



February 24, 2017

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## SENATE BILL No. 322

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DIGEST OF SB 322 (Updated February 23, 2017 11:10 am - DI 120)

**Citations Affected:** IC 10-13; IC 33-37; IC 35-33; IC 35-38.

**Synopsis:** DNA for felony arrestees. Requires every person arrested for a felony after December 31, 2017, to submit a DNA sample, and specifies that the sample may be obtained only by buccal swab. Provides that the DNA sample may not be shipped for DNA identification unless the arrestee was arrested pursuant to a felony arrest warrant or a court has found probable cause for the felony arrest. Provides for the expungement of a DNA sample taken from a person if: (1) the person is acquitted of all felony charges or the charges are converted to misdemeanors; (2) all felony charges against the person are dismissed; or (3) no felony charges are filed against the person within 365 days. Requires the officer who obtains a DNA sample from a person to inform the person of the right to DNA expungement and to provide the person with a form that may be used for DNA expungement, and permits the use of evidence other than a court order for expungement. Provides that a person who knowingly or intentionally disseminates, receives, or otherwise uses information in the DNA data base for a purpose other than authorized by law commits a Level 6 felony. Increases the DNA sample processing fee from \$2 to \$3. Allocates \$500,000 semiannually to hold harmless all funds and to provide an additional amount to the DNA processing fund. Specifies that the discovery of DNA evidence tending to show previously unknown crimes committed by a person on bail may lead to revocation of bail or an increase in the amount of bail.

**Effective:** July 1, 2017.

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**Houchin, Zakas, Merritt, Sandlin,  
Glick, Freeman**

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January 9, 2017, read first time and referred to Committee on Judiciary.  
February 16, 2017, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
February 23, 2017, amended, reported favorably — Do Pass.

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SB 322—LS 6728/DI 123





February 24, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## SENATE BILL No. 322

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

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

1           SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 8. (a) The superintendent may establish a data  
4 base of DNA identification records of:  
5           (1) convicted criminals;  
6           **(2) persons arrested for a felony;**  
7           ~~(2) (3) crime scene specimens;~~  
8           ~~(3) (4) unidentified missing persons; and~~  
9           ~~(4) (5) close biological relatives of missing persons.~~  
10          (b) The superintendent shall maintain the Indiana DNA data base.  
11          (c) The superintendent may contract for services to perform DNA  
12 analysis of:  
13           **(1) convicted offenders; and**  
14           **(2) persons arrested for a felony;**  
15          under section 10 of this chapter to assist federal, state, and local  
16 criminal justice and law enforcement agencies in the putative  
17 identification, detection, or exclusion of individuals who are subjects

SB 322—LS 6728/DI 123



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

4 (d) The superintendent:

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

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

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

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

18 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,  
 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2017]: Sec. 10. (a) This section applies to the following:

21 **(1) A person arrested for a felony after December 31, 2017.**

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

28 **(e) This subsection applies only to a DNA sample provided by a**  
29 **person arrested for a felony. A person described in subsection**  
30 **(b)(1), (b)(2), (b)(3), or (b)(4) may not ship a DNA sample collected**  
31 **from a felony arrestee for DNA identification testing unless:**

32 **(1) the arrestee was arrested pursuant to a felony arrest**  
33 **warrant; or**

34 **(2) a court has found probable cause for the felony arrest.**

35 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) A person whose  
37 DNA profile has been included in the Indiana DNA data base may  
38 request expungement of the profile from the DNA data base on the  
39 grounds that:

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



1           **(2) the person's DNA profile has been included in the Indiana**  
 2           **DNA data base on the basis of the person's arrest for one (1)**  
 3           **or more felonies, and:**

4           **(A) the person was acquitted of all the felony charges, or**  
 5           **all of the felonies were converted to misdemeanors under**  
 6           **IC 35-38-1-1.5 or IC 35-50-2-7;**

7           **(B) all felony charges against the person were dismissed; or**

8           **(C) three hundred sixty-five (365) days have elapsed since**  
 9           **the person's arrest and no felony charges have been filed**  
 10           **against the person.**

11           (b) All identifiable information in the Indiana DNA data base  
 12           pertaining to a person requesting expungement under subsection (a)  
 13           shall be expunged, and all samples from the person shall be destroyed,  
 14           upon receipt of:

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

17           (2) a certified copy of ~~the a court order reversing and dismissing~~  
 18           ~~the conviction; or other evidence sufficient to establish or~~  
 19           **permit the superintendent to establish that the conditions**  
 20           **described in subsection (a)(1) or (a)(2) have been satisfied;** and

21           (3) any other information necessary to ascertain the validity of the  
 22           request.

23           (c) Upon expungement of a person's DNA profile from the Indiana  
 24           DNA data base, the superintendent shall request expungement of the  
 25           person's DNA profile from the national DNA data base.

26           SECTION 4. IC 10-13-6-19 IS AMENDED TO READ AS  
 27           FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) **The DNA data**  
 28           **base is confidential.** Access to the Indiana DNA data base is limited  
 29           to federal, state, and local law enforcement agencies through their  
 30           servicing forensic DNA laboratories.

31           (b) The superintendent shall take appropriate measures to ensure  
 32           that the Indiana DNA data base is protected against unauthorized  
 33           access.

34           SECTION 5. IC 10-13-6-22 IS AMENDED TO READ AS  
 35           FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 22. A person who  
 36           knowingly or intentionally disseminates, receives, or otherwise uses or  
 37           attempts to use information in the Indiana DNA data base or DNA  
 38           samples used in DNA analyses, knowing that such dissemination,  
 39           receipt, or use is for a purpose other than authorized by law, commits  
 40           a ~~Class A misdemeanor.~~ **Level 6 felony.**

41           SECTION 6. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006,  
 42           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2017]: Sec. 26.2. In each action in which a person is:

- 2 (1) convicted of an offense;  
 3 (2) required to pay a pretrial diversion fee;  
 4 (3) found to have committed an infraction; or  
 5 (4) found to have violated an ordinance;

6 the clerk shall collect a DNA sample processing fee of ~~two three~~  
 7 dollars ~~(\$2).~~ **(\$3).**

8 SECTION 7. IC 33-37-7-9, AS AMENDED BY P.L.229-2011,  
 9 SECTION 262, IS AMENDED TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) On June 30 and on December  
 11 31 of each year, the auditor of state shall transfer to the treasurer of  
 12 state nine million ~~two hundred seventy-seven thousand twenty-three~~  
 13 ~~dollars (\$9,277,023)~~ **four hundred ninety-two thousand**  
 14 **twenty-three dollars (\$9,492,023)** for distribution under subsection  
 15 (b).

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

- 18 (1) the family violence and victim assistance fund established by  
 19 IC 5-2-6.8-3 an amount equal to ~~eight and three-hundredths~~  
 20 ~~percent (8.03%);~~ **seven and eighty-five hundredths percent**  
 21 **(7.85%);**  
 22 (2) the Indiana judges' retirement fund established by  
 23 IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five~~  
 24 ~~hundredths percent (38.55%);~~ **thirty-seven and sixty-eight**  
 25 **hundredths percent (37.68%);**  
 26 (3) the law enforcement academy building fund established by  
 27 IC 5-2-1-13 an amount equal to two and ~~fifty-six hundredths~~  
 28 ~~percent (2.56%);~~ **fifty-one hundredths percent (2.51%);**  
 29 (4) the law enforcement training fund established by IC 5-2-1-13  
 30 an amount equal to ten and ~~twenty-seven hundredths percent~~  
 31 ~~(10.27%);~~ **four hundredths percent (10.04%);**  
 32 (5) the violent crime victims compensation fund established by  
 33 IC 5-2-6.1-40 an amount equal to eleven and ~~ninety-three~~  
 34 ~~hundredths percent (11.93%);~~ **sixty-six hundredths percent**  
 35 **(11.66%);**  
 36 (6) the motor vehicle highway account an amount equal to  
 37 nineteen and ~~forty-nine hundredths percent (19.49%);~~ **five**  
 38 **hundredths percent (19.05%);**  
 39 (7) the fish and wildlife fund established by IC 14-22-3-2 an  
 40 amount equal to twenty-five hundredths percent (0.25%);  
 41 (8) the Indiana judicial center drug and alcohol programs fund  
 42 established by IC 12-23-14-17 for the administration,



1 certification, and support of alcohol and drug services programs  
 2 under IC 12-23-14 an amount equal to one and ~~sixty-three~~  
 3 ~~hundredths percent (1.63%);~~ **six-tenths percent (1.6%);** and  
 4 (9) the DNA sample processing fund established under  
 5 IC 10-13-6-9.5 for the funding of the collection, shipment,  
 6 analysis, and preservation of DNA samples and the conduct of a  
 7 DNA data base program under IC 10-13-6 an amount equal to  
 8 ~~seven and twenty-nine hundredths percent (7.29%);~~ **nine and**  
 9 **thirty-six hundredths percent (9.36%);**

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

11 (c) On June 30 and on December 31 of each year, the auditor of  
 12 state shall transfer to the treasurer of state for deposit into the public  
 13 defense fund established under IC 33-40-6-1 three million seven  
 14 hundred thousand dollars (\$3,700,000).

15 SECTION 8. IC 35-33-8-5 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Upon a showing  
 17 of good cause, the state or the defendant may be granted an alteration  
 18 or revocation of bail by application to the court before which the  
 19 proceeding is pending. In reviewing a motion for alteration or  
 20 revocation of bail, credible hearsay evidence is admissible to establish  
 21 good cause.

22 (b) When the state presents additional:

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

25 (2) clear and convincing evidence:

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

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

30 the court may increase bail. **If the additional evidence presented by**  
 31 **the state is DNA evidence tending to show that the defendant**  
 32 **committed additional crimes that were not considered at the time**  
 33 **the defendant was admitted to bail, the court may increase or**  
 34 **revoke bail.**

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





- 1 community.
- 2 (d) The court may revoke bail or an order for release on personal
- 3 recognizance upon clear and convincing proof by the state that:
- 4 (1) while admitted to bail the defendant:
- 5 (A) or the defendant's agent threatened or intimidated a victim,
- 6 prospective witnesses, or jurors concerning the pending
- 7 criminal proceeding or any other matter;
- 8 (B) or the defendant's agent attempted to conceal or destroy
- 9 evidence relating to the pending criminal proceeding;
- 10 (C) violated any condition of the defendant's current release
- 11 order;
- 12 (D) failed to appear before the court as ordered at any critical
- 13 stage of the proceedings; or
- 14 (E) committed a felony or a Class A misdemeanor that
- 15 demonstrates instability and a disdain for the court's authority
- 16 to bring the defendant to trial;
- 17 (2) the factors described in IC 35-40-6-6(1)(A) and
- 18 IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a
- 19 risk to the physical safety of another person or the community; or
- 20 (3) a combination of the factors described in subdivisions (1) and
- 21 (2) exists.
- 22 SECTION 9. IC 35-38-1-27, AS ADDED BY P.L.173-2006,
- 23 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 2017]: Sec. 27. (a) If a court imposes a sentence that does not
- 25 involve a commitment to the department of correction, the court shall
- 26 require a person:
- 27 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
- 28 **IC 10-13-6-10(a);** and
- 29 (2) who has not previously provided a DNA sample in accordance
- 30 with IC 10-13-6;
- 31 to provide a DNA sample as a condition of the sentence.
- 32 (b) If a person described in subsection (a) is confined at the time of
- 33 sentencing, the court shall order the person to provide a DNA sample
- 34 immediately after sentencing.
- 35 (c) If a person described in subsection (a) is not confined at the time
- 36 of sentencing, the agency supervising the person after sentencing shall
- 37 establish the date, time, and location for the person to provide a DNA
- 38 sample. However, the supervising agency must require that the DNA
- 39 sample be provided not more than seven (7) days after sentencing. A
- 40 supervising agency's failure to obtain a DNA sample not more than
- 41 seven (7) days after sentencing does not permit a person required to
- 42 provide a DNA sample to challenge the requirement that the person



1 provide a DNA sample at a later date.

2 (d) A person's failure to provide a DNA sample is grounds for  
3 revocation of the person's probation, community corrections placement,  
4 or other conditional release.

5 SECTION 10. IC 35-38-2-2.3, AS AMENDED BY P.L.209-2015,  
6 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2017]: Sec. 2.3. (a) As a condition of probation, the court may  
8 require a person to do a combination of the following:

9 (1) Work faithfully at suitable employment or faithfully pursue a  
10 course of study or career and technical education that will equip  
11 the person for suitable employment.

12 (2) Undergo available medical or psychiatric treatment and  
13 remain in a specified institution if required for that purpose.

14 (3) Attend or reside in a facility established for the instruction,  
15 recreation, or residence of persons on probation.

16 (4) Participate in a treatment program, educational class, or  
17 rehabilitative service provided by a probation department or by  
18 referral to an agency.

19 (5) Support the person's dependents and meet other family  
20 responsibilities.

21 (6) Make restitution or reparation to the victim of the crime for  
22 damage or injury that was sustained by the victim. When  
23 restitution or reparation is a condition of probation, the court shall  
24 fix the amount, which may not exceed an amount the person can  
25 or will be able to pay, and shall fix the manner of performance.

26 (7) Execute a repayment agreement with the appropriate  
27 governmental entity to repay the full amount of public relief or  
28 assistance wrongfully received, and make repayments according  
29 to a repayment schedule set out in the agreement.

30 (8) Pay a fine authorized by IC 35-50.

31 (9) Refrain from possessing a firearm or other deadly weapon  
32 unless granted written permission by the court or the person's  
33 probation officer.

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

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

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

41 (13) Answer all reasonable inquiries by the court or the person's  
42 probation officer and promptly notify the court or probation



- 1 officer of any change in address or employment.  
 2 (14) Perform uncompensated work that benefits the community.  
 3 (15) Satisfy other conditions reasonably related to the person's  
 4 rehabilitation.  
 5 (16) Undergo home detention under IC 35-38-2.5.  
 6 (17) Undergo a laboratory test or series of tests approved by the  
 7 state department of health to detect and confirm the presence of  
 8 the human immunodeficiency virus (HIV) antigen or antibodies  
 9 to the human immunodeficiency virus (HIV), if:  
 10 (A) the person had been convicted of an offense relating to a  
 11 criminal sexual act and the offense created an  
 12 epidemiologically demonstrated risk of transmission of the  
 13 human immunodeficiency virus (HIV); or  
 14 (B) the person had been convicted of an offense relating to a  
 15 controlled substance and the offense involved:  
 16 (i) the delivery by any person to another person; or  
 17 (ii) the use by any person on another person;  
 18 of a contaminated sharp (as defined in IC 16-41-16-2) or other  
 19 paraphernalia that creates an epidemiologically demonstrated  
 20 risk of transmission of HIV by involving percutaneous contact.  
 21 (18) Refrain from any direct or indirect contact with an individual  
 22 and, if convicted of an offense under IC 35-46-3, any animal  
 23 belonging to the individual.  
 24 (19) Execute a repayment agreement with the appropriate  
 25 governmental entity or with a person for reasonable costs incurred  
 26 because of the taking, detention, or return of a missing child (as  
 27 defined in IC 10-13-5-4).  
 28 (20) Periodically undergo a laboratory chemical test (as defined  
 29 in IC 9-13-2-22) or series of chemical tests as specified by the  
 30 court to detect and confirm the presence of a controlled substance  
 31 (as defined in IC 35-48-1-9). The person on probation is  
 32 responsible for any charges resulting from a test and shall have  
 33 the results of any test under this subdivision reported to the  
 34 person's probation officer by the laboratory.  
 35 (21) If the person was confined in a penal facility, execute a  
 36 reimbursement plan as directed by the court and make repayments  
 37 under the plan to the authority that operates the penal facility for  
 38 all or part of the costs of the person's confinement in the penal  
 39 facility. The court shall fix an amount that:  
 40 (A) may not exceed an amount the person can or will be able  
 41 to pay;  
 42 (B) does not harm the person's ability to reasonably be self



- 1 supporting or to reasonably support any dependent of the  
 2 person; and  
 3 (C) takes into consideration and gives priority to any other  
 4 restitution, reparation, repayment, or fine the person is  
 5 required to pay under this section.
- 6 (22) Refrain from owning, harboring, or training an animal.  
 7 (23) Participate in a reentry court program.  
 8 (24) Receive:
- 9 (A) addiction counseling;  
 10 (B) mental health counseling;  
 11 (C) inpatient detoxification; and  
 12 (D) medication assisted treatment, including a federal Food  
 13 and Drug Administration approved long acting, nonaddictive  
 14 medication for the treatment of opioid or alcohol dependence.
- 15 (b) When a person is placed on probation, the person shall be given  
 16 a written statement specifying:
- 17 (1) the conditions of probation; and  
 18 (2) that if the person violates a condition of probation during the  
 19 probationary period, a petition to revoke probation may be filed  
 20 before the earlier of the following:
- 21 (A) One (1) year after the termination of probation.  
 22 (B) Forty-five (45) days after the state receives notice of the  
 23 violation.
- 24 (c) As a condition of probation, the court may require that the  
 25 person serve a term of imprisonment in an appropriate facility at the  
 26 time or intervals (consecutive or intermittent) within the period of  
 27 probation the court determines.
- 28 (d) Intermittent service may be required only for a term of not more  
 29 than sixty (60) days and must be served in the county or local penal  
 30 facility. The intermittent term is computed on the basis of the actual  
 31 days spent in confinement and shall be completed within one (1) year.  
 32 A person does not earn good time credit while serving an intermittent  
 33 term of imprisonment under this subsection. When the court orders  
 34 intermittent service, the court shall state:
- 35 (1) the term of imprisonment;  
 36 (2) the days or parts of days during which a person is to be  
 37 confined; and  
 38 (3) the conditions.
- 39 (e) Supervision of a person may be transferred from the court that  
 40 placed the person on probation to a court of another jurisdiction, with  
 41 the concurrence of both courts. Retransfers of supervision may occur  
 42 in the same manner. This subsection does not apply to transfers made



- 1 under IC 11-13-4 or IC 11-13-5.
- 2 (f) When a court imposes a condition of probation described in
- 3 subsection (a)(18):
- 4 (1) the clerk of the court shall comply with IC 5-2-9; and
- 5 (2) the prosecuting attorney shall file a confidential form
- 6 prescribed or approved by the division of state court
- 7 administration with the clerk.
- 8 (g) As a condition of probation, a court shall require a person:
- 9 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
- 10 **IC 10-13-6-10(a);**
- 11 (2) who has not previously provided a DNA sample in accordance
- 12 with IC 10-13-6; and
- 13 (3) whose sentence does not involve a commitment to the
- 14 department of correction;
- 15 to provide a DNA sample as a condition of probation.
- 16 (h) If a court imposes a condition of probation described in
- 17 subsection (a)(4), the person on probation is responsible for any costs
- 18 resulting from the participation in a program, class, or service. Any
- 19 costs collected for services provided by the probation department shall
- 20 be deposited in the county or local supplemental adult services fund.
- 21 SECTION 11. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012,
- 22 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2017]: Sec. 6. An order for home detention of an offender
- 24 under section 5 of this chapter must include the following:
- 25 (1) A requirement that the offender be confined to the offender's
- 26 home at all times except when the offender is:
- 27 (A) working at employment approved by the court or traveling
- 28 to or from approved employment;
- 29 (B) unemployed and seeking employment approved for the
- 30 offender by the court;
- 31 (C) undergoing medical, psychiatric, mental health treatment,
- 32 counseling, or other treatment programs approved for the
- 33 offender by the court;
- 34 (D) attending an educational institution or a program approved
- 35 for the offender by the court;
- 36 (E) attending a regularly scheduled religious service at a place
- 37 of worship; or
- 38 (F) participating in a community work release or community
- 39 restitution or service program approved for the offender by the
- 40 court.
- 41 (2) Notice to the offender that violation of the order for home
- 42 detention may subject the offender to prosecution for the crime of



- 1 escape under IC 35-44.1-3-4.
- 2 (3) A requirement that the offender abide by a schedule prepared
- 3 by the probation department, or by a community corrections
- 4 program ordered to provide supervision of the offender's home
- 5 detention, specifically setting forth the times when the offender
- 6 may be absent from the offender's home and the locations the
- 7 offender is allowed to be during the scheduled absences.
- 8 (4) A requirement that the offender is not to commit another
- 9 crime during the period of home detention ordered by the court.
- 10 (5) A requirement that the offender obtain approval from the
- 11 probation department or from a community corrections program
- 12 ordered to provide supervision of the offender's home detention
- 13 before the offender changes residence or the schedule described
- 14 in subdivision (3).
- 15 (6) A requirement that the offender maintain:
- 16 (A) a working telephone in the offender's home; and
- 17 (B) if ordered by the court, a monitoring device in the
- 18 offender's home or on the offender's person, or both.
- 19 (7) A requirement that the offender pay a home detention fee set
- 20 by the court in addition to the probation user's fee required under
- 21 IC 35-38-2-1 or IC 31-40. However, the fee set under this
- 22 subdivision may not exceed the maximum fee specified by the
- 23 department of correction under IC 11-12-2-12.
- 24 (8) A requirement that the offender abide by other conditions of
- 25 probation set by the court under IC 35-38-2-2.3.
- 26 (9) A requirement that an offender:
- 27 (A) who is ~~convicted of an offense~~ described in ~~IC 10-13-6-10;~~
- 28 **IC 10-13-6-10(a);**
- 29 (B) who has not previously provided a DNA sample in
- 30 accordance with IC 10-13-6; and
- 31 (C) whose sentence does not involve a commitment to the
- 32 department of correction;
- 33 provide a DNA sample.
- 34 SECTION 12. IC 35-38-2.6-3, AS AMENDED BY P.L.179-2015,
- 35 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2017]: Sec. 3. (a) The court may, at the time of sentencing,
- 37 suspend the sentence and order a person to be placed in a community
- 38 corrections program as an alternative to commitment to the department
- 39 of correction. The court may impose reasonable terms on the placement
- 40 or require the director of the community corrections program to impose
- 41 reasonable terms on the placement. A court shall require a person:
- 42 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~



- 1           **IC 10-13-6-10(a);**
- 2           (2) who has not previously provided a DNA sample in accordance
- 3           with IC 10-13-6; and
- 4           (3) whose sentence does not involve a commitment to the
- 5           department of correction;
- 6           to provide a DNA sample as a term of placement.
- 7           (b) Placement in a community corrections program under this
- 8           chapter is subject to the availability of residential beds or home
- 9           detention units in a community corrections program.
- 10          (c) A person placed under this chapter is responsible for the person's
- 11          own medical care while in the placement program.
- 12          (d) Placement under this chapter is subject to the community
- 13          corrections program receiving a written presentence report or
- 14          memorandum from a county probation agency.



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 322, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 21, delete "June 30, 2017." and insert "**December 31, 2017.**".

Page 3, line 38, after "and" insert ":

**(A)**".

Page 3, line 39, delete "." and insert ", **or all of the felonies were converted to misdemeanors under IC 35-38-1-1.5 or IC 35-50-2-7; (B) all felony charges against the person were dismissed; or (C) three hundred sixty-five (365) days have elapsed since the person's arrest and no felony charges have been filed against the person.**".

Page 4, line 6, delete ":" and insert "**the conditions described in subsection (a)(1) or (a)(2) have been satisfied;**".

Page 4, delete lines 7 through 10.

Page 4, line 11, delete "described in subsection (a)(2);".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 322 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 1.

## COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 322, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 27 and 28, begin a new paragraph and insert:

**"(e) This subsection applies only to a DNA sample provided by a person arrested for a felony. A person described in subsection (b)(1), (b)(2), (b)(3), or (b)(4) may not ship a DNA sample collected from a felony arrestee for DNA identification testing unless:**

**(1) the arrestee was arrested pursuant to a felony arrest warrant; or**

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**(2) a court has found probable cause for the felony arrest."**

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 5. IC 10-13-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 22. A person who knowingly or intentionally disseminates, receives, or otherwise uses or attempts to use information in the Indiana DNA data base or DNA samples used in DNA analyses, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, commits a ~~Class A misdemeanor.~~ **Level 6 felony.**"

Page 4, line 34, delete "four" and insert "**three**".

Page 4, line 35, delete "(\$4)." and insert "**(\$3).**".

Page 4, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 6. IC 33-37-7-9, AS AMENDED BY P.L.229-2011, SECTION 262, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state nine million ~~two hundred seventy-seven thousand twenty-three dollars (\$9,277,023)~~ **four hundred ninety-two thousand twenty-three dollars (\$9,492,023)** for distribution under subsection (b).

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

(1) the family violence and victim assistance fund established by IC 5-2-6.8-3 an amount equal to ~~eight and three-hundredths percent (8.03%);~~ **seven and eighty-five hundredths percent (7.85%);**

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five hundredths percent (38.55%);~~ **thirty-seven and sixty-eight hundredths percent (37.68%);**

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and ~~fifty-six hundredths percent (2.56%);~~ **fifty-one hundredths percent (2.51%);**

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ten and ~~twenty-seven hundredths percent (10.27%);~~ **four hundredths percent (10.04%);**

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to eleven and ~~ninety-three hundredths percent (11.93%);~~ **sixty-six hundredths percent (11.66%);**

(6) the motor vehicle highway account an amount equal to



nineteen and ~~forty-nine hundredths~~ percent (~~19.49%~~); **five hundredths percent (19.05%);**

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to twenty-five hundredths percent (0.25%);

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and ~~sixty-three hundredths~~ percent (~~1.63%~~); **six-tenths percent (1.6%);** and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~seven and twenty-nine hundredths~~ percent (~~7.29%~~); **nine and thirty-six hundredths percent (9.36%);**

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

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1 three million seven hundred thousand dollars (\$3,700,000)."

Page 5, delete lines 1 through 40.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 322 as printed February 17, 2017.)

KENLEY, Chairperson

Committee Vote: Yeas 13, Nays 0.

