

HOUSE BILL No. 1256

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-12-3.7-6; IC 12-7-2-53.2; IC 20-26-5-11.2; IC 20-28-5-8; IC 31-30; IC 31-37; IC 35-31.5-2-91; IC 35-33-1-1; IC 35-38-2.6-1; IC 35-42; IC 35-43; IC 35-45-6-1; IC 35-47-4-5; IC 35-50.

Synopsis: Auto theft and carjacking. Reenacts the crimes of auto theft and carjacking. (The auto theft provision was repealed in 2018 and the carjacking provision was repealed in 2013.) Makes the penalty for carjacking a Level 4 felony, but increases the penalty to a Level 3 felony (if committed with a deadly weapon or results in bodily injury) or a Level 2 felony (if it results in serious bodily injury). Makes the penalty for auto theft a Level 5 felony and increases the penalty to a Level 4 felony if the person has a prior conviction or the aggregate fair market value of the motor vehicle or vehicle parts exceeds \$50,000. Makes conforming changes and technical corrections.

Effective: July 1, 2024.

Andrade

January 9, 2024, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1256

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 11-12-3.7-6, AS AMENDED BY P.L.78-2022,
- 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2024]: Sec. 6. As used in this chapter, "violent offense" means
- 4 one (1) or more of the following offenses:
- 5 (1) Murder (IC 35-42-1-1).
- 6 (2) Attempted murder (IC 35-41-5-1).
- 7 (3) Voluntary manslaughter (IC 35-42-1-3).
- 8 (4) Involuntary manslaughter (IC 35-42-1-4).
- 9 (5) Reckless homicide (IC 35-42-1-5).
- 10 (6) Aggravated battery (IC 35-42-2-1.5).
- 11 (7) Battery (IC 35-42-2-1) as a:
- 12 (A) Class A felony, Class B felony, or Class C felony (for a
- 13 crime committed before July 1, 2014); or
- 14 (B) Level 2 felony, Level 3 felony, or Level 5 felony (for a
- 15 crime committed after June 30, 2014).
- 16 (8) Kidnapping (IC 35-42-3-2).
- 17 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that



- 1 is a:
- 2 (A) Class A felony, Class B felony, or Class C felony (for a
- 3 crime committed before July 1, 2014); or
- 4 (B) Level 1 felony, Level 2 felony, Level 3 felony, Level 4
- 5 felony, or Level 5 felony (for a crime committed after June 30,
- 6 2014).
- 7 (10) Sexual misconduct with a minor (IC 35-42-4-9) as a:
- 8 (A) Class A felony or Class B felony (for a crime committed
- 9 before July 1, 2014); or
- 10 (B) Level 1 felony, Level 2 felony, or Level 4 felony (for a
- 11 crime committed after June 30, 2014).
- 12 (11) Incest (IC 35-46-1-3).
- 13 (12) Robbery (IC 35-42-5-1) as a:
- 14 (A) Class A felony or a Class B felony (for a crime committed
- 15 before July 1, 2014); or
- 16 (B) Level 2 felony or Level 3 felony (for a crime committed
- 17 after June 30, 2014).
- 18 (13) Burglary (IC 35-43-2-1) as a:
- 19 (A) Class A felony or a Class B felony (for a crime committed
- 20 before July 1, 2014); or
- 21 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
- 22 felony (for a crime committed after June 30, 2014).
- 23 (14) Carjacking (~~IC 35-42-5-2~~) (repealed). **(IC 35-42-5-3).**
- 24 (15) Assisting a criminal (IC 35-44.1-2-5) as a:
- 25 (A) Class C felony (for a crime committed before July 1,
- 26 2014); or
- 27 (B) Level 5 felony (for a crime committed after June 30,
- 28 2014).
- 29 (16) Escape (IC 35-44.1-3-4) as a:
- 30 (A) Class B felony or Class C felony (for a crime committed
- 31 before July 1, 2014); or
- 32 (B) Level 4 felony or Level 5 felony (for a crime committed
- 33 after June 30, 2014).
- 34 (17) Trafficking with an inmate (IC 35-44.1-3-5) as a:
- 35 (A) Class C felony (for a crime committed before July 1,
- 36 2014); or
- 37 (B) Level 5 felony (for a crime committed after June 30,
- 38 2014).
- 39 (18) Causing death or catastrophic injury when operating a
- 40 vehicle (IC 9-30-5-5).
- 41 (19) Criminal confinement (IC 35-42-3-3) as a:
- 42 (A) Class B felony (for a crime committed before July 1,



- 1 2014); or
 2 (B) Level 3 felony (for a crime committed after June 30,
 3 2014).
 4 (20) Arson (IC 35-43-1-1) as a:
 5 (A) Class A or Class B felony (for a crime committed before
 6 July 1, 2014); or
 7 (B) Level 2, Level 3, or Level 4 felony (for a crime committed
 8 after June 30, 2014).
 9 (21) Possession, use, or manufacture of a weapon of mass
 10 destruction (IC 35-46.5-2-1) (or IC 35-47-12-1 before its repeal).
 11 (22) Terroristic mischief (IC 35-46.5-2-3) (or IC 35-47-12-3
 12 before its repeal) as a:
 13 (A) Class B felony (for a crime committed before July 1,
 14 2014); or
 15 (B) Level 4 felony (for a crime committed after June 30,
 16 2014).
 17 (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
 18 (24) A violation of IC 35-47.5 (controlled explosives) as a:
 19 (A) Class A or Class B felony (for a crime committed before
 20 July 1, 2014); or
 21 (B) Level 2 or Level 4 felony (for a crime committed after
 22 June 30, 2014).
 23 (25) Domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level
 24 3 felony, or Level 5 felony.
 25 (26) Sexual misconduct with a service provider (35-44.1-3-10) as
 26 a Level 4 felony.
 27 (27) Any other crimes evidencing a propensity or history of
 28 violence.
 29 SECTION 2. IC 12-7-2-53.2, AS AMENDED BY P.L.142-2020,
 30 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2024]: Sec. 53.2. "Dangerous felony", for purposes of
 32 IC 12-17.2, means one (1) or more of the following felonies:
 33 (1) Murder (IC 35-42-1-1).
 34 (2) Attempted murder (IC 35-41-5-1).
 35 (3) Voluntary manslaughter (IC 35-42-1-3).
 36 (4) Involuntary manslaughter (IC 35-42-1-4).
 37 (5) Reckless homicide (IC 35-42-1-5).
 38 (6) Aggravated battery (IC 35-42-2-1.5).
 39 (7) Kidnapping (IC 35-42-3-2).
 40 (8) Rape (IC 35-42-4-1).
 41 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 42 (10) Child molesting (IC 35-42-4-3).



- 1 (11) Sexual misconduct with a minor as a Class A felony (for a
 2 crime committed before July 1, 2014) or a Level 1 felony (for a
 3 crime committed after June 30, 2014) under IC 35-42-4-9(a)(2)
 4 or a Class B felony (for a crime committed before July 1, 2014)
 5 or a Level 2 felony (for a crime committed after June 30, 2014)
 6 under IC 35-42-4-9(b)(2).
- 7 (12) Robbery as a Class A or Class B felony (for a crime
 8 committed before July 1, 2014) or a Level 2 or Level 3 felony (for
 9 a crime committed after June 30, 2014) (IC 35-42-5-1).
- 10 (13) Burglary as a Class A or Class B felony (for a crime
 11 committed before July 1, 2014) or a Level 2 or Level 3 felony (for
 12 a crime committed after June 30, 2014) (IC 35-43-2-1).
- 13 (14) Battery as a felony (IC 35-42-2-1).
- 14 (15) Domestic battery (IC 35-42-2-1.3).
- 15 (16) Strangulation (IC 35-42-2-9).
- 16 (17) Criminal confinement (IC 35-42-3-3).
- 17 (18) Sexual battery (IC 35-42-4-8).
- 18 **(19) Carjacking as a Level 2 felony or a Level 3 felony (IC**
 19 **35-42-5-3).**
- 20 SECTION 3. IC 20-26-5-11.2, AS ADDED BY P.L.110-2023,
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2024]: Sec. 11.2. (a) This section applies to:
 23 (1) a school corporation;
 24 (2) a charter school;
 25 (3) a state accredited nonpublic school; and
 26 (4) an entity with which the school corporation, charter school, or
 27 state accredited nonpublic school contracts for services;
 28 concerning employees of the school corporation, charter school, state
 29 accredited nonpublic school, or entity who are likely to have direct,
 30 ongoing contact with children within the scope of the employees'
 31 employment.
- 32 (b) Subject to section 10(k) of this chapter and subsection (f), a
 33 school corporation, charter school, state accredited nonpublic school,
 34 or entity may not employ or contract with, and shall terminate the
 35 employment of or contract with, an individual convicted of any of the
 36 following offenses:
 37 (1) Murder (IC 35-42-1-1).
 38 (2) Causing suicide (IC 35-42-1-2).
 39 (3) Assisting suicide (IC 35-42-1-2.5).
 40 (4) Voluntary manslaughter (IC 35-42-1-3).
 41 (5) Aggravated battery (IC 35-42-2-1.5).
 42 (6) Kidnapping (IC 35-42-3-2).



- 1 (7) A sex offense (as defined in IC 11-8-8-5.2).
 2 (8) Carjacking (~~IC 35-42-5-2~~) (repealed): **(IC 35-42-5-3)**.
 3 (9) Arson (IC 35-43-1-1).
 4 (10) Public indecency (IC 35-45-4-1(a)(3), IC 35-45-4-1(a)(4),
 5 and IC 35-45-4-1(b)) committed:
 6 (A) after June 30, 2003; or
 7 (B) before July 1, 2003, if the person committed the offense
 8 by, in a public place, engaging in sexual intercourse or other
 9 sexual conduct (as defined in IC 35-31.5-2-221.5).
 10 (11) Neglect of a dependent as a Class B felony (for a crime
 11 committed before July 1, 2014) or a Level 1 felony or Level 3
 12 felony (for a crime committed after June 30, 2014) (IC
 13 35-46-1-4(b)(2) and IC 35-46-1-4(b)(3)).
 14 (12) Child selling (IC 35-46-1-4(d)).
 15 (13) An offense relating to material or a performance that is
 16 harmful to minors or obscene under IC 35-49-3.
- 17 If an entity described in subsection (a)(4) obtains information that an
 18 individual employed by the entity who works at a particular school
 19 corporation, charter school, or state accredited nonpublic school has
 20 been convicted of an offense described in this subsection, the entity
 21 shall immediately notify the school corporation, charter school, or state
 22 accredited nonpublic school of the employee's conviction.
- 23 (c) After June 30, 2023, a school corporation, charter school, state
 24 accredited nonpublic school, or entity may employ or contract with an
 25 individual convicted of any of the following offenses if a majority of
 26 the members elected or appointed to the governing body of the school
 27 corporation, or the equivalent body for a charter school, approves the
 28 employment or contract as a separate, special agenda item, or if the
 29 school administrator of a state accredited nonpublic school informs the
 30 administrator's appointing authority of the hiring:
- 31 (1) An offense relating to operating a motor vehicle while
 32 intoxicated under IC 9-30-5.
 33 (2) Reckless homicide (IC 35-42-1-5).
 34 (3) Battery (IC 35-42-2-1).
 35 (4) Domestic battery (IC 35-42-2-1.3).
 36 (5) Criminal confinement (IC 35-42-3-3).
 37 (6) Public indecency (IC 35-45-4-1(a)(1) or IC 35-45-4-1(a)(2))
 38 committed:
 39 (A) after June 30, 2003; or
 40 (B) before July 1, 2003, if the person committed the offense
 41 by, in a public place, engaging in sexual intercourse or other
 42 sexual conduct (as defined in IC 35-31.5-2-221.5).



- 1 (7) Contributing to the delinquency of a minor (IC 35-46-1-8).
 2 (8) An offense involving a weapon under IC 35-47 or IC 35-47.5.
 3 (9) An offense relating to controlled substances under IC 35-48-4,
 4 other than an offense involving marijuana or paraphernalia used
 5 to consume marijuana.
- 6 (d) An individual employed by a school corporation, charter school,
 7 state accredited nonpublic school, or entity described in subsection (a)
 8 shall notify the governing body of the school, if during the course of the
 9 individual's employment, the individual:
- 10 (1) is convicted in Indiana or another jurisdiction of an offense
 11 described in subsection (b) or subsection (c); or
 12 (2) is the subject of a substantiated report of child abuse or
 13 neglect.
- 14 (e) A school corporation, charter school, state accredited nonpublic
 15 school, or entity may use information obtained under section 10 of this
 16 chapter concerning an individual being the subject of a substantiated
 17 report of child abuse or neglect as grounds to not employ or contract
 18 with the individual.
- 19 (f) A school corporation, charter school, state accredited nonpublic
 20 school, or entity is not required to consider whether information
 21 concerning an individual's conviction:
- 22 (1) requires the school or entity to:
 23 (A) not employ; or
 24 (B) not contract with; or
 25 (2) constitutes grounds to terminate the employment of or contract
 26 with;
 27 an individual under subsection (b) if the individual's conviction is
 28 reversed, vacated, or set aside.
- 29 (g) Nothing in this section prohibits a school corporation, charter
 30 school, state accredited nonpublic school, or entity from establishing
 31 procedures to verify the accuracy of the information obtained under
 32 section 10 of this chapter concerning an individual's conviction.
- 33 (h) A school corporation, charter school, or state accredited
 34 nonpublic school may not hire or contract with an individual:
- 35 (1) who is required to wear an ankle monitor as the result of a
 36 criminal conviction;
 37 (2) who entered into an agreement to settle an allegation of
 38 misconduct relating to the health, safety, or well-being of a
 39 student at a school corporation, charter school, or state accredited
 40 nonpublic school, if the agreement included a nondisclosure
 41 agreement covering the alleged misconduct; or
 42 (3) who, in an academic environment, engaged in a course of



- 1 conduct involving repeated or continuing contact with a child that
2 is intended to prepare or condition the child for sexual activity (as
3 defined in IC 35-42-4-13);
4 unless a majority of the members elected or appointed to the governing
5 body of the school corporation, or the equivalent body for a charter
6 school, approves the hire or contract as a separate, special agenda item,
7 or unless the school administrator of a state accredited nonpublic
8 school informs the administrator's appointing authority of the hiring.
9 (i) For purposes of subsection (h), "misconduct relating to the
10 health, safety, or well-being of a student" includes:
11 (1) engaging in a pattern of flirtatious or otherwise inappropriate
12 comments;
13 (2) making any effort to gain unreasonable access to, and time
14 alone with, any student with no discernable educational purpose;
15 (3) engaging in any behavior that can reasonably be construed as
16 involving an inappropriate and overly personal and intimate
17 relationship with, conduct toward, or focus on a student;
18 (4) telling explicit sexual jokes and stories;
19 (5) making sexually related comments;
20 (6) engaging in sexual kidding or teasing;
21 (7) engaging in sexual innuendos or making comments with
22 double entendre;
23 (8) inappropriate physical touching;
24 (9) using spoken, written, or any electronic communication to
25 importune, invite, participate with, or entice a person to expose or
26 touch the person's own or another person's intimate body parts or
27 to observe the student's intimate body parts via any form of
28 computer network or system, any social media platform,
29 telephone network, or data network or by text message or instant
30 messaging;
31 (10) sexual advances or requests for sexual favors;
32 (11) physical or romantic relationship including but not limited to
33 sexual intercourse or oral sexual intercourse;
34 (12) discussion of one's personal romantic or sexual feelings or
35 activities;
36 (13) discussion, outside of a professional teaching or counseling
37 context endorsed or required by an employing school district, of
38 a student's romantic or sexual feelings or activities;
39 (14) displaying, sharing, or transmitting pornographic or sexually
40 explicit materials;
41 (15) any physical contact that the student previously has indicated
42 is unwelcome, unless such contact is professionally required, such



1 as to teach a sport or other skill, or to protect the safety of the
2 student or others;

3 (16) other than for purposes of addressing student dress code
4 violations or concerns, referencing the physical appearance or
5 clothes of a student in a way that could be interpreted as sexual;
6 and

7 (17) self-disclosure or physical exposure of a sexual, romantic, or
8 erotic nature.

9 SECTION 4. IC 20-28-5-8, AS AMENDED BY P.L.125-2022,
10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2024]: Sec. 8. (a) This section applies when a prosecuting
12 attorney knows that a licensed employee of a public school or a
13 nonpublic school has been convicted of an offense listed in subsection
14 (c). The prosecuting attorney shall immediately give written notice of
15 the conviction to the following:

16 (1) The secretary of education.

17 (2) Except as provided in subdivision (3), the superintendent of
18 the school corporation that employs the licensed employee or the
19 equivalent authority if a nonpublic school employs the licensed
20 employee.

21 (3) The presiding officer of the governing body of the school
22 corporation that employs the licensed employee, if the convicted
23 licensed employee is the superintendent of the school corporation.

24 (b) The superintendent of a school corporation, presiding officer of
25 the governing body, or equivalent authority for a nonpublic school shall
26 immediately notify the secretary of education when the individual
27 knows that a current or former licensed employee of the public school
28 or nonpublic school has been convicted of an offense listed in
29 subsection (c), or when the governing body or equivalent authority for
30 a nonpublic school takes any final action in relation to an employee
31 who engaged in any offense listed in subsection (c).

32 (c) Except as provided in section 8.5 of this chapter, the department
33 shall permanently revoke the license of a person who is known by the
34 department to have been convicted of any of the following:

35 (1) The following felonies:

36 (A) A sex crime under IC 35-42-4 (including criminal deviate
37 conduct (IC 35-42-4-2) (before its repeal)).

38 (B) Kidnapping (IC 35-42-3-2).

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

40 (D) Incest (IC 35-46-1-3).

41 (E) Dealing in or manufacturing cocaine or a narcotic drug (IC
42 35-48-4-1).



- 1 (F) Dealing in methamphetamine (IC 35-48-4-1.1).
 2 (G) Manufacturing methamphetamine (IC 35-48-4-1.2).
 3 (H) Dealing in a schedule I, II, or III controlled substance (IC
 4 35-48-4-2).
 5 (I) Dealing in a schedule IV controlled substance (IC
 6 35-48-4-3).
 7 (J) Dealing in a schedule V controlled substance (IC
 8 35-48-4-4).
 9 (K) Dealing in a counterfeit substance (IC 35-48-4-5).
 10 (L) Dealing in marijuana, hash oil, hashish, or salvia as a
 11 felony (IC 35-48-4-10).
 12 (M) An offense under IC 35-48-4 involving the manufacture
 13 or sale of a synthetic drug (as defined in IC 35-31.5-2-321), a
 14 synthetic drug lookalike substance (as defined in
 15 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under
 16 IC 35-48-4-10.5 (before its repeal on July 1, 2019), a
 17 controlled substance analog (as defined in IC 35-48-1-9.3), or
 18 a substance represented to be a controlled substance (as
 19 described in IC 35-48-4-4.6).
 20 (N) Homicide (IC 35-42-1).
 21 (O) Voluntary manslaughter (IC 35-42-1-3).
 22 (P) Reckless homicide (IC 35-42-1-5).
 23 (Q) Battery as any of the following:
 24 (i) A Class A felony (for a crime committed before July 1,
 25 2014) or a Level 2 felony (for a crime committed after June
 26 30, 2014).
 27 (ii) A Class B felony (for a crime committed before July 1,
 28 2014) or a Level 3 felony (for a crime committed after June
 29 30, 2014).
 30 (iii) A Class C felony (for a crime committed before July 1,
 31 2014) or a Level 5 felony (for a crime committed after June
 32 30, 2014).
 33 (R) Aggravated battery (IC 35-42-2-1.5).
 34 (S) Robbery (IC 35-42-5-1).
 35 (T) Carjacking (~~IC 35-42-5-2~~) (~~before its repeal~~): **(IC**
 36 **35-42-5-3)**.
 37 (U) Arson as a Class A felony or Class B felony (for a crime
 38 committed before July 1, 2014) or as a Level 2, Level 3, or
 39 Level 4 felony (for a crime committed after June 30, 2014) (IC
 40 35-43-1-1(a)).
 41 (V) Burglary as a Class A felony or Class B felony (for a crime
 42 committed before July 1, 2014) or as a Level 1, Level 2, Level



1 3, or Level 4 felony (for a crime committed after June 30,
 2 2014) (IC 35-43-2-1).
 3 (W) Human trafficking (IC 35-42-3.5).
 4 (X) Dealing in a controlled substance resulting in death (IC
 5 35-42-1-1.5).
 6 (Y) Attempt under IC 35-41-5-1 to commit an offense listed in
 7 this subsection.
 8 (Z) Conspiracy under IC 35-41-5-2 to commit an offense listed
 9 in this subsection.
 10 (2) Public indecency (IC 35-45-4-1) committed:
 11 (A) after June 30, 2003; or
 12 (B) before July 1, 2003, if the person committed the offense
 13 by, in a public place:
 14 (i) engaging in sexual intercourse or other sexual conduct
 15 (as defined in IC 35-31.5-2-221.5);
 16 (ii) appearing in a state of nudity with the intent to arouse
 17 the sexual desires of the person or another person, or being
 18 at least eighteen (18) years of age, with the intent to be seen
 19 by a child less than sixteen (16) years of age; or
 20 (iii) fondling the person's genitals or the genitals of another
 21 person.
 22 (d) The department shall permanently revoke the license of a person
 23 who is known by the department to have been convicted of a federal
 24 offense or an offense in another state that is comparable to a felony or
 25 misdemeanor listed in subsection (c).
 26 (e) A license may be suspended by the secretary of education as
 27 specified in IC 20-28-7.5.
 28 (f) The department shall develop a data base of information on
 29 school corporation employees who have been reported to the
 30 department under this section.
 31 (g) Upon receipt of information from the office of judicial
 32 administration in accordance with IC 33-24-6-3 concerning persons
 33 convicted of an offense listed in subsection (c), the department shall:
 34 (1) cross check the information received from the office of
 35 judicial administration with information concerning licensed
 36 teachers (as defined in IC 20-18-2-22(b)) maintained by the
 37 department; and
 38 (2) if a licensed teacher (as defined in IC 20-18-2-22(b)) has been
 39 convicted of an offense described in subsection (c), revoke the
 40 licensed teacher's license.
 41 SECTION 5. IC 31-30-1-4, AS AMENDED BY P.L.115-2023,
 42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2024]: Sec. 4. (a) The juvenile court does not have jurisdiction
2 over an individual for an alleged violation of:
3 (1) IC 35-41-5-1(a) (attempted murder);
4 (2) IC 35-42-1-1 (murder);
5 (3) IC 35-42-3-2 (kidnapping);
6 (4) IC 35-42-4-1 (rape);
7 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
8 (6) IC 35-42-5-1 (robbery) if:
9 (A) the robbery was committed while armed with a deadly
10 weapon; or
11 (B) the robbery results in bodily injury or serious bodily
12 injury;
13 (7) ~~IC 35-42-5-2~~ **IC 35-42-5-3** (carjacking); ~~(before its repeal)~~;
14 (8) IC 35-47-2-1.5 (unlawful carrying of a handgun), if charged
15 as a felony;
16 (9) IC 35-47-10 (children and firearms), if charged as a felony; or
17 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with
18 any crime listed in this subsection;
19 if the individual was at least sixteen (16) years of age but less than
20 eighteen (18) years of age at the time of the alleged violation.
21 (b) Once an individual described in subsection (a) has been charged
22 with any offense listed in subsection (a), the court having adult
23 criminal jurisdiction shall retain jurisdiction over the case if the
24 individual pleads guilty to or is convicted of any offense listed in
25 subsection (a)(1) through (a)(9).
26 (c) If:
27 (1) an individual described in subsection (a) is charged with one
28 (1) or more offenses listed in subsection (a);
29 (2) all the charges under subsection (a)(1) through (a)(9) resulted
30 in an acquittal or were dismissed; and
31 (3) the individual pleads guilty to or is convicted of any offense
32 other than an offense listed in subsection (a)(1) through (a)(9);
33 the court having adult criminal jurisdiction may withhold judgment and
34 transfer jurisdiction to the juvenile court for adjudication and
35 disposition. In determining whether to transfer jurisdiction to the
36 juvenile court for adjudication and disposition, the court having adult
37 criminal jurisdiction shall consider whether there are appropriate
38 services available in the juvenile justice system, whether the child is
39 amenable to rehabilitation under the juvenile justice system, and
40 whether it is in the best interests of the safety and welfare of the
41 community that the child be transferred to juvenile court. All orders
42 concerning release conditions remain in effect until a juvenile court



1 detention hearing, which must be held not later than forty-eight (48)
 2 hours, excluding Saturdays, Sundays, and legal holidays, after the order
 3 of transfer of jurisdiction.

4 (d) A court having adult criminal jurisdiction, and not a juvenile
 5 court, has jurisdiction over a person who is at least twenty-one (21)
 6 years of age for an alleged offense:

7 (1) committed while the person was a child; and

8 (2) that could have been waived under IC 31-30-3.

9 SECTION 6. IC 31-30-4-5, AS AMENDED BY P.L.168-2014,
 10 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2024]: Sec. 5. (a) At the request of a sentencing court, the
 12 department of correction shall provide a progress report to the
 13 sentencing court concerning an offender sentenced and placed in a
 14 juvenile facility under section 2(b) of this chapter. When the offender
 15 becomes eighteen (18) years of age:

16 (1) the department shall notify the sentencing court; and

17 (2) the sentencing court shall hold a review hearing concerning
 18 the offender before the offender becomes nineteen (19) years of
 19 age.

20 (b) Except as provided in subsection (c), after a hearing conducted
 21 under subsection (a), the sentencing court may:

22 (1) continue the offender's placement in a juvenile facility until
 23 the objectives of the sentence imposed on the offender have been
 24 met, if the sentencing court finds that the objectives of the
 25 sentence imposed on the offender have not been met;

26 (2) discharge the offender if the sentencing court finds that the
 27 objectives of the sentence imposed on the offender have been
 28 met;

29 (3) order execution of all or part of the offender's suspended
 30 criminal sentence in an adult facility of the department of
 31 correction; or

32 (4) place the offender:

33 (A) in home detention under IC 35-38-2.5;

34 (B) in a community corrections program under IC 35-38-2.6;

35 (C) on probation under IC 35-50-7; or

36 (D) in any other appropriate alternative sentencing program.

37 (c) This subsection applies to an offender over whom a juvenile
 38 court lacks jurisdiction under IC 31-30-1-4 who is convicted of one (1)
 39 or more of the following offenses:

40 (1) Murder (IC 35-42-1-1).

41 (2) Attempted murder (IC 35-41-5-1).

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



- 1 (4) Rape as a Class A felony (for a crime committed before July
 2 1, 2014) or a Level 1 felony (for a crime committed after June 30,
 3 2014) (IC 35-42-4-1(b)).
- 4 (5) Criminal deviate conduct as a Class A felony (IC
 5 35-42-4-2(b)) (before its repeal).
- 6 (6) Robbery as a Class A felony (for a crime committed before
 7 July 1, 2014) or a Level 2 felony (for a crime committed after
 8 June 30, 2014) (IC 35-42-5-1), if:
- 9 (A) the offense was committed while armed with a deadly
 10 weapon; and
- 11 (B) the offense resulted in bodily injury to any person other
 12 than a defendant.
- 13 **(7) Carjacking (IC 35-42-5-3).**
- 14 The court may not modify the original sentence of an offender to whom
 15 this subsection applies if the prosecuting attorney objects in writing to
 16 the modification. The prosecuting attorney shall set forth in writing the
 17 prosecuting attorney's reasons for objecting to the sentence
 18 modification.
- 19 SECTION 7. IC 31-37-4-3, AS AMENDED BY P.L.205-2023,
 20 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2024]: Sec. 3. (a) This section applies if a child is arrested or
 22 taken into custody for allegedly committing an act that would be any of
 23 the following crimes if committed by an adult:
- 24 (1) Murder (IC 35-42-1-1).
 25 (2) Attempted murder (IC 35-41-5-1).
 26 (3) Voluntary manslaughter (IC 35-42-1-3).
 27 (4) Involuntary manslaughter (IC 35-42-1-4).
 28 (5) Reckless homicide (IC 35-42-1-5).
 29 (6) Aggravated battery (IC 35-42-2-1.5).
 30 (7) Battery (IC 35-42-2-1).
 31 (8) Kidnapping (IC 35-42-3-2).
 32 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
 33 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 34 (11) Incest (IC 35-46-1-3).
 35 (12) Robbery as a Level 2 felony or a Level 3 felony (IC
 36 35-42-5-1).
 37 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 38 or Level 4 felony (IC 35-43-2-1).
 39 (14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
 40 (15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5
 41 felony.
 42 (16) Trafficking with an inmate as a Level 5 felony (IC



- 1 35-44.1-3-5).
- 2 (17) Causing death or catastrophic injury when operating a
- 3 vehicle (IC 9-30-5-5).
- 4 (18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level
- 5 3 felony.
- 6 (19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or
- 7 Level 4 felony.
- 8 (20) Possession, use, or manufacture of a weapon of mass
- 9 destruction (IC 35-47-12-1) (before its repeal).
- 10 (21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3
- 11 felony (before its repeal).
- 12 (22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
- 13 (23) A violation of IC 35-47.5 (controlled explosives) as a Level
- 14 2 felony, Level 3 felony, or Level 4 felony.
- 15 (24) A controlled substances offense under IC 35-48.
- 16 (25) A criminal organization offense under IC 35-45-9.
- 17 (26) Domestic battery (IC 35-42-2-1.3).
- 18 (27) A felony terrorist offense (as defined in IC 35-50-2-18).
- 19 **(28) Carjacking as a Level 2 felony or a Level 3 felony (IC**
- 20 **35-42-5-3).**
- 21 (b) If a child is taken into custody under this chapter for a crime or
- 22 act listed in subsection (a) or a situation to which IC 12-26-5-1 applies,
- 23 the law enforcement agency that employs the law enforcement officer
- 24 who takes the child into custody shall notify the chief administrative
- 25 officer of the primary or secondary school, including a public or
- 26 nonpublic school, in which the child is enrolled or, if the child is
- 27 enrolled in a public school, the superintendent of the school district in
- 28 which the child is enrolled:
- 29 (1) that the child was taken into custody; and
- 30 (2) of the reason why the child was taken into custody.
- 31 (c) The notification under subsection (b) must occur within
- 32 forty-eight (48) hours after the child is taken into custody.
- 33 (d) A law enforcement agency may not disclose information that is
- 34 confidential under state or federal law to a school or school district
- 35 under this section.
- 36 (e) A law enforcement agency shall include in its training for law
- 37 enforcement officers training concerning the notification requirements
- 38 under subsection (b).
- 39 SECTION 8. IC 31-37-19-9, AS AMENDED BY P.L.214-2013,
- 40 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 JULY 1, 2024]: Sec. 9. (a) This section applies if a child is a delinquent
- 42 child under IC 31-37-1.



1 (b) After a juvenile court makes a determination under IC 11-8-8-5,
 2 the juvenile court may, in addition to an order under section 6 of this
 3 chapter, and if the child:

4 (1) is at least thirteen (13) years of age and less than sixteen (16)
 5 years of age; and

6 (2) committed an act that, if committed by an adult, would be:

7 (A) murder (IC 35-42-1-1);

8 (B) kidnapping (IC 35-42-3-2);

9 (C) rape (IC 35-42-4-1);

10 (D) criminal deviate conduct (IC 35-42-4-2) (repealed); **or**

11 (E) robbery (IC 35-42-5-1) if the robbery was committed while
 12 armed with a deadly weapon or if the robbery resulted in
 13 bodily injury or serious bodily injury; **or**

14 **(F) carjacking as a Level 2 felony or Level 3 felony (IC**
 15 **35-42-5-3);**

16 order wardship of the child to the department of correction for a fixed
 17 period that is not longer than the date the child becomes eighteen (18)
 18 years of age, subject to IC 11-10-2-10.

19 (c) Notwithstanding IC 11-10-2-5, the department of correction may
 20 not reduce the period ordered under this section (or
 21 IC 31-6-4-15.9(b)(8) before its repeal).

22 SECTION 9. IC 35-31.5-2-91, AS AMENDED BY P.L.142-2020,
 23 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2024]: Sec. 91. "Designated offense", for purposes of
 25 IC 35-33.5, means the following:

26 (1) A Class A, Class B, or Class C felony, for a crime committed
 27 before July 1, 2014, or a Level 1, Level 2, Level 3, Level 4, or
 28 Level 5 felony, for a crime committed after June 30, 2014, that is
 29 a controlled substance offense (IC 35-48-4).

30 (2) Murder (IC 35-42-1-1).

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

32 (4) Criminal confinement (IC 35-42-3-3).

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

34 (6) Arson (IC 35-43-1-1).

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

36 (8) Human and sexual trafficking crimes under IC 35-42-3.5.

37 (9) Escape as a Class B felony or Class C felony, for a crime
 38 committed before July 1, 2014, or a Level 4 felony or Level 5
 39 felony, for a crime committed after June 30, 2014 (IC
 40 35-44.1-3-4).

41 (10) An offense that relates to a weapon of mass destruction (as
 42 defined in section 354 of this chapter).



1 **(11) Carjacking (IC 35-42-5-3).**

2 SECTION 10. IC 35-33-1-1, AS AMENDED BY P.L.112-2023,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 1. (a) A law enforcement officer may arrest a
5 person when the officer has:

- 6 (1) a warrant commanding that the person be arrested;
7 (2) probable cause to believe the person has committed or
8 attempted to commit, or is committing or attempting to commit,
9 a felony;
10 (3) probable cause to believe the person has violated the
11 provisions of IC 9-26-1-1.1 or IC 9-30-5;
12 (4) probable cause to believe the person is committing or
13 attempting to commit a misdemeanor in the officer's presence;
14 (5) probable cause to believe the person has committed a:
15 (A) battery resulting in bodily injury under IC 35-42-2-1; or
16 (B) domestic battery under IC 35-42-2-1.3.

17 The officer may use an affidavit executed by an individual alleged
18 to have direct knowledge of the incident alleging the elements of
19 the offense of battery to establish probable cause;

- 20 (6) probable cause to believe that the person violated
21 IC 35-46-1-15.1 (invasion of privacy) or IC 35-46-1-15.3;
22 (7) probable cause to believe that the person violated
23 IC 35-47-2-1.5 (unlawful carrying of a handgun) or IC 35-47-2-22
24 (counterfeit handgun license);
25 (8) probable cause to believe that the person is violating or has
26 violated an order issued under IC 35-50-7;
27 (9) probable cause to believe that the person is violating or has
28 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
29 device);
30 (10) probable cause to believe that the person is:
31 (A) violating or has violated IC 35-45-2-5 (interference with
32 the reporting of a crime); and
33 (B) interfering with or preventing the reporting of a crime
34 involving domestic or family violence (as defined in
35 IC 34-6-2-34.5);

36 (11) probable cause to believe that the person has committed theft
37 (IC 35-43-4-2);

38 **(12) probable cause to believe that the person has committed**
39 **auto theft (IC 35-43-4-2.1);**

40 ~~(12)~~ **(13)** a removal order issued for the person by an immigration
41 court;

42 ~~(13)~~ **(14)** a detainer or notice of action for the person issued by the



1 United States Department of Homeland Security; or
 2 ~~(14)~~ **(15)** probable cause to believe that the person has been
 3 indicted for or convicted of one (1) or more aggravated felonies
 4 (as defined in 8 U.S.C. 1101(a)(43)).

5 (b) A person who:

- 6 (1) is employed full time as a federal enforcement officer;
 7 (2) is empowered to effect an arrest with or without warrant for a
 8 violation of the United States Code; and
 9 (3) is authorized to carry firearms in the performance of the
 10 person's duties;

11 may act as an officer for the arrest of offenders against the laws of this
 12 state where the person reasonably believes that a felony has been or is
 13 about to be committed or attempted in the person's presence.

14 (c) A law enforcement officer who arrests a child or takes a child
 15 into custody as described in IC 31-37-4-3.5 shall make a reasonable
 16 attempt to notify:

- 17 (1) the child's parent, guardian, or custodian; or
 18 (2) the emergency contact listed on the child's school record;

19 that the child has been arrested or taken into custody.

20 SECTION 11. IC 35-38-2.6-1, AS AMENDED BY P.L.72-2023,
 21 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2024]: Sec. 1. This chapter does not apply to persons
 23 convicted of any of the following offenses whenever any part of the
 24 sentence may not be suspended under IC 35-50-2-2.2:

- 25 (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.
 26 (2) A Level 1 felony.
 27 (3) Any of the following felonies:
 28 (A) Murder (IC 35-42-1-1).
 29 (B) A battery offense included in IC 35-42-2 with a deadly
 30 weapon or causing death.
 31 (C) Kidnapping (IC 35-42-3-2).
 32 (D) Criminal confinement (IC 35-42-3-3) with a deadly
 33 weapon.
 34 (E) Robbery (IC 35-42-5-1) resulting in serious bodily injury
 35 or with a deadly weapon.
 36 (F) Arson (IC 35-43-1-1) for hire resulting in serious bodily
 37 injury.
 38 (G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.
 39 (H) Resisting law enforcement (IC 35-44.1-3-1) with a deadly
 40 weapon.
 41 (I) Aggravated battery (IC 35-42-2-1.5).
 42 (J) Disarming a law enforcement officer (IC 35-44.1-3-2).



- 1 (K) A sentence for a crime that is enhanced by criminal
 2 organization (IC 35-50-2-15).
- 3 **(L) Carjacking as a Level 2 felony or Level 3 felony (IC**
 4 **35-42-5-3).**
- 5 SECTION 12. IC 35-42-1-1, AS AMENDED BY P.L.215-2018(ss),
 6 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2024]: Sec. 1. A person who:
- 8 (1) knowingly or intentionally kills another human being;
 9 (2) kills another human being while committing or attempting to
 10 commit arson, burglary, child molesting, consumer product
 11 tampering, criminal deviate conduct (under IC 35-42-4-2 before
 12 its repeal), kidnapping, rape, robbery, human trafficking,
 13 promotion of human labor trafficking, promotion of human sexual
 14 trafficking, promotion of child sexual trafficking, promotion of
 15 sexual trafficking of a younger child, child sexual trafficking, or
 16 carjacking; ~~(before its repeal);~~
- 17 (3) kills another human being while committing or attempting to
 18 commit:
- 19 (A) dealing in or manufacturing cocaine or a narcotic drug (IC
 20 35-48-4-1);
 21 (B) dealing in methamphetamine (IC 35-48-4-1.1);
 22 (C) manufacturing methamphetamine (IC 35-48-4-1.2);
 23 (D) dealing in a schedule I, II, or III controlled substance (IC
 24 35-48-4-2);
 25 (E) dealing in a schedule IV controlled substance (IC
 26 35-48-4-3); or
 27 (F) dealing in a schedule V controlled substance; or
 28 (4) except as provided in section 6.5 of this chapter, knowingly or
 29 intentionally kills a fetus in any stage of development;
 30 commits murder, a felony.
- 31 SECTION 13. IC 35-42-5-3 IS ADDED TO THE INDIANA CODE
 32 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2024]: **Sec. 3. (a) A person who knowingly or intentionally takes**
 34 **a motor vehicle from another person or from the presence of**
 35 **another person:**
- 36 **(1) by using or threatening the use of force on any person; or**
 37 **(2) by putting any person in fear;**
 38 **commits carjacking, a Level 4 felony.**
- 39 **(b) However, the offense under subsection (a) is:**
- 40 **(1) a Level 3 felony if it is committed while armed with a**
 41 **deadly weapon or results in bodily injury to any person other**
 42 **than the defendant; and**



- 1 **(2) a Level 2 felony if it results in serious bodily injury to any**
- 2 **person other than the defendant.**
- 3 SECTION 14. IC 35-43-4-2, AS AMENDED BY P.L.175-2022,
- 4 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2024]: Sec. 2. (a) A person who knowingly or intentionally
- 6 exerts unauthorized control over property of another person, with intent
- 7 to deprive the other person of any part of its value or use, commits
- 8 theft, a Class A misdemeanor. However, the offense is:
- 9 (1) a Level 6 felony if:
- 10 (A) the value of the property is at least seven hundred fifty
- 11 dollars (\$750) and less than fifty thousand dollars (\$50,000);
- 12 **or**
- 13 ~~(B)~~ **the property is a:**
- 14 (i) ~~motor vehicle~~ (as defined in IC 9-13-2-105(a)); or
- 15 (ii) ~~component part~~ (as defined in IC 9-13-2-34) of a motor
- 16 ~~vehicle; or~~
- 17 ~~(C)~~ **(B)** the person has a prior unrelated conviction for:
- 18 (i) theft under this section;
- 19 (ii) criminal conversion under section 3 of this chapter;
- 20 (iii) robbery under IC 35-42-5-1; or
- 21 (iv) burglary under IC 35-43-2-1;
- 22 (2) a Level 5 felony if:
- 23 (A) the value of the property is at least fifty thousand dollars
- 24 (\$50,000); **or**
- 25 (B) the property that is the subject of the theft is a valuable
- 26 metal (as defined in IC 25-37.5-1-1) and:
- 27 (i) relates to transportation safety;
- 28 (ii) relates to public safety; or
- 29 (iii) is taken from a hospital or other health care facility,
- 30 telecommunications provider, public utility (as defined in
- 31 IC 32-24-1-5.9(a)), or critical infrastructure facility;
- 32 and the absence of the property creates a substantial risk of
- 33 bodily injury to a person; **or and**
- 34 ~~(C)~~ **the property is a:**
- 35 (i) ~~motor vehicle~~ (as defined in IC 9-13-2-105(a)); or
- 36 (ii) ~~component part~~ (as defined in IC 9-13-2-34) of a motor
- 37 ~~vehicle; and~~
- 38 **the person has a prior unrelated conviction for theft of a motor**
- 39 **vehicle (as defined in IC 9-13-2-105(a)) or theft of a**
- 40 **component part (as defined in IC 9-13-2-34); and**
- 41 (3) a Level 5 felony if the property is a firearm.
- 42 (b) For purposes of this section, "the value of property" means:



1 (1) the fair market value of the property at the time and place the
2 offense was committed; or

3 (2) if the fair market value of the property cannot be satisfactorily
4 determined, the cost to replace the property within a reasonable
5 time after the offense was committed.

6 A price tag or price marking on property displayed or offered for sale
7 constitutes prima facie evidence of the value of the property.

8 (c) If the offense described in subsection (a) is committed by a
9 public servant who exerted unauthorized control over public funds (as
10 defined by IC 5-22-2-23) from the public servant's employer, the
11 employer may be reimbursed in accordance with IC 2-3.5-4-11,
12 IC 2-3.5-5-9, IC 5-10-5.5-19, IC 5-10.3-8-9, IC 5-10.4-5-14,
13 IC 10-12-2-10, IC 33-38-6-19.5, IC 33-39-7-10.5, IC 36-8-6-14,
14 IC 36-8-7-22, IC 36-8-7.5-19, or IC 36-8-8-17.

15 SECTION 15. IC 35-43-4-2.1 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2024]: **Sec. 2.1. (a) As used in this section,**
18 **"motor vehicle" has the meaning set forth in IC 9-13-2-105(a).**

19 **(b) A person who knowingly or intentionally exerts**
20 **unauthorized control over the motor vehicle of another person,**
21 **with intent to deprive the owner of:**

22 **(1) the motor vehicle's value or use; or**

23 **(2) a component part (as defined in IC 9-13-2-34) of the motor**
24 **vehicle;**

25 **commits auto theft, a Level 5 felony.**

26 **(c) However, the offense under subsection (b) is a Level 4 felony**
27 **if:**

28 **(1) the person has a prior conviction of an offense under**
29 **subsection (b);**

30 **(2) the person has a prior conviction of an offense under**
31 **subsection (d); or**

32 **(3) the aggregate fair market value of the motor vehicle or**
33 **component parts exceeds fifty thousand dollars (\$50,000).**

34 **(d) A person who knowingly or intentionally receives, retains,**
35 **or disposes of a motor vehicle or any component part of a motor**
36 **vehicle of another person that has been the subject of theft commits**
37 **receiving stolen auto parts, a Level 5 felony. However, the offense**
38 **is a Level 4 felony if the person has a prior conviction of an offense**
39 **under this subsection or subsection (b).**

40 SECTION 16. IC 35-43-5-4.8, AS ADDED BY P.L.194-2023,
41 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2024]: **Sec. 4.8. (a) The following definitions apply**



- 1 throughout this section:
- 2 (1) "Automated sales suppression device" means a software
- 3 program:
- 4 (A) carried on a memory stick or removable compact disc;
- 5 (B) accessed through an Internet link; or
- 6 (C) accessed through any other means;
- 7 that falsifies the electronic records of electronic cash registers and
- 8 other point of sale systems, including transaction data and
- 9 transaction reports.
- 10 (2) "Electronic cash register" means a device that keeps a register
- 11 or supporting documents through the means of an electronic
- 12 device or a computer system designed to record transaction data
- 13 for the purpose of computing, compiling, or processing retail sales
- 14 transaction data in any manner.
- 15 (3) "Phantom-ware" means a hidden, a preinstalled, or an installed
- 16 at a later time programming option embedded in the operating
- 17 system of an electronic cash register, or hardwired into the
- 18 electronic cash register that:
- 19 (A) can be used to create a virtual second till; or
- 20 (B) may eliminate or manipulate transaction records that may
- 21 or may not be preserved in digital formats to represent the true
- 22 or manipulated record of transactions in the electronic cash
- 23 register.
- 24 (4) "Transaction data" includes information regarding:
- 25 (A) items purchased by a customer;
- 26 (B) the price for each item;
- 27 (C) a taxability determination for each item;
- 28 (D) a segregated tax amount for each of the taxed items;
- 29 (E) the amount of cash or credit tendered;
- 30 (F) the net amount returned to the customer in change;
- 31 (G) the date and time of the purchase;
- 32 (H) the name, address, and identification number of the
- 33 vendor; and
- 34 (I) the receipt or invoice number of the transaction.
- 35 (5) "Transaction report" means:
- 36 (A) a report that includes:
- 37 (i) the sales;
- 38 (ii) taxes collected;
- 39 (iii) media totals; and
- 40 (iv) discount voids;
- 41 at an electronic cash register that is printed on cash register
- 42 tape at the end of a day or shift; or



- 1 (B) a report documenting every action at an electronic cash
 2 register that is stored electronically.
- 3 (6) "Zapper" refers to an automated sales suppression device.
- 4 (b) A person who knowingly or intentionally sells, purchases,
 5 installs, transfers, or possesses:
- 6 (1) an automated sales suppression device or a zapper; or
 7 (2) phantom-ware;
- 8 after June 30, 2023, commits unlawful sale or possession of a
 9 transaction manipulation device, a Class A misdemeanor, except as
 10 provided in subsection (c).
- 11 (c) The offense under subsection (b) is:
- 12 (1) a Level 6 felony if:
- 13 (A) the pecuniary loss caused by the offense is at least seven
 14 hundred fifty dollars (\$750) and less than fifty thousand
 15 dollars (\$50,000); or
- 16 (B) the person has a prior unrelated conviction for:
- 17 (i) a violation of this section;
 18 (ii) theft under IC 35-43-4-2;
 19 (iii) criminal conversion under IC 35-43-4-3;
 20 (iv) robbery under IC 35-42-5-1; or
 21 **(v) carjacking under IC 35-42-5-3;**
 22 **(vi) auto theft under IC 35-43-4-2.1; or**
 23 ~~(vii)~~ **(vii) burglary under IC 35-43-2-1; and**
- 24 (2) a Level 5 felony if the pecuniary loss caused by the offense is
 25 at least fifty thousand dollars (\$50,000).
- 26 SECTION 17. IC 35-45-6-1, AS AMENDED BY P.L.185-2023,
 27 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2024]: Sec. 1. (a) The definitions in this section apply
 29 throughout this chapter.
- 30 (b) "Documentary material" means any document, drawing,
 31 photograph, recording, or other tangible item containing compiled data
 32 from which information can be either obtained or translated into a
 33 usable form.
- 34 (c) "Enterprise" means:
- 35 (1) a sole proprietorship, corporation, limited liability company,
 36 partnership, business trust, or governmental entity; or
 37 (2) a union, an association, or a group, whether a legal entity or
 38 merely associated in fact.
- 39 (d) "Pattern of racketeering activity" means engaging in at least two
 40 (2) incidents of racketeering activity that have the same or similar
 41 intent, result, accomplice, victim, or method of commission, or that are
 42 otherwise interrelated by distinguishing characteristics that are not



1 isolated incidents. However, the incidents are a pattern of racketeering
 2 activity only if at least one (1) of the incidents occurred after August
 3 31, 1980, and if the last of the incidents occurred within five (5) years
 4 after a prior incident of racketeering activity.

5 (e) "Racketeering activity" means to commit, to attempt to commit,
 6 to conspire to commit a violation of, or aiding and abetting in a
 7 violation of any of the following:

- 8 (1) A provision of IC 23-19, or of a rule or order issued under
 9 IC 23-19.
- 10 (2) A violation of IC 35-45-9.
- 11 (3) A violation of IC 35-47.
- 12 (4) A violation of IC 35-49-3.
- 13 (5) Murder (IC 35-42-1-1).
- 14 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
 15 felony after June 30, 2014 (IC 35-42-2-1).
- 16 (7) Kidnapping (IC 35-42-3-2).
- 17 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 18 (9) Child exploitation (IC 35-42-4-4).
- 19 (10) Robbery (IC 35-42-5-1).
- 20 (11) Carjacking (~~IC 35-42-5-2~~) (~~before its repeal~~): **(IC**
 21 **35-42-5-3).**
- 22 (12) Arson (IC 35-43-1-1).
- 23 (13) Burglary (IC 35-43-2-1).
- 24 (14) Theft (IC 35-43-4-2).
- 25 (15) Receiving stolen property (IC 35-43-4-2) (before its
 26 amendment on July 1, 2018).
- 27 (16) Forgery (IC 35-43-5-2).
- 28 (17) An offense under IC 35-43-5.
- 29 (18) Bribery (IC 35-44.1-1-2).
- 30 (19) Official misconduct (IC 35-44.1-1-1).
- 31 (20) Conflict of interest (IC 35-44.1-1-4).
- 32 (21) Perjury (IC 35-44.1-2-1).
- 33 (22) Obstruction of justice (IC 35-44.1-2-2).
- 34 (23) Intimidation (IC 35-45-2-1).
- 35 (24) Promoting prostitution (IC 35-45-4-4).
- 36 (25) Professional gambling (IC 35-45-5-3).
- 37 (26) Maintaining a professional gambling site (IC
 38 35-45-5-3.5(b)).
- 39 (27) Promoting professional gambling (IC 35-45-5-4).
- 40 (28) Dealing in or manufacturing cocaine or a narcotic drug (IC
 41 35-48-4-1).
- 42 (29) Dealing in methamphetamine (IC 35-48-4-1.1).



- 1 (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
 2 (31) Dealing in a schedule I, II, or III controlled substance (IC
 3 35-48-4-2).
 4 (32) Dealing in a schedule IV controlled substance (IC
 5 35-48-4-3).
 6 (33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 7 (34) Dealing in marijuana, hash oil, hashish, or salvia (IC
 8 35-48-4-10).
 9 (35) Money laundering (IC 35-45-15-5).
 10 (36) A violation of IC 35-47.5-5.
 11 (37) A violation of any of the following:
 12 (A) IC 23-14-48-9.
 13 (B) IC 30-2-9-7(b).
 14 (C) IC 30-2-10-9(b).
 15 (D) IC 30-2-13-38(f).
 16 (38) Practice of law by a person who is not an attorney (IC
 17 33-43-2-1).
 18 (39) An offense listed in IC 35-48-4 involving the manufacture or
 19 sale of a synthetic drug (as defined in IC 35-31.5-2-321), a
 20 synthetic drug lookalike substance (as defined in
 21 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under
 22 IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled
 23 substance analog (as defined in IC 35-48-1-9.3), or a substance
 24 represented to be a controlled substance (as described in
 25 IC 35-48-4-4.6).
 26 (40) Dealing in a controlled substance resulting in death (IC
 27 35-42-1-1.5).
 28 (41) Organized retail theft (IC 35-43-4-2.2).
 29 **(42) Auto theft (IC 35-43-4-2.1).**
 30 SECTION 18. IC 35-47-4-5, AS AMENDED BY P.L.28-2023,
 31 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2024]: Sec. 5. (a) As used in this section, "serious violent
 33 felon" means a person who has been convicted of committing a serious
 34 violent felony.
 35 (b) As used in this section, "serious violent felony" means:
 36 (1) murder (IC 35-42-1-1);
 37 (2) attempted murder (IC 35-41-5-1);
 38 (3) voluntary manslaughter (IC 35-42-1-3);
 39 (4) reckless homicide not committed by means of a vehicle (IC
 40 35-42-1-5);
 41 (5) battery (IC 35-42-2-1) as a:
 42 (A) Class A felony, Class B felony, or Class C felony, for a



- 1 crime committed before July 1, 2014; or
 2 (B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5
 3 felony, for a crime committed after June 30, 2014;
 4 (6) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level
 5 3 felony, Level 4 felony, or Level 5 felony;
 6 (7) aggravated battery (IC 35-42-2-1.5);
 7 (8) strangulation (IC 35-42-2-9);
 8 (9) kidnapping (IC 35-42-3-2);
 9 (10) criminal confinement (IC 35-42-3-3);
 10 (11) a human or sexual trafficking offense under IC 35-42-3.5;
 11 (12) rape (IC 35-42-4-1);
 12 (13) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
 13 (14) child molesting (IC 35-42-4-3);
 14 (15) sexual battery (IC 35-42-4-8) as a:
 15 (A) Class C felony, for a crime committed before July 1, 2014;
 16 or
 17 (B) Level 5 felony, for a crime committed after June 30, 2014;
 18 (16) robbery (IC 35-42-5-1);
 19 (17) carjacking (~~IC 35-42-5-2~~) (~~before its repeal~~); **(IC 35-42-5-3)**;
 20 (18) arson (IC 35-43-1-1(a)) as a:
 21 (A) Class A felony or Class B felony, for a crime committed
 22 before July 1, 2014; or
 23 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
 24 crime committed after June 30, 2014;
 25 (19) burglary (IC 35-43-2-1) as a:
 26 (A) Class A felony or Class B felony, for a crime committed
 27 before July 1, 2014; or
 28 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
 29 felony, for a crime committed after June 30, 2014;
 30 (20) assisting a criminal (IC 35-44.1-2-5) as a:
 31 (A) Class C felony, for a crime committed before July 1, 2014;
 32 or
 33 (B) Level 5 felony, for a crime committed after June 30, 2014;
 34 (21) resisting law enforcement (IC 35-44.1-3-1) as a:
 35 (A) Class B felony or Class C felony, for a crime committed
 36 before July 1, 2014; or
 37 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
 38 crime committed after June 30, 2014;
 39 (22) escape (IC 35-44.1-3-4) as a:
 40 (A) Class B felony or Class C felony, for a crime committed
 41 before July 1, 2014; or
 42 (B) Level 4 felony or Level 5 felony, for a crime committed



- 1 after June 30, 2014;
- 2 (23) trafficking with an inmate (IC 35-44.1-3-5) as a:
- 3 (A) Class C felony, for a crime committed before July 1, 2014;
- 4 or
- 5 (B) Level 5 felony, for a crime committed after June 30, 2014;
- 6 (24) criminal organization intimidation (IC 35-45-9-4);
- 7 (25) stalking (IC 35-45-10-5) as a:
- 8 (A) Class B felony or Class C felony, for a crime committed
- 9 before July 1, 2014; or
- 10 (B) Level 4 felony or Level 5 felony, for a crime committed
- 11 after June 30, 2014;
- 12 (26) incest (IC 35-46-1-3);
- 13 (27) dealing in or manufacturing cocaine or a narcotic drug (IC
- 14 35-48-4-1);
- 15 (28) dealing in methamphetamine (IC 35-48-4-1.1) or
- 16 manufacturing methamphetamine (IC 35-48-4-1.2);
- 17 (29) dealing in a schedule I, II, or III controlled substance (IC
- 18 35-48-4-2);
- 19 (30) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- 20 (31) dealing in a schedule V controlled substance (IC 35-48-4-4);
- 21 or
- 22 (32) dealing in a controlled substance resulting in death (IC
- 23 35-42-1-1.5).
- 24 (c) A serious violent felon who knowingly or intentionally possesses
- 25 a firearm commits unlawful possession of a firearm by a serious violent
- 26 felon, a Level 4 felony.
- 27 SECTION 19. IC 35-50-1-2, AS AMENDED BY P.L.142-2020,
- 28 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2024]: Sec. 2. (a) As used in this section, "crime of violence"
- 30 means the following:
- 31 (1) Murder (IC 35-42-1-1).
- 32 (2) Attempted murder (IC 35-41-5-1).
- 33 (3) Voluntary manslaughter (IC 35-42-1-3).
- 34 (4) Involuntary manslaughter (IC 35-42-1-4).
- 35 (5) Reckless homicide (IC 35-42-1-5).
- 36 (6) Battery (IC 35-42-2-1) as a:
- 37 (A) Level 2 felony;
- 38 (B) Level 3 felony;
- 39 (C) Level 4 felony; or
- 40 (D) Level 5 felony.
- 41 (7) Domestic battery (IC 35-42-2-1.3) as a:
- 42 (A) Level 2 felony;



- 1 (B) Level 3 felony;
 2 (C) Level 4 felony; or
 3 (D) Level 5 felony.
 4 (8) Aggravated battery (IC 35-42-2-1.5).
 5 (9) Kidnapping (IC 35-42-3-2).
 6 (10) Rape (IC 35-42-4-1).
 7 (11) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 8 (12) Child molesting (IC 35-42-4-3).
 9 (13) Sexual misconduct with a minor as a Level 1 felony under
 10 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 11 (14) Robbery as a Level 2 felony or a Level 3 felony (IC
 12 35-42-5-1).
 13 (15) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 14 or Level 4 felony (IC 35-43-2-1).
 15 (16) Operating a vehicle while intoxicated causing death or
 16 catastrophic injury (IC 9-30-5-5).
 17 (17) Operating a vehicle while intoxicated causing serious bodily
 18 injury to another person (IC 9-30-5-4).
 19 (18) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
 20 or a Level 4 felony under IC 35-42-4-4(c).
 21 (19) Resisting law enforcement as a felony (IC 35-44.1-3-1).
 22 (20) Unlawful possession of a firearm by a serious violent felon
 23 (IC 35-47-4-5).
 24 (21) Strangulation (IC 35-42-2-9) as a Level 5 felony.
 25 **(22) Carjacking as a Level 2 felony or a Level 3 felony (IC**
 26 **35-42-5-3).**
 27 (b) As used in this section, "episode of criminal conduct" means
 28 offenses or a connected series of offenses that are closely related in
 29 time, place, and circumstance.
 30 (c) Except as provided in subsection (e) or (f) the court shall
 31 determine whether terms of imprisonment shall be served concurrently
 32 or consecutively. The court may consider the:
 33 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
 34 (2) mitigating circumstances in IC 35-38-1-7.1(b);
 35 in making a determination under this subsection. The court may order
 36 terms of imprisonment to be served consecutively even if the sentences
 37 are not imposed at the same time. However, except for crimes of
 38 violence, the total of the consecutive terms of imprisonment, exclusive
 39 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
 40 (before its repeal) to which the defendant is sentenced for felony
 41 convictions arising out of an episode of criminal conduct shall not
 42 exceed the period described in subsection (d).



1 (d) Except as provided in subsection (c), the total of the consecutive
 2 terms of imprisonment to which the defendant is sentenced for felony
 3 convictions arising out of an episode of criminal conduct may not
 4 exceed the following:

5 (1) If the most serious crime for which the defendant is sentenced
 6 is a Level 6 felony, the total of the consecutive terms of
 7 imprisonment may not exceed four (4) years.

8 (2) If the most serious crime for which the defendant is sentenced
 9 is a Level 5 felony, the total of the consecutive terms of
 10 imprisonment may not exceed seven (7) years.

11 (3) If the most serious crime for which the defendant is sentenced
 12 is a Level 4 felony, the total of the consecutive terms of
 13 imprisonment may not exceed fifteen (15) years.

14 (4) If the most serious crime for which the defendant is sentenced
 15 is a Level 3 felony, the total of the consecutive terms of
 16 imprisonment may not exceed twenty (20) years.

17 (5) If the most serious crime for which the defendant is sentenced
 18 is a Level 2 felony, the total of the consecutive terms of
 19 imprisonment may not exceed thirty-two (32) years.

20 (6) If the most serious crime for which the defendant is sentenced
 21 is a Level 1 felony, the total of the consecutive terms of
 22 imprisonment may not exceed forty-two (42) years.

23 (e) If, after being arrested for one (1) crime, a person commits
 24 another crime:

25 (1) before the date the person is discharged from probation,
 26 parole, or a term of imprisonment imposed for the first crime; or

27 (2) while the person is released:

28 (A) upon the person's own recognizance; or

29 (B) on bond;

30 the terms of imprisonment for the crimes shall be served consecutively,
 31 regardless of the order in which the crimes are tried and sentences are
 32 imposed.

33 (f) If the factfinder determines under IC 35-50-2-11 that a person
 34 used a firearm in the commission of the offense for which the person
 35 was convicted, the term of imprisonment for the underlying offense and
 36 the additional term of imprisonment imposed under IC 35-50-2-11
 37 must be served consecutively.

38 SECTION 20. IC 35-50-2-9, AS AMENDED BY P.L.65-2016,
 39 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2024]: Sec. 9. (a) The state may seek either a death sentence
 41 or a sentence of life imprisonment without parole for murder by
 42 alleging, on a page separate from the rest of the charging instrument,



1 the existence of at least one (1) of the aggravating circumstances listed
 2 in subsection (b). In the sentencing hearing after a person is convicted
 3 of murder, the state must prove beyond a reasonable doubt the
 4 existence of at least one (1) of the aggravating circumstances alleged.
 5 However, the state may not proceed against a defendant under this
 6 section if a court determines at a pretrial hearing under IC 35-36-9 that
 7 the defendant is an individual with an intellectual disability.

8 (b) The aggravating circumstances are as follows:

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

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

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

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

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

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

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

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

20 (H) Carjacking (~~IC 35-42-5-2~~) (~~before its repeal~~): **(IC**
 21 **35-42-5-3).**

22 (I) Criminal organization activity (IC 35-45-9-3).

23 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

24 (K) Criminal confinement (IC 35-42-3-3).

25 (2) The defendant committed the murder by the unlawful
 26 detonation of an explosive with intent to injure a person or
 27 damage property.

28 (3) The defendant committed the murder by lying in wait.

29 (4) The defendant who committed the murder was hired to kill.

30 (5) The defendant committed the murder by hiring another person
 31 to kill.

32 (6) The victim of the murder was a corrections employee,
 33 probation officer, parole officer, community corrections worker,
 34 home detention officer, fireman, judge, or law enforcement
 35 officer, and either:

36 (A) the victim was acting in the course of duty; or

37 (B) the murder was motivated by an act the victim performed
 38 while acting in the course of duty.

39 (7) The defendant has been convicted of another murder.

40 (8) The defendant has committed another murder, at any time,
 41 regardless of whether the defendant has been convicted of that
 42 other murder.



- 1 (9) The defendant was:
 2 (A) under the custody of the department of correction;
 3 (B) under the custody of a county sheriff;
 4 (C) on probation after receiving a sentence for the commission
 5 of a felony; or
 6 (D) on parole;
 7 at the time the murder was committed.
 8 (10) The defendant dismembered the victim.
 9 (11) The defendant:
 10 (A) burned, mutilated, or tortured the victim; or
 11 (B) decapitated or attempted to decapitate the victim;
 12 while the victim was alive.
 13 (12) The victim of the murder was less than twelve (12) years of
 14 age.
 15 (13) The victim was a victim of any of the following offenses for
 16 which the defendant was convicted:
 17 (A) A battery offense included in IC 35-42-2 committed before
 18 July 1, 2014, as a Class D felony or as a Class C felony, or a
 19 battery offense included in IC 35-42-2 committed after June
 20 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4
 21 felony, or a Level 3 felony.
 22 (B) Kidnapping (IC 35-42-3-2).
 23 (C) Criminal confinement (IC 35-42-3-3).
 24 (D) A sex crime under IC 35-42-4.
 25 (14) The victim of the murder was listed by the state or known by
 26 the defendant to be a witness against the defendant and the
 27 defendant committed the murder with the intent to prevent the
 28 person from testifying.
 29 (15) The defendant committed the murder by intentionally
 30 discharging a firearm (as defined in IC 35-47-1-5):
 31 (A) into an inhabited dwelling; or
 32 (B) from a vehicle.
 33 (16) The victim of the murder was pregnant and the murder
 34 resulted in the intentional killing of a fetus that has attained
 35 viability (as defined in IC 16-18-2-365).
 36 (17) The defendant knowingly or intentionally:
 37 (A) committed the murder:
 38 (i) in a building primarily used for an educational purpose;
 39 (ii) on school property; and
 40 (iii) when students are present; or
 41 (B) committed the murder:
 42 (i) in a building or other structure owned or rented by a state



- 1 educational institution or any other public or private
 2 postsecondary educational institution and primarily used for
 3 an educational purpose; and
 4 (ii) at a time when classes are in session.
- 5 (18) The murder is committed:
 6 (A) in a building that is primarily used for religious worship;
 7 and
 8 (B) at a time when persons are present for religious worship or
 9 education.
- 10 (c) The mitigating circumstances that may be considered under this
 11 section are as follows:
 12 (1) The defendant has no significant history of prior criminal
 13 conduct.
 14 (2) The defendant was under the influence of extreme mental or
 15 emotional disturbance when the murder was committed.
 16 (3) The victim was a participant in or consented to the defendant's
 17 conduct.
 18 (4) The defendant was an accomplice in a murder committed by
 19 another person, and the defendant's participation was relatively
 20 minor.
 21 (5) The defendant acted under the substantial domination of
 22 another person.
 23 (6) The defendant's capacity to appreciate the criminality of the
 24 defendant's conduct or to conform that conduct to the
 25 requirements of law was substantially impaired as a result of
 26 mental disease or defect or of intoxication.
 27 (7) The defendant was less than eighteen (18) years of age at the
 28 time the murder was committed.
 29 (8) Any other circumstances appropriate for consideration.
- 30 (d) If the defendant was convicted of murder in a jury trial, the jury
 31 shall reconvene for the sentencing hearing. If the trial was to the court,
 32 or the judgment was entered on a guilty plea, the court alone shall
 33 conduct the sentencing hearing. The jury or the court may consider all
 34 the evidence introduced at the trial stage of the proceedings, together
 35 with new evidence presented at the sentencing hearing. The court shall
 36 instruct the jury concerning the statutory penalties for murder and any
 37 other offenses for which the defendant was convicted, the potential for
 38 consecutive or concurrent sentencing, and the availability of
 39 educational credit, good time credit, and clemency. The court shall
 40 instruct the jury that, in order for the jury to recommend to the court
 41 that the death penalty or life imprisonment without parole should be
 42 imposed, the jury must find at least one (1) aggravating circumstance



1 beyond a reasonable doubt as described in subsection (l) and shall
2 provide a special verdict form for each aggravating circumstance
3 alleged. The defendant may present any additional evidence relevant
4 to:

5 (1) the aggravating circumstances alleged; or

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

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

12 (1) the death penalty; or

13 (2) life imprisonment without parole;

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

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

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

27 (1) sentence the defendant to death; or

28 (2) impose a term of life imprisonment without parole;

29 only if it makes the findings described in subsection (l).

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

37 (i) If a person sentenced to death by a court files a petition for
38 post-conviction relief, the court, not later than ninety (90) days after the
39 date the petition is filed, shall set a date to hold a hearing to consider
40 the petition. If a court does not, within the ninety (90) day period, set
41 the date to hold the hearing to consider the petition, the court's failure
42 to set the hearing date is not a basis for additional post-conviction



1 relief. The attorney general shall answer the petition for post-conviction
 2 relief on behalf of the state. At the request of the attorney general, a
 3 prosecuting attorney shall assist the attorney general. The court shall
 4 enter written findings of fact and conclusions of law concerning the
 5 petition not later than ninety (90) days after the date the hearing
 6 concludes. However, if the court determines that the petition is without
 7 merit, the court may dismiss the petition within ninety (90) days
 8 without conducting a hearing under this subsection.

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

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

14 (A) Constitution of the State of Indiana; or

15 (B) Constitution of the United States;

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

18 (3) sentence:

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

20 (B) is otherwise erroneous.

21 If the supreme court cannot complete its review by the date set by the
 22 sentencing court for the defendant's execution under subsection (h), the
 23 supreme court shall stay the execution of the death sentence and set a
 24 new date to carry out the defendant's execution.

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

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



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

