12 chapter;
- 13 **(B) of the right to apply for immediate reinstatement of**
- 14 **driving privileges with an ignition interlock**
- 15 **probationary license; and**
- 16 **(C) that if the person applies for an ignition interlock**
- 17 **device, the person waives the right to judicial review**
- 18 **under section 10 of this chapter.**
- 19 (e) Notwithstanding IC 4-21.5, an action that the bureau is required
- 20 to take under this article is not subject to any administrative
- 21 adjudication under IC 4-21.5.
- 22 (f) If a person is granted probationary driving privileges under
- 23 IC 9-30-5 and the bureau has not received the probable cause affidavit
- 24 described in section 8(b) of this chapter, the bureau shall suspend the
- 25 person's driving privileges for a period of thirty (30) days. After the
- 26 thirty (30) day period has elapsed, the bureau shall, upon receiving a
- 27 reinstatement fee, if applicable, from the person who was granted
- 28 probationary driving privileges, issue the person probationary driving
- 29 privileges if the person otherwise qualifies.
- 30 (g) If the bureau receives an order granting probationary driving
- 31 privileges to a person ~~who, according to the records of the bureau, has~~
- 32 ~~a for a~~ prior conviction for operating while intoxicated **that does not**
- 33 **contain a requirement that the person may operate only a vehicle**
- 34 **equipped with a functioning ignition interlock device under**
- 35 **IC 9-30-8-1**, the bureau shall do the following:
- 36 (1) Issue the person probationary driving privileges and notify the
- 37 prosecuting attorney of the county from which the order was
- 38 received that the person is not eligible for probationary driving
- 39 privileges **without an ignition interlock device restriction.**
- 40 (2) Send a certified copy of the person's driving record to the
- 41 prosecuting attorney.
- 42 The prosecuting attorney shall, in accordance with IC 35-38-1-15,



1 petition the court to correct the court's order. If the bureau does not
 2 receive a corrected order within sixty (60) days, the bureau shall notify
 3 the attorney general, who shall, in accordance with IC 35-38-1-15,
 4 petition the court to correct the court's order.

5 SECTION 16. IC 9-30-6-10, AS AMENDED BY P.L.2-2005,
 6 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2014]: Sec. 10. (a) **Except as provided in subsection (b)**, a
 8 person against whom an ignition interlock device order has been issued
 9 under section 8.5 of this chapter or whose driving privileges have been
 10 suspended under section 9 of this chapter is entitled to a prompt
 11 judicial hearing. The person may file a petition that requests a hearing:

- 12 (1) in the court where the charges with respect to the person's
 13 operation of a vehicle are pending; or
- 14 (2) if charges with respect to the person's operation of a vehicle
 15 have not been filed, in any court of the county where the alleged
 16 offense or refusal occurred that has jurisdiction over crimes
 17 committed in violation of IC 9-30-5.

18 **(b) If a person whose driving privileges have been suspended**
 19 **under section 9 of this chapter files an application for issuance of**
 20 **an ignition interlock device, the person waives the right to a**
 21 **hearing under this section.**

22 ~~(b)~~ (c) The petition for review must:

- 23 (1) be in writing;
- 24 (2) be verified by the person seeking review; and
- 25 (3) allege specific facts that contradict the facts alleged in the
 26 probable cause affidavit.

27 ~~(c)~~ (d) The hearing under this section shall be limited to the
 28 following issues:

- 29 (1) Whether the arresting law enforcement officer had probable
 30 cause to believe that the person was operating a vehicle in
 31 violation of IC 9-30-5.
- 32 (2) Whether the person refused to submit to a chemical test
 33 offered by a law enforcement officer.

34 ~~(d)~~ (e) If the court finds:

- 35 (1) that there was no probable cause; or
- 36 (2) that the person's driving privileges were suspended under
 37 section 9(b) of this chapter and that the person did not refuse to
 38 submit to a chemical test;

39 the court shall order the bureau to rescind the ignition interlock device
 40 requirement or reinstate the person's driving privileges.

41 ~~(e)~~ (f) The prosecuting attorney of the county in which a petition has
 42 been filed under this chapter shall represent the state on relation of the



1 bureau with respect to the petition.

2 ~~(f)~~ **(g)** The petitioner has the burden of proof by a preponderance of
3 the evidence.

4 ~~(g)~~ **(h)** The court's order is a final judgment appealable in the
5 manner of civil actions by either party. The attorney general shall
6 represent the state on relation of the bureau with respect to the appeal.

7 SECTION 17. IC 9-30-8-1, AS AMENDED BY P.L.85-2013,
8 SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2014]: Sec. 1. **(a) For purposes of this section, an individual
10 is "indigent" if the individual's income is not more than one
11 hundred twenty-five percent (125%) of the federal income poverty
12 level as determined annually by the federal Office of Management
13 and Budget under 42 U.S.C. 9902.**

14 ~~(a)~~ **(b)** If a court ~~orders~~ **designates a person as an ignition
15 interlock driver, the court shall immediately order** the installation
16 of a certified ignition interlock device on a motor vehicle that ~~a person
17 the ignition interlock driver~~ whose license is restricted owns or
18 expects to operate. ~~except as provided in subsection (b);~~ The court shall
19 set the **period of** time that the installation must remain in effect.
20 ~~However,~~

21 **(c)** The **initial term of the order by the court** may not exceed the
22 maximum term of imprisonment the court could have imposed, **unless
23 a court extends the designation of a person as an ignition interlock
24 driver and extends the ignition interlock restriction due to the
25 person's commission of an offense under IC 9-30-6-8.7 or the
26 person's ignition interlock restriction is extended under another
27 section of this title.**

28 **(d)** An ignition interlock driver designation and ignition
29 interlock restriction imposed under this chapter must remain in
30 effect until the bureau receives notification from the person's
31 ignition interlock vendor, in a form provided or approved by the
32 bureau, certifying that none of the following incidents have
33 occurred in the four (4) consecutive months before the date of
34 expiration of the period set under subsection (b):

35 **(1)** Any attempt to start the vehicle with a breath alcohol
36 concentration of four-hundredths (0.04) gram or higher if the
37 person does not register a test result indicating a breath
38 alcohol concentration lower than four-hundredths (0.04) gram
39 within ten (10) minutes of the initial test.

40 **(2)** Absent a documented malfunction of the ignition interlock
41 device, failure to take or pass any required test.

42 **(3)** Failure of the person to appear at the ignition interlock



1 **vendor when required for maintenance, repair, calibration,**
 2 **monitoring, inspection, or replacement of the ignition**
 3 **interlock device.**

4 **(e) The person An ignition interlock driver shall pay the cost of**
 5 **installation maintaining the person's ignition interlock device unless**
 6 **the sentencing court determines that the person is indigent and**
 7 **qualifies for a subsidy from the ignition interlock device assistance**
 8 **fund under section 6 of this chapter.**

9 **(b) If the court orders installation of a certified ignition interlock**
 10 **device under IC 9-30-5-10(d), the installation must remain in effect for**
 11 **a period of six (6) months.**

12 **(f) Unless the court determines a person is indigent, an ignition**
 13 **interlock driver shall pay:**

14 **(1) the cost of installing, removing, or leasing an ignition**
 15 **interlock system; and**

16 **(2) a one hundred dollar (\$100) ignition interlock**
 17 **administration fee to the bureau.**

18 **(g) An ignition interlock provider shall collect and forward all**
 19 **fees collected under subsection (f)(2) to the bureau.**

20 **SECTION 18. IC 9-30-8-3 IS AMENDED TO READ AS**
 21 **FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) The bureau**
 22 **director of the state department of toxicology shall adopt rules under**
 23 **IC 4-22-2 to establish standards and specifications for an ignition**
 24 **interlock device, the installation of which the courts may mandate**
 25 **under IC 9-30-5-16. this chapter. The standards and specifications**
 26 **must require at a minimum that the device meets the following**
 27 **requirements:**

28 **(1) Is accurate.**

29 **(2) Does not impede the safe operation of a vehicle.**

30 **(3) Provides a minimum opportunity to be bypassed.**

31 **(4) Shows evidence of tampering if tampering is attempted.**

32 **(5) Has a label affixed warning that a person that tampering with**
 33 **or misusing the device is a crime and may subject that person**
 34 **to a criminal and civil penalty. penalties.**

35 **(b) After July 1, 2014, the state department of toxicology must**
 36 **approve ignition interlock device models before the model may be**
 37 **used.**

38 **(c) A person or vendor may submit an application for approval**
 39 **of an ignition interlock device in a form prescribed by the state**
 40 **department of toxicology.**

41 **(d) The state department of toxicology shall:**

42 **(1) require the vendor to have tests conducted concerning the**



1 ignition interlock device with standards set forth by the state
2 department of toxicology; and

3 (2) have the results of the tests evaluated by a person or entity
4 designated by the state department of toxicology.

5 (e) The tests required under this section must be performed by
6 an independent laboratory approved by the state department of
7 toxicology. The vendor shall pay any testing expenses under this
8 section.

9 (f) If the state department of toxicology finds the ignition
10 interlock device complies with the standards of the state
11 department of toxicology, it may approve the ignition interlock
12 device.

13 (g) Beginning July 1, 2014, an ignition interlock device may not
14 be marked, sold, leased, or implemented in Indiana before the
15 application for certification is approved by the state department of
16 toxicology.

17 (h) The state department of toxicology shall require all ignition
18 interlock devices to have a camera on the device.

19 (i) The state department of toxicology shall consider all
20 recommendations made by the ignition interlock oversight
21 committee under IC 9-30-8.5.

22 SECTION 19. IC 9-30-8-5 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. If a court orders
24 order restricts a person under IC 9-30-5-16 to operate operating only
25 a vehicle that is equipped with an a functioning certified ignition
26 interlock device, the bureau shall include that condition when issuing
27 a license and designate the person as an ignition interlock driver.

28 SECTION 20. IC 9-30-8-6 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2014]: Sec. 6. (a) For purposes of this section, an individual is
31 "indigent" if the individual's income is not more than one hundred
32 twenty-five percent (125%) of the federal income poverty level as
33 determined annually by the federal Office of Management and
34 Budget under 42 U.S.C. 9902.

35 (b) The ignition interlock assistance fund (referred to as "the
36 fund" in this chapter) is established for the purposes of paying the
37 costs of installing, removing, or leasing an ignition interlock device,
38 and applicable licensing, for indigent persons who are required to
39 use an ignition interlock device as a condition of probationary
40 driving privileges. The fund shall be administered by the
41 commission.

42 (c) The treasurer of state shall invest the money in the fund not



1 currently needed to meet the obligations of the fund in the same
2 manner as other public funds may be invested.

3 (d) Money in the fund at the end of a state fiscal year does not
4 revert to the state general fund.

5 (e) The fund consists of the following:

6 (1) All fees forwarded to the bureau under section 1(g) of this
7 chapter.

8 (2) Money received from any other source, including
9 appropriations.

10 (f) The bureau may make expenditures from the fund only to
11 administer the fund and carry out the purposes of the fund.

12 (g) The bureau shall adopt rules under IC 4-22-2 to administer
13 this section.

14 SECTION 21. IC 9-30-8-7 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2014]: Sec. 7. (a) The bureau shall keep statistics regarding how
17 many individuals in Indiana are ignition interlock drivers.

18 (b) The bureau shall annually post on the bureau's Internet web
19 site the information described in subsection (a).

20 SECTION 22. IC 9-30-8.5 IS ADDED TO THE INDIANA CODE
21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2014]:

23 **Chapter 8.5. Ignition Interlock Oversight Committee**

24 Sec. 1. (a) The ignition interlock oversight committee is
25 established.

26 (b) The bureau shall staff and provide resources for the
27 committee.

28 Sec. 2. (a) The committee consists of the following seven (7)
29 members:

30 (1) The commissioner or the commissioner's designee.

31 (2) The director of the state department of toxicology or the
32 director's designee.

33 (3) The superintendent of the state police department or the
34 superintendent's designee.

35 (4) The executive director of the Indiana prosecuting
36 attorneys council or the executive director's designee.

37 (5) The executive director of the public defender council of
38 Indiana or the executive director's designee.

39 (6) One (1) person who:

40 (A) has experience in administering probation programs;
41 and

42 (B) is a member of the Probation Officers' Professional



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

**Association of Indiana;
appointed by the members of the association.
(7) One (1) circuit or superior court judge who exercises
criminal jurisdiction, appointed by the chief justice of the
supreme court.
(b) The commissioner is the chairperson of the committee.**

**Sec. 3. The committee shall meet at least three (3) times a year
to:**

- (1) evaluate and study issues related to ignition interlock;**
- (2) make recommendations annually to the general assembly
concerning ignition interlock legislation; and**
- (3) make recommendations to the state department of
toxicology regarding ignition interlock standards.**

**Recommendations made to the general assembly under subdivision
(2) must be submitted in an electronic format under IC 5-14-16.**

SECTION 23. IC 9-30-9-2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. The circuit court of
a county may establish an alcohol abuse deterrent program after the
county fiscal body adopts a resolution approving the program. The
program must provide for the treatment of individuals who have been
convicted of more than one (1) violation of IC 9-30-5 with ~~disulfiram~~
~~or a similar~~ substance that the court determines is an effective chemical
deterrent to the use of alcohol.

SECTION 24. IC 12-23-5-5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Subject to
subsection (b), if a court enters an order conditionally deferring charges
that involve a violation of IC 9-30-5, the court shall do the following:

- (1) Suspend the defendant's driving privileges for at least ~~ninety~~
(90) one hundred eighty (180) days but not more than two (2)
years.
- (2) Impose other appropriate conditions.

(b) A defendant **to whom subsection (a) applies** may be granted
probationary driving privileges ~~only after the defendant's license has
been suspended for at least thirty (30) days under IC 9-30-6-9:~~

(c) ~~If a defendant has at least one (1) conviction for an offense under
IC 9-30-5, the order granting probationary driving privileges under
subsection (b) must, in a county that provides for the installation of an
ignition interlock device under IC 9-30-8; that prohibit the defendant
from operating a motor vehicle unless the motor vehicle is equipped
with a functioning certified ignition interlock device under IC 9-30-8.~~

(d) ~~If a defendant does not have a prior conviction for an offense
under IC 9-30-5, the court may, as an alternative to a license~~



1 suspension under subsection (a)(1); issue an order prohibiting the
 2 defendant from operating a motor vehicle unless the motor vehicle is
 3 equipped with a functioning certified ignition interlock device under
 4 IC 9-30-8. An order requiring an ignition interlock device must remain
 5 in effect for at least two (2) years but not more than four (4) years.

6 SECTION 25. IC 12-23-5-5.5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5.5. (a) A person
 8 commits a Class B infraction if the person:

9 (1) operates a motor vehicle without a functioning certified
 10 ignition interlock device; and

11 (2) is prohibited from operating a motor vehicle unless the motor
 12 vehicle is equipped with a functioning certified ignition interlock
 13 device under section ~~5(d)~~ **5(b)** of this chapter.

14 (b) A person commits a Class B misdemeanor if the person:

15 (1) operates a motor vehicle without a functioning certified
 16 ignition interlock device; and

17 (2) knows the person is prohibited from operating a motor vehicle
 18 unless the motor vehicle is equipped with a functioning certified
 19 ignition interlock device under section ~~5(d)~~ **5(b)** of this chapter.

20 SECTION 26. IC 12-23-5-7, AS AMENDED BY P.L.114-2012,
 21 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2014]: Sec. 7. Prosecution may be deferred under sections 2
 23 through ~~5 4~~ of this chapter if a defendant has been charged with a
 24 misdemeanor or infraction in which the use of alcohol or drugs was a
 25 contributing factor or material element of the offense or the defendant's
 26 mental illness was a contributing factor, unless at least one (1) of the
 27 following exists:

28 (1) The offense involves death or serious bodily injury.

29 (2) The defendant has a record of at least two (2) prior
 30 convictions of forcible felonies (as defined in IC 35-31.5-2-138).

31 (3) Other criminal proceedings, not arising out of the same
 32 incident, alleging commission of a felony are pending against the
 33 defendant.

34 (4) The defendant is on probation or parole and the appropriate
 35 parole or probation authority does not consent to the defendant's
 36 participation.

37 (5) The defendant fails to meet additional eligibility requirements
 38 imposed by the court.

