



March 31, 2017

ENGROSSED HOUSE BILL No. 1406

DIGEST OF HB 1406 (Updated March 28, 2017 1:44 pm - DI 106)

Citations Affected: IC 16-31; IC 20-28; IC 22-15; IC 25-1; IC 33-23; IC 33-24; IC 34-24; IC 35-31.5; IC 35-42; IC 35-43; IC 35-44.1; IC 35-45; IC 35-46; IC 35-47; IC 35-48; IC 35-50.

Synopsis: Criminal offenses. Provides that a person who knowingly or intentionally manufactures or finances the manufacture of methamphetamine commits manufacturing methamphetamine, a Level 4 felony. Specifies circumstances under which the crime is a Level 3 or Level 2 felony. Provides that the crime of strangulation includes application of pressure to a victim's torso, and increases the penalty to a Level 5 felony if it is knowingly committed against a pregnant woman. Creates an enhancement to obstruction of justice if a person interferes with a witness during the investigation or pendency of a domestic violence or child abuse case. Increases the penalty for receiving stolen auto parts if the person has a prior conviction. Defines "drug related felony", and requires the division of state court
(Continued next page)

Effective: July 1, 2017.

Washburne, Hatfield, Smaltz, Carbaugh

(SENATE SPONSORS — KOCH, LANANE)

January 17, 2017, read first time and referred to Committee on Courts and Criminal Code.
February 2, 2017, reported — Do Pass.
February 6, 2017, read second time, ordered engrossed. Engrossed.
February 7, 2017, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 20, 2017, read first time and referred to Committee on Corrections and Criminal Law.
March 30, 2017, amended, reported favorably — Do Pass.

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Digest Continued

administration to report certain drug related felonies to the National Precursor Log Exchange (NPLEx) so that NPLEx can generate a stop sale alert to prevent individuals with drug related felonies from purchasing ephedrine or pseudoephedrine. Provides that the offense of possession of a precursor by a methamphetamine offender (which prohibits the possession of pseudoephedrine or ephedrine without a prescription by persons convicted of certain offenses) applies to a person who has been convicted of a drug related felony. Makes cemetery mischief: (1) a Class A misdemeanor if the pecuniary loss is less than \$750; (2) a Level 6 felony if the pecuniary loss is at least \$750 but less than \$50,000; and (3) a Level 5 felony if the pecuniary loss is at least \$50,000.



March 31, 2017

First Regular Session of the 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.

ENGROSSED HOUSE BILL No. 1406

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 16-31-3-14.5, AS AMENDED BY P.L.238-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 14.5. The department of homeland security may
4 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
5 certification or licensure or permanently revoke a certificate or license
6 under procedures provided by section 14 of this chapter if the
7 individual who holds the certificate or license issued under this title is
8 convicted of any of the following:
9 (1) Dealing in or manufacturing cocaine or a narcotic drug under
10 IC 35-48-4-1.
11 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
12 **(3) Manufacturing methamphetamine under IC 35-48-4-1.2.**
13 ~~(4)~~ **(4)** Dealing in a schedule I, II, or III controlled substance
14 under IC 35-48-4-2.
15 ~~(5)~~ **(5)** Dealing in a schedule IV controlled substance under
16 IC 35-48-4-3.
17 ~~(6)~~ **(6)** Dealing in a schedule V controlled substance under

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- 1 IC 35-48-4-4.
 2 ~~(6)~~ (7) Dealing in a substance represented to be a controlled
 3 substance under IC 35-48-4-4.5.
 4 ~~(7)~~ (8) Knowingly or intentionally manufacturing, advertising,
 5 distributing, or possessing with intent to manufacture, advertise,
 6 or distribute a substance represented to be a controlled substance
 7 under IC 35-48-4-4.6.
 8 ~~(8)~~ (9) Dealing in a counterfeit substance under IC 35-48-4-5.
 9 ~~(9)~~ (10) Dealing in marijuana, hash oil, hashish, or salvia as a
 10 felony under IC 35-48-4-10.
 11 ~~(10)~~ (11) Dealing in a synthetic drug or synthetic drug lookalike
 12 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
 13 before its amendment in 2013).
 14 ~~(11)~~ (12) Conspiracy under IC 35-41-5-2 to commit an offense
 15 listed in this section.
 16 ~~(12)~~ (13) Attempt under IC 35-41-5-1 to commit an offense listed
 17 in this section.
 18 ~~(13)~~ (14) A crime of violence (as defined in IC 35-50-1-2(a)).
 19 ~~(14)~~ (15) An offense in any other jurisdiction in which the
 20 elements of the offense for which the conviction was entered are
 21 substantially similar to the elements of an offense described under
 22 this section.

23 SECTION 2. IC 20-28-5-8, AS AMENDED BY P.L.13-2016,
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2017]: Sec. 8. (a) This section applies when a prosecuting
 26 attorney knows that a licensed employee of a public school or a
 27 nonpublic school has been convicted of an offense listed in subsection
 28 (c). The prosecuting attorney shall immediately give written notice of
 29 the conviction to the following:

- 30 (1) The state superintendent.
 31 (2) Except as provided in subdivision (3), the superintendent of
 32 the school corporation that employs the licensed employee or the
 33 equivalent authority if a nonpublic school employs the licensed
 34 employee.
 35 (3) The presiding officer of the governing body of the school
 36 corporation that employs the licensed employee, if the convicted
 37 licensed employee is the superintendent of the school corporation.
 38 (b) The superintendent of a school corporation, presiding officer of
 39 the governing body, or equivalent authority for a nonpublic school shall
 40 immediately notify the state superintendent when the individual knows
 41 that a current or former licensed employee of the public school or
 42 nonpublic school has been convicted of an offense listed in subsection



1 (c), or when the governing body or equivalent authority for a nonpublic
 2 school takes any final action in relation to an employee who engaged
 3 in any offense listed in subsection (c).

4 (c) The department, after holding a hearing on the matter, shall
 5 permanently revoke the license of a person who is known by the
 6 department to have been convicted of any of the following felonies:

- 7 (1) Kidnapping (IC 35-42-3-2).
 8 (2) Criminal confinement (IC 35-42-3-3).
 9 (3) Rape (IC 35-42-4-1).
 10 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 11 (5) Child molesting (IC 35-42-4-3).
 12 (6) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 13 (7) Vicarious sexual gratification (IC 35-42-4-5).
 14 (8) Child solicitation (IC 35-42-4-6).
 15 (9) Child seduction (IC 35-42-4-7).
 16 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 17 (11) Incest (IC 35-46-1-3).
 18 (12) Dealing in or manufacturing cocaine or a narcotic drug
 19 (IC 35-48-4-1).
 20 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 21 **(14) Manufacturing methamphetamine (IC 35-48-4-1.2).**
 22 ~~(14)~~ **(15)** Dealing in a schedule I, II, or III controlled substance
 23 (IC 35-48-4-2).
 24 ~~(15)~~ **(16)** Dealing in a schedule IV controlled substance
 25 (IC 35-48-4-3).
 26 ~~(16)~~ **(17)** Dealing in a schedule V controlled substance
 27 (IC 35-48-4-4).
 28 ~~(17)~~ **(18)** Dealing in a counterfeit substance (IC 35-48-4-5).
 29 ~~(18)~~ **(19)** Dealing in marijuana, hash oil, hashish, or salvia as a
 30 felony (IC 35-48-4-10).
 31 ~~(19)~~ **(20)** Dealing in a synthetic drug or synthetic drug lookalike
 32 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
 33 amendment in 2013).
 34 ~~(20)~~ **(21)** Possession of child pornography (IC 35-42-4-4(d) or
 35 IC 35-42-4-4(e)).
 36 ~~(21)~~ **(22)** Homicide (IC 35-42-1).
 37 ~~(22)~~ **(23)** Voluntary manslaughter (IC 35-42-1-3).
 38 ~~(23)~~ **(24)** Reckless homicide (IC 35-42-1-5).
 39 ~~(24)~~ **(25)** Battery as any of the following:
 40 (A) A Class A felony (for a crime committed before July 1,
 41 2014) or a Level 2 felony (for a crime committed after June
 42 30, 2014).



- 1 (B) A Class B felony (for a crime committed before July 1,
2 2014) or a Level 3 felony (for a crime committed after June
3 30, 2014).
- 4 (C) A Class C felony (for a crime committed before July 1,
5 2014) or a Level 5 felony (for a crime committed after June
6 30, 2014).
- 7 ~~(25)~~ **(26)** Aggravated battery (IC 35-42-2-1.5).
- 8 ~~(26)~~ **(27)** Robbery (IC 35-42-5-1).
- 9 ~~(27)~~ **(28)** Carjacking (IC 35-42-5-2) (before its repeal).
- 10 ~~(28)~~ **(29)** Arson as a Class A felony or Class B felony (for a crime
11 committed before July 1, 2014) or as a Level 2, Level 3, or Level
12 4 felony (for a crime committed after June 30, 2014)
13 (IC 35-43-1-1(a)).
- 14 ~~(29)~~ **(30)** Burglary as a Class A felony or Class B felony (for a
15 crime committed before July 1, 2014) or as a Level 1, Level 2,
16 Level 3, or Level 4 felony (for a crime committed after June 30,
17 2014) (IC 35-43-2-1).
- 18 ~~(30)~~ **(31)** Attempt under IC 35-41-5-1 to commit an offense listed
19 in this subsection.
- 20 ~~(31)~~ **(32)** Conspiracy under IC 35-41-5-2 to commit an offense
21 listed in this subsection.
- 22 (d) The department, after holding a hearing on the matter, shall
23 permanently revoke the license of a person who is known by the
24 department to have been convicted of a federal offense or an offense in
25 another state that is comparable to a felony listed in subsection (c).
- 26 (e) A license may be suspended by the state superintendent 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 SECTION 3. IC 22-15-5-16, AS AMENDED BY THE
32 TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL
33 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: Sec. 16. (a) A practitioner shall comply with the
35 standards established under this licensing program. A practitioner is
36 subject to the exercise of the disciplinary sanctions under subsection
37 (b) if the department finds that a practitioner has:
- 38 (1) engaged in or knowingly cooperated in fraud or material
39 deception in order to obtain a license to practice, including
40 cheating on a licensing examination;
- 41 (2) engaged in fraud or material deception in the course of
42 professional services or activities;



- 1 (3) advertised services or goods in a false or misleading manner;
 2 (4) falsified or knowingly allowed another person to falsify
 3 attendance records or certificates of completion of continuing
 4 education courses provided under this chapter;
 5 (5) been convicted of a crime that has a direct bearing on the
 6 practitioner's ability to continue to practice competently;
 7 (6) knowingly violated a state statute or rule or federal statute or
 8 regulation regulating the profession for which the practitioner is
 9 licensed;
 10 (7) continued to practice although the practitioner has become
 11 unfit to practice due to:
 12 (A) professional incompetence;
 13 (B) failure to keep abreast of current professional theory or
 14 practice;
 15 (C) physical or mental disability; or
 16 (D) addiction to, abuse of, or severe dependency on alcohol or
 17 other drugs that endanger the public by impairing a
 18 practitioner's ability to practice safely;
 19 (8) engaged in a course of lewd or immoral conduct in connection
 20 with the delivery of services to the public;
 21 (9) allowed the practitioner's name or a license issued under this
 22 chapter to be used in connection with an individual or business
 23 who renders services beyond the scope of that individual's or
 24 business's training, experience, or competence;
 25 (10) had disciplinary action taken against the practitioner or the
 26 practitioner's license to practice in another state or jurisdiction on
 27 grounds similar to those under this chapter;
 28 (11) assisted another person in committing an act that would
 29 constitute a ground for disciplinary sanction under this chapter;
 30 or
 31 (12) allowed a license issued by the department to be:
 32 (A) used by another person; or
 33 (B) displayed to the public when the license has expired, is
 34 inactive, is invalid, or has been revoked or suspended.
- 35 For purposes of subdivision (10), a certified copy of a record of
 36 disciplinary action constitutes prima facie evidence of a disciplinary
 37 action in another jurisdiction.
- 38 (b) The department may impose one (1) or more of the following
 39 sanctions if the department finds that a practitioner is subject to
 40 disciplinary sanctions under subsection (a):
 41 (1) Permanent revocation of a practitioner's license.
 42 (2) Suspension of a practitioner's license.



- 1 (3) Censure of a practitioner.
 2 (4) Issuance of a letter of reprimand.
 3 (5) ~~Assess~~ **Assessment of** a civil penalty against the practitioner
 4 in accordance with the following:

5 (A) The civil penalty may not be more than one thousand
 6 dollars (\$1,000) for each violation listed in subsection (a),
 7 except for a finding of incompetency due to a physical or
 8 mental disability.

9 (B) When imposing a civil penalty, the department shall
 10 consider a practitioner's ability to pay the amount assessed. If
 11 the practitioner fails to pay the civil penalty within the time
 12 specified by the department, the department may suspend the
 13 practitioner's license without additional proceedings. However,
 14 a suspension may not be imposed if the sole basis for the
 15 suspension is the practitioner's inability to pay a civil penalty.

- 16 (6) ~~Place~~ **Placement of** a practitioner on probation status and
 17 ~~require~~ **requirement of** the practitioner to:

18 (A) report regularly to the department upon the matters that
 19 are the basis of probation;

20 (B) limit practice to those areas prescribed by the department;

21 (C) continue or renew professional education approved by the
 22 department until a satisfactory degree of skill has been attained
 23 in those areas that are the basis of the probation; or

24 (D) perform or refrain from performing any acts, including
 25 community restitution or service without compensation, that
 26 the department considers appropriate to the public interest or
 27 to the rehabilitation or treatment of the practitioner.

28 The department may withdraw or modify this probation if the
 29 department finds after a hearing that the deficiency that required
 30 disciplinary action has been remedied or that changed
 31 circumstances warrant a modification of the order.

32 (c) If an applicant or a practitioner has engaged in or knowingly
 33 cooperated in fraud or material deception to obtain a license to
 34 practice, including cheating on the licensing examination, the
 35 department may rescind the license if it has been granted, void the
 36 examination or other fraudulent or deceptive material, and prohibit the
 37 applicant from reapplying for the license for a length of time
 38 established by the department.

39 (d) The department may deny licensure to an applicant who has had
 40 disciplinary action taken against the applicant or the applicant's license
 41 to practice in another state or jurisdiction or who has practiced without
 42 a license in violation of the law. A certified copy of the record of



1 disciplinary action is conclusive evidence of the other jurisdiction's
2 disciplinary action.

3 (e) The department may order a practitioner to submit to a
4 reasonable physical or mental examination if the practitioner's physical
5 or mental capacity to practice safely and competently is at issue in a
6 disciplinary proceeding. Failure to comply with a department order to
7 submit to a physical or mental examination makes a practitioner liable
8 to temporary suspension under subsection (j).

9 (f) Except as provided under subsection (g) or (h), a license may not
10 be denied, revoked, or suspended because the applicant or holder has
11 been convicted of an offense. The acts from which the applicant's or
12 holder's conviction resulted may, however, be considered as to whether
13 the applicant or holder should be entrusted to serve the public in a
14 specific capacity.

15 (g) The department may deny, suspend, or revoke a license issued
16 under this chapter if the individual who holds the license is convicted
17 of any of the following:

18 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

19 (2) Possession of methamphetamine under IC 35-48-4-6.1.

20 (3) Possession of a controlled substance under IC 35-48-4-7(a).

21 (4) Fraudulently obtaining a controlled substance under
22 IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or
23 IC 35-48-4-7(c) (for a crime committed after June 30, 2014).

24 (5) Manufacture of paraphernalia as a Class D felony (for a crime
25 committed before July 1, 2014) or a Level 6 felony (for a crime
26 committed after June 30, 2014) under IC 35-48-4-8.1(b).

27 (6) Dealing in paraphernalia as a Class D felony (for a crime
28 committed before July 1, 2014) or a Level 6 felony (for a crime
29 committed after June 30, 2014) under IC 35-48-4-8.5(b).

30 (7) Possession of paraphernalia as a Class D felony (for a crime
31 committed before July 1, 2014) or a Level 6 felony (for a crime
32 committed after June 30, 2014) under IC 35-48-4-8.3(b) **(before
33 its amendment on July 1, 2015).**

34 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
35 D felony (for a crime committed before July 1, 2014) or a Level
36 6 felony (for a crime committed after June 30, 2014) under
37 IC 35-48-4-11.

38 (9) Possession of a synthetic drug or synthetic drug lookalike
39 substance as a:

40 (A) Class D felony for a crime committed before July 1, 2014,
41 under:

42 (i) IC 35-48-4-11, before its amendment in 2013; or



- 1 (ii) IC 35-48-4-11.5; or
 2 (B) Level 6 felony for a crime committed after June 30, 2014,
 3 under IC 35-48-4-11.5.
 4 (10) Maintaining a common nuisance under IC 35-48-4-13
 5 (repealed) or IC 35-45-1-5, if the common nuisance involves a
 6 controlled substance.
 7 (11) An offense relating to registration, labeling, and prescription
 8 forms under IC 35-48-4-14.
 9 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 10 in this subsection.
 11 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 12 this subsection.
 13 (14) An offense in any other jurisdiction in which the elements of
 14 the offense for which the conviction was entered are substantially
 15 similar to the elements of an offense described in this subsection.
 16 (h) The department shall deny, revoke, or suspend a license issued
 17 under this chapter if the individual who holds the license is convicted
 18 of any of the following:
 19 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
 20 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 21 **(3) Manufacturing methamphetamine under IC 35-48-4-1.2.**
 22 ~~(3)~~ **(4)** Dealing in a schedule I, II, or III controlled substance
 23 under IC 35-48-4-2.
 24 ~~(4)~~ **(5)** Dealing in a schedule IV controlled substance under
 25 IC 35-48-4-3.
 26 ~~(5)~~ **(6)** Dealing in a schedule V controlled substance under
 27 IC 35-48-4-4.
 28 ~~(6)~~ **(7)** Dealing in a substance represented to be a controlled
 29 substance under IC 35-48-4-4.5.
 30 ~~(7)~~ **(8)** Knowingly or intentionally manufacturing, advertising,
 31 distributing, or possessing with intent to manufacture, advertise,
 32 or distribute a substance represented to be a controlled substance
 33 under IC 35-48-4-4.6.
 34 ~~(8)~~ **(9)** Dealing in a counterfeit substance under IC 35-48-4-5.
 35 ~~(9)~~ **(10)** Dealing in marijuana, hash oil, hashish, or salvia as a
 36 felony under IC 35-48-4-10.
 37 ~~(10)~~ **(11)** Dealing in a synthetic drug or synthetic drug lookalike
 38 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
 39 before its amendment in 2013).
 40 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 41 listed in this subsection.
 42 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed



1 in this subsection.

2 ~~(13)~~ **(14)** An offense in any other jurisdiction in which the
3 elements of the offense for which the conviction was entered are
4 substantially similar to the elements of an offense described in
5 this subsection.

6 ~~(14)~~ **(15)** A violation of any federal or state drug law or rule
7 related to wholesale legend drug distributors licensed under
8 IC 25-26-14.

9 (i) A decision of the department under subsections (b) through (h)
10 may be appealed to the commission under IC 4-21.5-3-7.

11 (j) The department may temporarily suspend a practitioner's license
12 under IC 4-21.5-4 before a final adjudication or during the appeals
13 process if the department finds that a practitioner represents a clear and
14 immediate danger to the public's health, safety, or property if the
15 practitioner is allowed to continue to practice.

16 (k) On receipt of a complaint or an information alleging that a
17 person licensed under this chapter has engaged in or is engaging in a
18 practice that jeopardizes the public health, safety, or welfare, the
19 department shall initiate an investigation against the person.

20 (l) Any complaint filed with the office of the attorney general
21 alleging a violation of this licensing program shall be referred to the
22 department for summary review and for its general information and any
23 authorized action at the time of the filing.

24 (m) The department shall conduct a fact finding investigation as the
25 department considers proper in relation to the complaint.

26 (n) The department may reinstate a license that has been suspended
27 under this section if, after a hearing, the department is satisfied that the
28 applicant is able to practice with reasonable skill, safety, and
29 competency to the public. As a condition of reinstatement, the
30 department may impose disciplinary or corrective measures authorized
31 under this chapter.

32 (o) The department may not reinstate a license that has been
33 revoked under this chapter. An individual whose license has been
34 revoked under this chapter may not apply for a new license until seven
35 (7) years after the date of revocation.

36 (p) The department shall seek to achieve consistency in the
37 application of sanctions authorized in this chapter. Significant
38 departures from prior decisions involving similar conduct must be
39 explained in the department's findings or orders.

40 (q) A practitioner may petition the department to accept the
41 surrender of the practitioner's license instead of having a hearing before
42 the commission. The practitioner may not surrender the practitioner's



1 license without the written approval of the department, and the
 2 department may impose any conditions appropriate to the surrender or
 3 reinstatement of a surrendered license.

4 (r) A practitioner who has been subjected to disciplinary sanctions
 5 may be required by the commission to pay the costs of the proceeding.
 6 The practitioner's ability to pay shall be considered when costs are
 7 assessed. If the practitioner fails to pay the costs, a suspension may not
 8 be imposed solely upon the practitioner's inability to pay the amount
 9 assessed. The costs are limited to costs for the following:

- 10 (1) Court reporters.
- 11 (2) Transcripts.
- 12 (3) Certification of documents.
- 13 (4) Photo duplication.
- 14 (5) Witness attendance and mileage fees.
- 15 (6) Postage.
- 16 (7) Expert witnesses.
- 17 (8) Depositions.
- 18 (9) Notarizations.

19 SECTION 4. IC 25-1-1.1-3, AS AMENDED BY P.L.238-2015,
 20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2017]: Sec. 3. A board, a commission, or a committee shall
 22 revoke or suspend a license or certificate issued under this title by the
 23 board, the commission, or the committee if the individual who holds
 24 the license or certificate is convicted of any of the following:

- 25 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 26 IC 35-48-4-1.
- 27 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 28 **(3) Manufacturing methamphetamine under IC 35-48-4-1.2.**
- 29 ~~(3)~~ **(4)** Dealing in a schedule I, II, or III controlled substance
 30 under IC 35-48-4-2.
- 31 ~~(4)~~ **(5)** Dealing in a schedule IV controlled substance under
 32 IC 35-48-4-3.
- 33 ~~(5)~~ **(6)** Dealing in a schedule V controlled substance under
 34 IC 35-48-4-4.
- 35 ~~(6)~~ **(7)** Dealing in a substance represented to be a controlled
 36 substance under IC 35-48-4-4.5.
- 37 ~~(7)~~ **(8)** Knowingly or intentionally manufacturing, advertising,
 38 distributing, or possessing with intent to manufacture, advertise,
 39 or distribute a substance represented to be a controlled substance
 40 under IC 35-48-4-4.6.
- 41 ~~(8)~~ **(9)** Dealing in a counterfeit substance under IC 35-48-4-5.
- 42 ~~(9)~~ **(10)** Dealing in marijuana, hash oil, hashish, or salvia as a



- 1 felony under IC 35-48-4-10.
- 2 ~~(10)~~ **(11)** Dealing in a synthetic drug or synthetic drug lookalike
- 3 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
- 4 before its amendment in 2013).
- 5 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
- 6 listed in this section.
- 7 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
- 8 in this section.
- 9 ~~(13)~~ **(14)** An offense in any other jurisdiction in which the
- 10 elements of the offense for which the conviction was entered are
- 11 substantially similar to the elements of an offense described in
- 12 this section.
- 13 ~~(14)~~ **(15)** A violation of any federal or state drug law or rule
- 14 related to wholesale legend drug distributors licensed under
- 15 IC 25-26-14.

16 SECTION 5. IC 33-23-1-4.5 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2017]: **Sec. 4.5. "Drug related felony" has the meaning set forth**
 19 **in IC 35-48-1-16.3.**

20 SECTION 6. IC 33-24-6-3, AS AMENDED BY P.L.9-2016,
 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2017]: Sec. 3. (a) The division of state court administration
 23 shall do the following:

- 24 (1) Examine the administrative and business methods and systems
- 25 employed in the offices of the clerks of court and other offices
- 26 related to and serving the courts and make recommendations for
- 27 necessary improvement.
- 28 (2) Collect and compile statistical data and other information on
- 29 the judicial work of the courts in Indiana. All justices of the
- 30 supreme court, judges of the court of appeals, judges of all trial
- 31 courts, and any city or town courts, whether having general or
- 32 special jurisdiction, court clerks, court reporters, and other
- 33 officers and employees of the courts shall, upon notice by the
- 34 executive director and in compliance with procedures prescribed
- 35 by the executive director, furnish the executive director the
- 36 information as is requested concerning the nature and volume of
- 37 judicial business. The information must include the following:
- 38 (A) The volume, condition, and type of business conducted by
- 39 the courts.
- 40 (B) The methods of procedure in the courts.
- 41 (C) The work accomplished by the courts.
- 42 (D) The receipt and expenditure of public money by and for



- 1 the operation of the courts.
- 2 (E) The methods of disposition or termination of cases.
- 3 (3) Prepare and publish reports, not less than one (1) or more than
- 4 two (2) times per year, on the nature and volume of judicial work
- 5 performed by the courts as determined by the information
- 6 required in subdivision (2).
- 7 (4) Serve the judicial nominating commission and the judicial
- 8 qualifications commission in the performance by the commissions
- 9 of their statutory and constitutional functions.
- 10 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 11 (6) Administer the judicial technology and automation project
- 12 fund established by section 12 of this chapter.
- 13 (7) By December 31, 2013, develop and implement a standard
- 14 protocol for sending and receiving court data:
- 15 (A) between the protective order registry, established by
- 16 IC 5-2-9-5.5, and county court case management systems;
- 17 (B) at the option of the county prosecuting attorney, for:
- 18 (i) a prosecuting attorney's case management system;
- 19 (ii) a county court case management system; and
- 20 (iii) a county court case management system developed and
- 21 operated by the division of state court administration;
- 22 to interface with the electronic traffic tickets, as defined by
- 23 IC 9-30-3-2.5; and
- 24 (C) between county court case management systems and the
- 25 case management system developed and operated by the
- 26 division of state court administration.
- 27 The standard protocol developed and implemented under this
- 28 subdivision shall permit private sector vendors, including vendors
- 29 providing service to a local system and vendors accessing the
- 30 system for information, to send and receive court information on
- 31 an equitable basis and at an equitable cost.
- 32 (8) Establish and administer an electronic system for receiving
- 33 information that relates to certain individuals who may be
- 34 prohibited from possessing a firearm and transmitting this
- 35 information to the Federal Bureau of Investigation for inclusion
- 36 in the NICS.
- 37 (9) Establish and administer an electronic system for receiving
- 38 **drug related** felony conviction information for each felony
- 39 **described in IC 35-48-4-14.5(h)(1)** from courts. The division shall
- 40 notify NPLeX of each **drug related** felony **described in**
- 41 **IC 35-48-4-14.5(h)(1)** entered after June 30, 2012, and do the
- 42 following:



- 1 (A) Provide NPLEEx with the following information:
- 2 (i) The convicted individual's full name.
- 3 (ii) The convicted individual's date of birth.
- 4 (iii) The convicted individual's driver's license number, state
- 5 personal identification number, or other unique number, if
- 6 available.
- 7 (iv) The date the individual was convicted of the felony.
- 8 Upon receipt of the information from the division, a stop sale
- 9 alert must be generated through NPLEEx for each individual
- 10 reported under this clause.
- 11 (B) Notify NPLEEx if the felony of an individual reported under
- 12 clause (A) has been:
- 13 (i) set aside;
- 14 (ii) reversed;
- 15 (iii) expunged; or
- 16 (iv) vacated.
- 17 Upon receipt of information under this clause, NPLEEx shall
- 18 remove the stop sale alert issued under clause (A) for the
- 19 individual.
- 20 (10) Staff the judicial technology oversight committee established
- 21 by IC 33-23-17-2.
- 22 (b) All forms to be used in gathering data must be approved by the
- 23 supreme court and shall be distributed to all judges and clerks before
- 24 the start of each period for which reports are required.
- 25 (c) The division may adopt rules to implement this section.
- 26 SECTION 7. IC 34-24-1-1, AS AMENDED BY P.L.237-2015,
- 27 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2017]: Sec. 1. (a) The following may be seized:
- 29 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
- 30 or are intended for use by the person or persons in possession of
- 31 them to transport or in any manner to facilitate the transportation
- 32 of the following:
- 33 (A) A controlled substance for the purpose of committing,
- 34 attempting to commit, or conspiring to commit any of the
- 35 following:
- 36 (i) Dealing in or manufacturing cocaine or a narcotic drug
- 37 (IC 35-48-4-1).
- 38 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- 39 **(iii) Manufacturing methamphetamine (IC 35-48-4-1.2).**
- 40 ~~(iii)~~ (iv) Dealing in a schedule I, II, or III controlled
- 41 substance (IC 35-48-4-2).
- 42 ~~(iv)~~ (v) Dealing in a schedule IV controlled substance



- 1 (IC 35-48-4-3).
 2 ~~(v)~~ **(vi)** Dealing in a schedule V controlled substance
 3 (IC 35-48-4-4).
 4 ~~(vi)~~ **(vii)** Dealing in a counterfeit substance (IC 35-48-4-5).
 5 ~~(vii)~~ **(viii)** Possession of cocaine or a narcotic drug
 6 (IC 35-48-4-6).
 7 ~~(viii)~~ **(ix)** Possession of methamphetamine (IC 35-48-4-6.1).
 8 ~~(ix)~~ **(x)** Dealing in paraphernalia (IC 35-48-4-8.5).
 9 ~~(x)~~ **(xi)** Dealing in marijuana, hash oil, hashish, or salvia
 10 (IC 35-48-4-10).
 11 ~~(xi)~~ **(xii)** Dealing in a synthetic drug or synthetic drug
 12 lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10
 13 before its amendment in 2013).
 14 (B) Any stolen (IC 35-43-4-2) or converted property
 15 (IC 35-43-4-3) if the retail or repurchase value of that property
 16 is one hundred dollars (\$100) or more.
 17 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
 18 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 19 mass destruction (as defined in IC 35-31.5-2-354) used to
 20 commit, used in an attempt to commit, or used in a conspiracy
 21 to commit an offense under IC 35-47 as part of or in
 22 furtherance of an act of terrorism (as defined by
 23 IC 35-31.5-2-329).
 24 (2) All money, negotiable instruments, securities, weapons,
 25 communications devices, or any property used to commit, used in
 26 an attempt to commit, or used in a conspiracy to commit an
 27 offense under IC 35-47 as part of or in furtherance of an act of
 28 terrorism or commonly used as consideration for a violation of
 29 IC 35-48-4 (other than items subject to forfeiture under
 30 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
 31 (A) furnished or intended to be furnished by any person in
 32 exchange for an act that is in violation of a criminal statute;
 33 (B) used to facilitate any violation of a criminal statute; or
 34 (C) traceable as proceeds of the violation of a criminal statute.
 35 (3) Any portion of real or personal property purchased with
 36 money that is traceable as a proceed of a violation of a criminal
 37 statute.
 38 (4) A vehicle that is used by a person to:
 39 (A) commit, attempt to commit, or conspire to commit;
 40 (B) facilitate the commission of; or
 41 (C) escape from the commission of;
 42 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal



- 1 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 2 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 3 under IC 35-47 as part of or in furtherance of an act of terrorism.
 4 (5) Real property owned by a person who uses it to commit any of
 5 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
 6 felony:
- 7 (A) Dealing in or manufacturing cocaine or a narcotic drug
 8 (IC 35-48-4-1).
 - 9 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
 - 10 **(C) Manufacturing methamphetamine (IC 35-48-4-1.2).**
 - 11 ~~(C)~~ **(D)** Dealing in a schedule I, II, or III controlled substance
 12 (IC 35-48-4-2).
 - 13 ~~(D)~~ **(E)** Dealing in a schedule IV controlled substance
 14 (IC 35-48-4-3).
 - 15 ~~(E)~~ **(F)** Dealing in marijuana, hash oil, hashish, or salvia
 16 (IC 35-48-4-10).
 - 17 ~~(F)~~ **(G)** Dealing in a synthetic drug or synthetic drug lookalike
 18 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 19 amendment in 2013).
 - 20 (6) Equipment and recordings used by a person to commit fraud
 21 under IC 35-43-5-4(10).
 - 22 (7) Recordings sold, rented, transported, or possessed by a person
 23 in violation of IC 24-4-10.
 - 24 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
 25 defined by IC 35-45-6-1) that is the object of a corrupt business
 26 influence violation (IC 35-45-6-2).
 - 27 (9) Unlawful telecommunications devices (as defined in
 28 IC 35-45-13-6) and plans, instructions, or publications used to
 29 commit an offense under IC 35-45-13.
 - 30 (10) Any equipment, including computer equipment and cellular
 31 telephones, used for or intended for use in preparing,
 32 photographing, recording, videotaping, digitizing, printing,
 33 copying, or disseminating matter in violation of IC 35-42-4.
 - 34 (11) Destructive devices used, possessed, transported, or sold in
 35 violation of IC 35-47.5.
 - 36 (12) Tobacco products that are sold in violation of IC 24-3-5,
 37 tobacco products that a person attempts to sell in violation of
 38 IC 24-3-5, and other personal property owned and used by a
 39 person to facilitate a violation of IC 24-3-5.
 - 40 (13) Property used by a person to commit counterfeiting or
 41 forgery in violation of IC 35-43-5-2.
 - 42 (14) After December 31, 2005, if a person is convicted of an



1 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 2 following real or personal property:

3 (A) Property used or intended to be used to commit, facilitate,
 4 or promote the commission of the offense.

5 (B) Property constituting, derived from, or traceable to the
 6 gross proceeds that the person obtained directly or indirectly
 7 as a result of the offense.

8 (15) Except as provided in subsection (e), a vehicle used by a
 9 person who operates the vehicle:

10 (A) while intoxicated, in violation of IC 9-30-5-1 through
 11 IC 9-30-5-5, if in the previous five (5) years the person has two
 12 (2) or more prior unrelated convictions:

13 (i) for operating a motor vehicle while intoxicated in
 14 violation of IC 9-30-5-1 through IC 9-30-5-5; or

15 (ii) for an offense that is substantially similar to IC 9-30-5-1
 16 through IC 9-30-5-5 in another jurisdiction; or

17 (B) on a highway while the person's driving privileges are
 18 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
 19 if in the previous five (5) years the person has two (2) or more
 20 prior unrelated convictions:

21 (i) for operating a vehicle while intoxicated in violation of
 22 IC 9-30-5-1 through IC 9-30-5-5; or

23 (ii) for an offense that is substantially similar to IC 9-30-5-1
 24 through IC 9-30-5-5 in another jurisdiction.

25 If a court orders the seizure of a vehicle under this subdivision,
 26 the court shall transmit an order to the bureau of motor vehicles
 27 recommending that the bureau not permit a vehicle to be
 28 registered in the name of the person whose vehicle was seized
 29 until the person possesses a current driving license (as defined in
 30 IC 9-13-2-41).

31 (16) The following real or personal property:

32 (A) Property used or intended to be used to commit, facilitate,
 33 or promote the commission of an offense specified in
 34 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 35 IC 30-2-13-38(f).

36 (B) Property constituting, derived from, or traceable to the
 37 gross proceeds that a person obtains directly or indirectly as a
 38 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 39 IC 30-2-10-9(b), or IC 30-2-13-38(f).

40 (17) An automated sales suppression device (as defined in
 41 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in
 42 IC 35-43-5-4.6(a)(3)).



- 1 (18) Real or personal property, including a vehicle, that is used by
 2 a person to:
- 3 (A) commit, attempt to commit, or conspire to commit;
 4 (B) facilitate the commission of; or
 5 (C) escape from the commission of;
 6 a violation of IC 35-42-3.5-1 (human trafficking) or IC 35-45-4-4
 7 (promoting prostitution).
- 8 (b) A vehicle used by any person as a common or contract carrier in
 9 the transaction of business as a common or contract carrier is not
 10 subject to seizure under this section, unless it can be proven by a
 11 preponderance of the evidence that the owner of the vehicle knowingly
 12 permitted the vehicle to be used to engage in conduct that subjects it to
 13 seizure under subsection (a).
- 14 (c) Equipment under subsection (a)(10) may not be seized unless it
 15 can be proven by a preponderance of the evidence that the owner of the
 16 equipment knowingly permitted the equipment to be used to engage in
 17 conduct that subjects it to seizure under subsection (a)(10).
- 18 (d) Money, negotiable instruments, securities, weapons,
 19 communications devices, or any property commonly used as
 20 consideration for a violation of IC 35-48-4 found near or on a person
 21 who is committing, attempting to commit, or conspiring to commit any
 22 of the following offenses shall be admitted into evidence in an action
 23 under this chapter as prima facie evidence that the money, negotiable
 24 instrument, security, or other thing of value is property that has been
 25 used or was to have been used to facilitate the violation of a criminal
 26 statute or is the proceeds of the violation of a criminal statute:
- 27 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 28 narcotic drug).
 29 (2) IC 35-48-4-1.1 (dealing in methamphetamine).
 30 **(3) IC 35-48-4-1.2 (manufacturing methamphetamine).**
 31 ~~(3)~~ **(4)** IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 32 substance).
 33 ~~(4)~~ **(5)** IC 35-48-4-3 (dealing in a schedule IV controlled
 34 substance).
 35 ~~(5)~~ **(6)** IC 35-48-4-4 (dealing in a schedule V controlled
 36 substance) as a Level 4 felony.
 37 ~~(6)~~ **(7)** IC 35-48-4-6 (possession of cocaine or a narcotic drug) as
 38 a Level 3, Level 4, or Level 5 felony.
 39 ~~(7)~~ **(8)** IC 35-48-4-6.1 (possession of methamphetamine) as a
 40 Level 3, Level 4, or Level 5 felony.
 41 ~~(8)~~ **(9)** IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
 42 salvia) as a Level 5 felony.



1 ~~(9)~~ **(10)** IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic
2 drug lookalike substance) as a Level 5 felony or Level 6 felony
3 (or as a Class C felony or Class D felony under IC 35-48-4-10
4 before its amendment in 2013).

5 (e) A vehicle operated by a person who is not:

- 6 (1) an owner of the vehicle; or
7 (2) the spouse of the person who owns the vehicle;

8 is not subject to seizure under subsection (a)(15) unless it can be
9 proven by a preponderance of the evidence that the owner of the
10 vehicle knowingly permitted the vehicle to be used to engage in
11 conduct that subjects it to seizure under subsection (a)(15).

12 SECTION 8. IC 35-31.5-2-217, AS ADDED BY P.L.114-2012,
13 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2017]: Sec. 217. "Offense relating to controlled substances"
15 means the following:

16 (1) Dealing in or manufacturing cocaine or a narcotic drug
17 (IC 35-48-4-1).

18 (2) Dealing in methamphetamine (IC 35-48-4-1.1).

19 **(3) Manufacturing methamphetamine (IC 35-48-4-1.2).**

20 ~~(3)~~ **(4)** Dealing in a schedule I, II, or III controlled substance
21 (IC 35-48-4-2).

22 ~~(4)~~ **(5)** Dealing in a schedule IV controlled substance
23 (IC 35-48-4-3).

24 ~~(5)~~ **(6)** Dealing in a schedule V controlled substance
25 (IC 35-48-4-4).

26 ~~(6)~~ **(7)** Possession of cocaine or a narcotic drug (IC 35-48-4-6).

27 ~~(7)~~ **(8)** Possession of methamphetamine (IC 35-48-4-6.1).

28 ~~(8)~~ **(9)** Possession of a controlled substance (IC 35-48-4-7).

29 ~~(9)~~ **(10)** Possession of paraphernalia (IC 35-48-4-8.3).

30 ~~(10)~~ **(11)** Dealing in paraphernalia (IC 35-48-4-8.5).

31 ~~(11)~~ **(12)** Offenses relating to registration (IC 35-48-4-14).

32 SECTION 9. IC 35-42-1-1, AS AMENDED BY P.L.168-2014,
33 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: Sec. 1. A person who:

35 (1) knowingly or intentionally kills another human being;

36 (2) kills another human being while committing or attempting to
37 commit arson, burglary, child molesting, consumer product
38 tampering, criminal deviate conduct (under IC 35-42-4-2 before
39 its repeal), kidnapping, rape, robbery, human trafficking,
40 promotion of human trafficking, sexual trafficking of a minor, or
41 carjacking (before its repeal);

42 (3) kills another human being while committing or attempting to



- 1 commit:
- 2 (A) dealing in or manufacturing cocaine or a narcotic drug
- 3 (IC 35-48-4-1);
- 4 (B) dealing in ~~or manufacturing~~ methamphetamine
- 5 (IC 35-48-4-1.1);
- 6 **(C) manufacturing methamphetamine (IC 35-48-4-1.2);**
- 7 ~~(D)~~ **(D)** dealing in a schedule I, II, or III controlled substance
- 8 (IC 35-48-4-2);
- 9 ~~(E)~~ **(E)** dealing in a schedule IV controlled substance
- 10 (IC 35-48-4-3); or
- 11 ~~(F)~~ **(F)** dealing in a schedule V controlled substance; or
- 12 (4) knowingly or intentionally kills a fetus that has attained
- 13 viability (as defined in IC 16-18-2-365);
- 14 commits murder, a felony.

15 SECTION 10. IC 35-42-2-9, AS AMENDED BY P.L.158-2013,

16 SECTION 432, IS AMENDED TO READ AS FOLLOWS

17 [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) This section does not apply

18 to a medical procedure.

19 **(b) As used in this section, "torso" means any part of the upper**

20 **body from the collarbone to the hips.**

21 ~~(b)~~ **(c)** A person who, in a rude, angry, or insolent manner,

22 knowingly or intentionally:

- 23 (1) applies pressure to the throat or neck of another person; ~~or~~
- 24 (2) obstructs the nose or mouth of the another person; ~~or~~
- 25 **(3) applies pressure to the torso of another person;**
- 26 in a manner that impedes the normal breathing or the blood circulation
- 27 of the other person commits strangulation, a Level 6 felony.

28 **(d) However, the offense under subsection (c) is a Level 5 felony**

29 **if:**

- 30 **(1) the offense is committed against a pregnant woman; and**
- 31 **(2) the person who committed the offense knew the victim was**
- 32 **pregnant at the time of the offense.**

33 SECTION 11. IC 35-43-1-2, AS AMENDED BY P.L.76-2016,

34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

35 JULY 1, 2017]: Sec. 2. (a) A person who recklessly, knowingly, or

36 intentionally damages or defaces property of another person without the

37 other person's consent commits criminal mischief, a Class B

38 misdemeanor. However, the offense is:

- 39 (1) a Class A misdemeanor if the pecuniary loss is at least seven
- 40 hundred fifty dollars (\$750) but less than fifty thousand dollars
- 41 (\$50,000); and
- 42 (2) a Level 6 felony if:



- 1 (A) the pecuniary loss is at least fifty thousand dollars
 2 (\$50,000);
 3 (B) the damage causes a substantial interruption or impairment
 4 of utility service rendered to the public;
 5 (C) the damage is to a public record; or
 6 (D) the damage is to a law enforcement animal (as defined in
 7 IC 35-46-3-4.5).
- 8 (b) A person who recklessly, knowingly, or intentionally damages:
 9 (1) a structure used for religious worship without the consent of
 10 the owner, possessor, or occupant of the property that is damaged;
 11 (2) a school or community center without the consent of the
 12 owner, possessor, or occupant of the property that is damaged;
 13 (3) the property of an agricultural operation (as defined in
 14 IC 32-30-6-1) without the consent of the owner, possessor, or
 15 occupant of the property that is damaged;
 16 (4) the grounds:
 17 (A) adjacent to; and
 18 (B) owned or rented in common with;
 19 a structure or facility identified in subdivisions (1) through (3)
 20 without the consent of the owner, possessor, or occupant of the
 21 property that is damaged;
 22 (5) personal property contained in a structure or located at a
 23 facility identified in subdivisions (1) through (3) without the
 24 consent of the owner, possessor, or occupant of the property that
 25 is damaged;
 26 (6) property that is vacant real property (as defined in
 27 IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);
 28 or
 29 (7) property after the person has been denied entry to the property
 30 by a court order that was issued:
 31 (A) to the person; or
 32 (B) to the general public by conspicuous posting on or around
 33 the property in areas where a person could observe the order
 34 when the property has been designated by a municipality or
 35 county enforcement authority to be a vacant property, an
 36 abandoned property, or an abandoned structure (as defined in
 37 IC 36-7-36-1);
 38 commits institutional criminal mischief, a Class A misdemeanor.
 39 However, the offense is a Level 6 felony if the pecuniary loss (or
 40 property damage, in the case of an agricultural operation) is at least
 41 seven hundred fifty dollars (\$750) but less than fifty thousand dollars
 42 (\$50,000), and a Level 5 felony if the pecuniary loss (or property



1 damage, in the case of an agricultural operation) is at least fifty
2 thousand dollars (\$50,000).

3 (c) A person who recklessly, knowingly, or intentionally damages
4 property:

5 (1) during:

6 (A) the dealing or manufacture of or attempted dealing or
7 manufacture of cocaine or a narcotic drug (IC 35-48-4-1); ~~or~~

8 (B) the dealing or ~~manufacture of or~~ attempted dealing or
9 ~~manufacture~~ of methamphetamine (IC 35-48-4-1.1); ~~or~~

10 **(C) the manufacture of or attempted manufacture of**
11 **methamphetamine (IC 35-48-4-1.2); and**

12 (2) by means of a fire or an explosion;

13 commits controlled substances criminal mischief, a Level 6 felony.
14 However, the offense is a Level 5 felony if the offense results in
15 moderate bodily injury to any person other than a defendant.

16 (d) If a person is convicted of an offense under this section that
17 involves the use of graffiti, the court may, in addition to any other
18 penalty, order that the person's operator's license be suspended or
19 invalidated by the bureau of motor vehicles for not more than one (1)
20 year.

21 (e) The court may rescind an order for suspension or invalidation
22 under subsection (d) and allow the person to receive a license or permit
23 before the period of suspension or invalidation ends if the court
24 determines that the person has removed or painted over the graffiti or
25 has made other suitable restitution.

26 (f) For purposes of this section, "pecuniary loss" includes:

27 (1) the total costs incurred in inspecting, cleaning, and
28 decontaminating property contaminated by a pollutant; and

29 (2) a reasonable estimate of all additional costs not already
30 incurred under subdivision (1) that are necessary to inspect, clean,
31 and decontaminate property contaminated by a pollutant, to the
32 extent that the property has not already been:

33 (A) cleaned;

34 (B) decontaminated; or

35 (C) both cleaned and decontaminated.

36 The term includes inspection, cleaning, or decontamination conducted
37 by a person certified under IC 13-14-1-15.

38 SECTION 12. IC 35-43-1-2.1, AS AMENDED BY P.L.158-2013,
39 SECTION 454, IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2017]: Sec. 2.1. (a) This section does not apply
41 to the following:

42 (1) A person who acts in a proper and acceptable manner as



1 authorized by IC 14-21 other than a person who disturbs the earth
 2 for an agricultural purpose under the exemption to IC 14-21 that
 3 is provided in IC 14-21-1-24.

4 (2) A person who acts in a proper and acceptable manner as
 5 authorized by IC 23-14.

6 (b) A person who recklessly, knowingly, or intentionally:

7 (1) damages a cemetery, a burial ground (as defined in
 8 IC 14-21-1-3), or a facility used for memorializing the dead;

9 (2) damages the grounds owned or rented by a cemetery or facility
 10 used for memorializing the dead; or

11 (3) disturbs, defaces, or damages a cemetery monument, grave
 12 marker, grave artifact, grave ornamentation, or cemetery
 13 enclosure;

14 commits cemetery mischief, a Class A misdemeanor. However, the
 15 offense is a Level 6 felony if the pecuniary loss is at least ~~two thousand~~
 16 ~~five hundred dollars (\$2,500);~~ **seven hundred fifty dollars (\$750) but**
 17 **less than fifty thousand dollars (\$50,000), and a Level 5 felony if**
 18 **the pecuniary loss is at least fifty thousand dollars (\$50,000).**

19 SECTION 13. IC 35-43-4-2.5, AS AMENDED BY P.L.168-2014,
 20 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2017]: Sec. 2.5. (a) As used in this section, "motor vehicle"
 22 has the meaning set forth in IC 9-13-2-105(a).

23 (b) A person who knowingly or intentionally exerts unauthorized
 24 control over the motor vehicle of another person, with intent to deprive
 25 the owner of:

26 (1) the vehicle's value or use; or

27 (2) a component part (as defined in IC 9-13-2-34) of the vehicle;
 28 commits auto theft, a Level 6 felony.

29 (c) A person who knowingly or intentionally receives, retains, or
 30 disposes of a motor vehicle or any part of a motor vehicle of another
 31 person that has been the subject of theft commits receiving stolen auto
 32 parts, a Level 6 felony. **However, the offense is a Level 5 felony if the**
 33 **person has a prior conviction under this subsection or under**
 34 **subsection (b).**

35 SECTION 14. IC 35-44.1-2-2, AS AMENDED BY P.L.158-2013,
 36 SECTION 502, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) A person who:

38 (1) knowingly or intentionally induces, by threat, coercion, false
 39 statement, or offer of goods, services, or anything of value, a
 40 witness or informant in an official proceeding or investigation to:

41 (A) withhold or unreasonably delay in producing any
 42 testimony, information, document, or thing;



- 1 (B) avoid legal process summoning the person to testify or
 2 supply evidence; or
 3 (C) absent the person from a proceeding or investigation to
 4 which the person has been legally summoned;
 5 (2) knowingly or intentionally in an official criminal proceeding
 6 or investigation:
 7 (A) withholds or unreasonably delays in producing any
 8 testimony, information, document, or thing after a court orders
 9 the person to produce the testimony, information, document,
 10 or thing;
 11 (B) avoids legal process summoning the person to testify or
 12 supply evidence; or
 13 (C) absents the person from a proceeding or investigation to
 14 which the person has been legally summoned;
 15 (3) alters, damages, or removes any record, document, or thing,
 16 with intent to prevent it from being produced or used as evidence
 17 in any official proceeding or investigation;
 18 (4) makes, presents, or uses a false record, document, or thing
 19 with intent that the record, document, or thing, material to the
 20 point in question, appear in evidence in an official proceeding or
 21 investigation to mislead a public servant; or
 22 (5) communicates, directly or indirectly, with a juror otherwise
 23 than as authorized by law, with intent to influence the juror
 24 regarding any matter that is or may be brought before the juror;
 25 commits obstruction of justice, a Level 6 felony, **except as provided**
 26 **in subsection (b).**
 27 **(b) Except as provided in subsection (e), the offense described in**
 28 **subsection (a) is a Level 5 felony if, during the investigation or**
 29 **pendency of a domestic violence or child abuse case under**
 30 **subsection (c), a person knowingly or intentionally:**
 31 **(1) offers, gives, or promises any benefit to;**
 32 **(2) communicates a threat as defined by IC 35-45-2-1(c) to; or**
 33 **(3) intimidates, unlawfully influences, or unlawfully**
 34 **persuades;**
 35 **any witness to abstain from attending or giving testimony at any**
 36 **hearing, trial, deposition, probation, or other criminal proceeding**
 37 **or from giving testimony or other statements to a court or law**
 38 **enforcement officer under IC 35-31.5-2-185.**
 39 **(c) As used in this section, "domestic violence or child abuse**
 40 **case" means any case involving an allegation of:**
 41 **(1) the commission of a crime involving domestic or family**
 42 **violence under IC 35-31.5-2-76 involving a family or**



1 household member under IC 35-31.5-2-128;
 2 (2) the commission of a crime of domestic violence under
 3 IC 35-31.5-2-78 involving a family or household member
 4 under IC 35-31.5-2-128; or
 5 (3) physical abuse, sexual abuse, or child neglect, including
 6 crimes listed under IC 35-31.5-2-76 involving a victim who
 7 was less than eighteen (18) years of age at the time of the
 8 offense, whether or not the person is a family or household
 9 member under IC 35-31.5-2-128.

10 ~~(b)~~ (d) Subsection (a)(2)(A) does not apply to:

11 (1) a person who qualifies for a special privilege under IC 34-46-4
 12 with respect to the testimony, information, document, or thing; or

13 (2) a person who, as:

14 (A) an attorney;

15 (B) a physician;

16 (C) a member of the clergy; or

17 (D) a husband or wife;

18 is not required to testify under IC 34-46-3-1.

19 (e) Subsection (b) does not apply to:

20 (1) an attorney;

21 (2) an investigator;

22 (3) a law enforcement officer; or

23 (4) a judge;

24 engaged in that person's professional or official duties.

25 SECTION 15. IC 35-45-6-1, AS AMENDED BY P.L.168-2014,
 26 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2017]: Sec. 1. (a) The definitions in this section apply
 28 throughout this chapter.

29 (b) "Documentary material" means any document, drawing,
 30 photograph, recording, or other tangible item containing compiled data
 31 from which information can be either obtained or translated into a
 32 usable form.

33 (c) "Enterprise" means:

34 (1) a sole proprietorship, corporation, limited liability company,
 35 partnership, business trust, or governmental entity; or

36 (2) a union, an association, or a group, whether a legal entity or
 37 merely associated in fact.

38 (d) "Pattern of racketeering activity" means engaging in at least two
 39 (2) incidents of racketeering activity that have the same or similar
 40 intent, result, accomplice, victim, or method of commission, or that are
 41 otherwise interrelated by distinguishing characteristics that are not
 42 isolated incidents. However, the incidents are a pattern of racketeering



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

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

7 (1) A provision of IC 23-19, or of a rule or order issued under
 8 IC 23-19.

9 (2) A violation of IC 35-45-9.

10 (3) A violation of IC 35-47.

11 (4) A violation of IC 35-49-3.

12 (5) Murder (IC 35-42-1-1).

13 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
 14 felony after June 30, 2014 (IC 35-42-2-1).

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

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

17 (9) Child exploitation (IC 35-42-4-4).

18 (10) Robbery (IC 35-42-5-1).

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

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

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

22 (14) Theft (IC 35-43-4-2).

23 (15) Receiving stolen property (IC 35-43-4-2).

24 (16) Forgery (IC 35-43-5-2).

25 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).

26 (18) Bribery (IC 35-44.1-1-2).

27 (19) Official misconduct (IC 35-44.1-1-1).

28 (20) Conflict of interest (IC 35-44.1-1-4).

29 (21) Perjury (IC 35-44.1-2-1).

30 (22) Obstruction of justice (IC 35-44.1-2-2).

31 (23) Intimidation (IC 35-45-2-1).

32 (24) Promoting prostitution (IC 35-45-4-4).

33 (25) Professional gambling (IC 35-45-5-3).

34 (26) Maintaining a professional gambling site
 35 (IC 35-45-5-3.5(b)).

36 (27) Promoting professional gambling (IC 35-45-5-4).

37 (28) Dealing in or manufacturing cocaine or a narcotic drug
 38 (IC 35-48-4-1).

39 (29) Dealing in ~~or manufacturing~~ methamphetamine
 40 (IC 35-48-4-1.1).

41 **(30) Manufacturing methamphetamine (IC 35-48-4-1.2).**

42 ~~(30)~~ **(31) Dealing in a schedule I, II, or III controlled substance**



- 1 (IC 35-48-4-2).
 2 ~~(31)~~ **(32)** Dealing in a schedule IV controlled substance
 3 (IC 35-48-4-3).
 4 ~~(32)~~ **(33)** Dealing in a schedule V controlled substance
 5 (IC 35-48-4-4).
 6 ~~(33)~~ **(34)** Dealing in marijuana, hash oil, hashish, or salvia
 7 (IC 35-48-4-10).
 8 ~~(34)~~ **(35)** Money laundering (IC 35-45-15-5).
 9 ~~(35)~~ **(36)** A violation of IC 35-47.5-5.
 10 ~~(36)~~ **(37)** A violation of any of the following:
 11 (A) IC 23-14-48-9.
 12 (B) IC 30-2-9-7(b).
 13 (C) IC 30-2-10-9(b).
 14 (D) IC 30-2-13-38(f).
 15 ~~(37)~~ **(38)** Practice of law by a person who is not an attorney
 16 (IC 33-43-2-1).
 17 ~~(38)~~ **(39)** Dealing in a synthetic drug or synthetic drug lookalike
 18 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 19 amendment in 2013).
 20 SECTION 16. IC 35-46-1-4, AS AMENDED BY P.L.168-2014,
 21 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2017]: Sec. 4. (a) A person having the care of a dependent,
 23 whether assumed voluntarily or because of a legal obligation, who
 24 knowingly or intentionally:
 25 (1) places the dependent in a situation that endangers the
 26 dependent's life or health;
 27 (2) abandons or cruelly confines the dependent;
 28 (3) deprives the dependent of necessary support; or
 29 (4) deprives the dependent of education as required by law;
 30 commits neglect of a dependent, a Level 6 felony.
 31 (b) However, the offense is:
 32 (1) a Level 5 felony if it is committed under subsection (a)(1),
 33 (a)(2), or (a)(3) and:
 34 (A) results in bodily injury; or
 35 (B) is:
 36 (i) committed in a location where a person is violating
 37 IC 35-48-4-1 (dealing in cocaine or a narcotic drug), ~~or~~
 38 IC 35-48-4-1.1 (dealing in methamphetamine), ~~or~~
 39 **IC 35-48-4-1.2 (manufacturing methamphetamine)**; or
 40 (ii) the result of a violation of IC 35-48-4-1 (dealing in
 41 cocaine or a narcotic drug), ~~or~~ IC 35-48-4-1.1 (dealing in
 42 methamphetamine), ~~or~~ **IC 35-48-4-1.2 (manufacturing**



- 1 **methamphetamine);**
 2 (2) a Level 3 felony if it is committed under subsection (a)(1),
 3 (a)(2), or (a)(3) and results in serious bodily injury;
 4 (3) a Level 1 felony if it is committed under subsection (a)(1),
 5 (a)(2), or (a)(3) by a person at least eighteen (18) years of age and
 6 results in the death of a dependent who is less than fourteen (14)
 7 years of age; and
 8 (4) a Level 5 felony if it is committed under subsection (a)(2) and
 9 consists of cruel confinement or abandonment that:
 10 (A) deprives a dependent of necessary food, water, or sanitary
 11 facilities;
 12 (B) consists of confinement in an area not intended for human
 13 habitation; or
 14 (C) involves the unlawful use of handcuffs, a rope, a cord,
 15 tape, or a similar device to physically restrain a dependent.
 16 (c) It is a defense to a prosecution based on an alleged act under this
 17 section that:
 18 (1) the accused person left a dependent child who was, at the time
 19 the alleged act occurred, not more than thirty (30) days of age
 20 with an emergency medical provider who took custody of the
 21 child under IC 31-34-2.5 when:
 22 (A) the prosecution is based solely on the alleged act of
 23 leaving the child with the emergency medical services
 24 provider; and
 25 (B) the alleged act did not result in bodily injury or serious
 26 bodily injury to the child; or
 27 (2) the accused person, in the legitimate practice of the accused
 28 person's religious belief, provided treatment by spiritual means
 29 through prayer, in lieu of medical care, to the accused person's
 30 dependent.
 31 (d) Except for property transferred or received:
 32 (1) under a court order made in connection with a proceeding
 33 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 34 or IC 31-6-5 before their repeal); or
 35 (2) under section 9(b) of this chapter;
 36 a person who transfers or receives any property in consideration for the
 37 termination of the care, custody, or control of a person's dependent
 38 child commits child selling, a Level 6 felony.
 39 SECTION 17. IC 35-46-1-8, AS AMENDED BY P.L.158-2013,
 40 SECTION 554, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) A person at least eighteen
 42 (18) years of age who knowingly or intentionally encourages, aids,



1 induces, or causes a person less than eighteen (18) years of age to
 2 commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2)
 3 commits contributing to delinquency, a Class A misdemeanor.

4 (b) However, the offense described in subsection (a) is:

5 (1) a Level 5 felony if:

6 (A) the person committing the offense is at least twenty-one

7 (21) years of age and knowingly or intentionally furnishes:

8 (i) an alcoholic beverage to a person less than eighteen (18)

9 years of age in violation of IC 7.1-5-7-8 when the person

10 committing the offense knew or reasonably should have

11 known that the person furnished the alcoholic beverage was

12 less than eighteen (18) years of age; or

13 (ii) a controlled substance (as defined in IC 35-48-1-9) or a

14 drug (as defined in IC 9-13-2-49.1) in violation of Indiana

15 law; and

16 (B) the consumption, ingestion, or use of the alcoholic

17 beverage, controlled substance, or drug is the proximate cause

18 of the death of any person; and

19 (2) a Level 6 felony if the person committing the offense

20 knowingly or intentionally encourages, aids, induces, or causes a

21 person less than eighteen (18) years of age to commit an act that

22 would be a felony if committed by an adult under any of the

23 following:

24 (A) IC 35-48-4-1.

25 (B) IC 35-48-4-1.1.

26 **(C) IC 35-48-4-1.2.**

27 ~~(D)~~ (D) IC 35-48-4-2.

28 ~~(E)~~ (E) IC 35-48-4-3.

29 ~~(F)~~ (F) IC 35-48-4-4.

30 ~~(G)~~ (G) IC 35-48-4-4.5.

31 ~~(H)~~ (H) IC 35-48-4-4.6.

32 ~~(I)~~ (I) IC 35-48-4-5.

33 SECTION 18. IC 35-47-4-5, AS AMENDED BY P.L.65-2016,
 34 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2017]: Sec. 5. (a) As used in this section, "serious violent
 36 felon" means a person who has been convicted of:

37 (1) committing a serious violent felony in:

38 (A) Indiana; or

39 (B) any other jurisdiction in which the elements of the crime

40 for which the conviction was entered are substantially similar

41 to the elements of a serious violent felony; or

42 (2) attempting to commit or conspiring to commit a serious



- 1 violent felony in:
- 2 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
- 3 or
- 4 (B) any other jurisdiction in which the elements of the crime
- 5 for which the conviction was entered are substantially similar
- 6 to the elements of attempting to commit or conspiring to
- 7 commit a serious violent felony.
- 8 (b) As used in this section, "serious violent felony" means:
- 9 (1) murder (IC 35-42-1-1);
- 10 (2) voluntary manslaughter (IC 35-42-1-3);
- 11 (3) reckless homicide not committed by means of a vehicle
- 12 (IC 35-42-1-5);
- 13 (4) battery (IC 35-42-2-1) as a:
- 14 (A) Class A felony, Class B felony, or Class C felony, for a
- 15 crime committed before July 1, 2014; or
- 16 (B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5
- 17 felony, for a crime committed after June 30, 2014;
- 18 (5) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level
- 19 3 felony, Level 4 felony, or Level 5 felony;
- 20 (6) aggravated battery (IC 35-42-2-1.5);
- 21 (7) kidnapping (IC 35-42-3-2);
- 22 (8) criminal confinement (IC 35-42-3-3);
- 23 (9) rape (IC 35-42-4-1);
- 24 (10) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
- 25 (11) child molesting (IC 35-42-4-3);
- 26 (12) sexual battery (IC 35-42-4-8) as a:
- 27 (A) Class C felony, for a crime committed before July 1, 2014;
- 28 or
- 29 (B) Level 5 felony, for a crime committed after June 30, 2014;
- 30 (13) robbery (IC 35-42-5-1);
- 31 (14) carjacking (IC 35-42-5-2) (before its repeal);
- 32 (15) arson (IC 35-43-1-1(a)) as a:
- 33 (A) Class A felony or Class B felony, for a crime committed
- 34 before July 1, 2014; or
- 35 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
- 36 crime committed after June 30, 2014;
- 37 (16) burglary (IC 35-43-2-1) as a:
- 38 (A) Class A felony or Class B felony, for a crime committed
- 39 before July 1, 2014; or
- 40 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
- 41 felony, for a crime committed after June 30, 2014;
- 42 (17) assisting a criminal (IC 35-44.1-2-5) as a:



- 1 (A) Class C felony, for a crime committed before July 1, 2014;
 2 or
 3 (B) Level 5 felony, for a crime committed after June 30, 2014;
 4 (18) resisting law enforcement (IC 35-44.1-3-1) as a:
 5 (A) Class B felony or Class C felony, for a crime committed
 6 before July 1, 2014; or
 7 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
 8 crime committed after June 30, 2014;
 9 (19) escape (IC 35-44.1-3-4) as a:
 10 (A) Class B felony or Class C felony, for a crime committed
 11 before July 1, 2014; or
 12 (B) Level 4 felony or Level 5 felony, for a crime committed
 13 after June 30, 2014;
 14 (20) trafficking with an inmate (IC 35-44.1-3-5) 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 (21) criminal organization intimidation (IC 35-45-9-4);
 19 (22) stalking (IC 35-45-10-5) as a:
 20 (A) Class B felony or Class C felony, for a crime committed
 21 before July 1, 2014; or
 22 (B) Level 4 felony or Level 5 felony, for a crime committed
 23 after June 30, 2014;
 24 (23) incest (IC 35-46-1-3);
 25 (24) dealing in or manufacturing cocaine or a narcotic drug
 26 (IC 35-48-4-1);
 27 (25) dealing in methamphetamine (IC 35-48-4-1.1) **or**
 28 **manufacturing methamphetamine (IC 35-48-4-1.2);**
 29 (26) dealing in a schedule I, II, or III controlled substance
 30 (IC 35-48-4-2);
 31 (27) dealing in a schedule IV controlled substance (IC 35-48-4-3);
 32 or
 33 (28) dealing in a schedule V controlled substance (IC 35-48-4-4).
 34 (c) A serious violent felon who knowingly or intentionally possesses
 35 a firearm commits unlawful possession of a firearm by a serious violent
 36 felon, a Level 4 felony.
 37 SECTION 19. IC 35-48-1-16.3 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2017]: **Sec. 16.3. "Drug related felony"**
 40 **means a felony conviction for an offense described in:**
 41 **(1) IC 35-48-4-1 through IC 35-48-4-11.5; or**
 42 **(2) IC 35-48-4-13 through IC 35-48-4-14.7.**



1 SECTION 20. IC 35-48-4-1.1, AS AMENDED BY P.L.44-2016,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 1.1. (a) A person who:

4 (1) knowingly or intentionally:

5 ~~(A) manufactures;~~

6 ~~(B) finances the manufacture of;~~

7 ~~(C) (A) delivers; or~~

8 ~~(D) (B) finances the delivery of;~~

9 methamphetamine, pure or adulterated; or

10 (2) possesses, with intent to:

11 ~~(A) manufacture;~~

12 ~~(B) finance the manufacture of;~~

13 ~~(C) (A) deliver; or~~

14 ~~(D) (B) finance the delivery of;~~

15 methamphetamine, pure or adulterated;

16 commits dealing in methamphetamine, a Level 5 felony, except as
 17 provided in subsections (b) through (e).

18 (b) A person may be convicted of an offense under subsection (a)(2)
 19 only if:

20 (1) there is evidence in addition to the weight of the drug that the
 21 person intended to ~~manufacture; finance the manufacture of;~~
 22 deliver or finance the delivery of the drug; or

23 (2) the amount of the drug involved is at least twenty-eight (28)
 24 grams.

25 (c) The offense is a Level 4 felony if:

26 (1) the amount of the drug involved is at least one (1) gram but
 27 less than five (5) grams; or

28 (2) the amount of the drug involved is less than one (1) gram and
 29 an enhancing circumstance applies.

30 (d) The offense is a Level 3 felony if:

31 (1) the amount of the drug involved is at least five (5) grams but
 32 less than ten (10) grams; or

33 (2) the amount of the drug involved is at least one (1) gram but
 34 less than five (5) grams and an enhancing circumstance applies.

35 (e) The offense is a Level 2 felony if:

36 (1) the amount of the drug involved is at least ten (10) grams; **or**

37 (2) the amount of the drug involved is at least five (5) grams but
 38 less than ten (10) grams and an enhancing circumstance applies.

39 **or**

40 ~~(3) the person is manufacturing the drug and the manufacture
 41 results in an explosion causing serious bodily injury to a person
 42 other than the manufacturer.~~



1 SECTION 21. IC 35-48-4-1.2 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2017]: **Sec. 1.2. (a) A person who knowingly**
 4 **or intentionally manufactures or finances the manufacture of**
 5 **methamphetamine, pure or adulterated, commits manufacturing**
 6 **methamphetamine, a Level 4 felony, except as provided in**
 7 **subsections (b) and (c).**

8 **(b) The offense is a Level 3 felony if:**

9 **(1) the amount of the drug involved is at least five (5) grams**
 10 **but less than ten (10) grams; or**

11 **(2) the amount of the drug involved is at least one (1) gram**
 12 **but less than five (5) grams and an enhancing circumstance**
 13 **applies.**

14 **(c) The offense is a Level 2 felony if:**

15 **(1) the amount of the drug involved is at least ten (10) grams;**

16 **(2) the amount of the drug involved is at least five (5) grams**
 17 **but less than ten (10) grams and an enhancing circumstance**
 18 **applies;**

19 **(3) the manufacture of the drug results in serious bodily**
 20 **injury to a person other than the manufacturer; or**

21 **(4) the manufacture of the drug results in the death of a**
 22 **person other than the manufacturer.**

23 SECTION 22. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014,
 24 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2017]: **Sec. 14.5. (a) As used in this section,**
 26 **"chemical reagents or precursors" refers to one (1) or more of the**
 27 **following:**

28 (1) Ephedrine.

29 (2) Pseudoephedrine.

30 (3) Phenylpropanolamine.

31 (4) The salts, isomers, and salts of isomers of a substance
 32 identified in subdivisions (1) through (3).

33 (5) Anhydrous ammonia or ammonia solution (as defined in
 34 IC 22-11-20-1).

35 (6) Organic solvents.

36 (7) Hydrochloric acid.

37 (8) Lithium metal.

38 (9) Sodium metal.

39 (10) Ether.

40 (11) Sulfuric acid.

41 (12) Red phosphorous.

42 (13) Iodine.



- 1 (14) Sodium hydroxide (lye).
- 2 (15) Potassium dichromate.
- 3 (16) Sodium dichromate.
- 4 (17) Potassium permanganate.
- 5 (18) Chromium trioxide.
- 6 (19) Benzyl cyanide.
- 7 (20) Phenylacetic acid and its esters or salts.
- 8 (21) Piperidine and its salts.
- 9 (22) Methylamine and its salts.
- 10 (23) Isosafrole.
- 11 (24) Safrole.
- 12 (25) Piperonal.
- 13 (26) Hydriodic acid.
- 14 (27) Benzaldehyde.
- 15 (28) Nitroethane.
- 16 (29) Gamma-butyrolactone.
- 17 (30) White phosphorus.
- 18 (31) Hypophosphorous acid and its salts.
- 19 (32) Acetic anhydride.
- 20 (33) Benzyl chloride.
- 21 (34) Ammonium nitrate.
- 22 (35) Ammonium sulfate.
- 23 (36) Hydrogen peroxide.
- 24 (37) Thionyl chloride.
- 25 (38) Ethyl acetate.
- 26 (39) Pseudoephedrine hydrochloride.
- 27 (b) A person who possesses more than ten (10) grams of ephedrine,
- 28 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
- 29 commits a Level 6 felony. However, the offense is a Level 5 felony if
- 30 the person possessed:
 - 31 (1) a firearm while possessing more than ten (10) grams of
 - 32 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
 - 33 adulterated; or
 - 34 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
 - 35 phenylpropanolamine, pure or adulterated, in, on, or within five
 - 36 hundred (500) feet of:
 - 37 (A) school property while a person under eighteen (18) years
 - 38 of age was reasonably expected to be present; or
 - 39 (B) a public park while a person under eighteen (18) years of
 - 40 age was reasonably expected to be present.
- 41 (c) A person who possesses anhydrous ammonia or ammonia
- 42 solution (as defined in IC 22-11-20-1) with the intent to manufacture



1 methamphetamine or amphetamine, schedule II controlled substances
 2 under IC 35-48-2-6, commits a Level 6 felony. However, the offense is
 3 a Level 5 felony if the person possessed:

4 (1) a firearm while possessing anhydrous ammonia or ammonia
 5 solution (as defined in IC 22-11-20-1) with intent to manufacture
 6 methamphetamine or amphetamine, schedule II controlled
 7 substances under IC 35-48-2-6; or

8 (2) anhydrous ammonia or ammonia solution (as defined in
 9 IC 22-11-20-1) with intent to manufacture methamphetamine or
 10 amphetamine, schedule II controlled substances under
 11 IC 35-48-2-6, in, on, or within five hundred (500) feet of:

12 (A) school property while a person under eighteen (18) years
 13 of age was reasonably expected to be present; or

14 (B) a public park while a person under eighteen (18) years of
 15 age was reasonably expected to be present.

16 (d) Subsection (b) does not apply to a:

17 (1) licensed health care provider, pharmacist, retail distributor,
 18 wholesaler, manufacturer, warehouseman, or common carrier or
 19 an agent of any of these persons if the possession is in the regular
 20 course of lawful business activities; or

21 (2) person who possesses more than ten (10) grams of a substance
 22 described in subsection (b) if the substance is possessed under
 23 circumstances consistent with typical medicinal or household use,
 24 including:

25 (A) the location in which the substance is stored;

26 (B) the possession of the substance in a variety of:

27 (i) strengths;

28 (ii) brands; or

29 (iii) types; or

30 (C) the possession of the substance:

31 (i) with different expiration dates; or

32 (ii) in forms used for different purposes.

33 (e) A person who possesses two (2) or more chemical reagents or
 34 precursors with the intent to manufacture a controlled substance
 35 commits a Level 6 felony.

36 (f) An offense under subsection (e) is a Level 5 felony if the person
 37 possessed:

38 (1) a firearm while possessing two (2) or more chemical reagents
 39 or precursors with intent to manufacture a controlled substance;
 40 or

41 (2) two (2) or more chemical reagents or precursors with intent to
 42 manufacture a controlled substance in, on, or within five hundred



- 1 (500) feet of:
 2 (A) school property while a person under eighteen (18) years
 3 of age was reasonably expected to be present; or
 4 (B) a public park while a person under eighteen (18) years of
 5 age was reasonably expected to be present.
 6 (g) A person who sells, transfers, distributes, or furnishes a chemical
 7 reagent or precursor to another person with knowledge or the intent that
 8 the recipient will use the chemical reagent or precursors to manufacture
 9 a controlled substance commits unlawful sale of a precursor, a Level
 10 6 felony. However, the offense is a Level 5 felony if the person sells,
 11 transfers, distributes, or furnishes more than ten (10) grams of
 12 ephedrine, pseudoephedrine, or phenylpropanolamine.
 13 (h) This subsection does not apply to a drug containing ephedrine,
 14 pseudoephedrine, or phenylpropanolamine that is dispensed under a
 15 prescription. A person who:
 16 (1) has been convicted of a **drug related felony (as defined in**
 17 **IC 35-48-1-16.3); and**
 18 (A) dealing in methamphetamine (IC 35-48-4-1.1);
 19 (B) possession of more than ten (10) grams of ephedrine;
 20 pseudoephedrine; or phenylpropanolamine (subsection (b));
 21 (C) possession of anhydrous ammonia or ammonia solution (as
 22 defined in IC 22-11-20-1) with intent to manufacture
 23 methamphetamine or amphetamine (subsection (c));
 24 (D) possession of two (2) or more chemical reagents or
 25 precursors with the intent to manufacture a controlled
 26 substance (subsection (e)); or
 27 (E) unlawful sale of a precursor (subsection (g)); and
 28 (2) not later than seven (7) years from the date the person was
 29 sentenced for the offense;
 30 knowingly or intentionally possesses ephedrine, pseudoephedrine, or
 31 phenylpropanolamine, pure or adulterated, commits possession of a
 32 precursor by a **methamphetamine drug** offender, a Level 6 felony.
 33 SECTION 23. IC 35-48-4-14.7, AS AMENDED BY P.L.5-2016,
 34 SECTION 6, AND AS AMENDED BY P.L.9-2016, SECTION 3, IS
 35 CORRECTED AND AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2017]: Sec. 14.7. (a) This section does not
 37 apply to the following:
 38 (1) Ephedrine or pseudoephedrine dispensed pursuant to a
 39 prescription. *Nothing in this section prohibits a person who is*
 40 *denied the sale of a nonprescription product containing*
 41 *pseudoephedrine or ephedrine from obtaining pseudoephedrine*
 42 *or ephedrine pursuant to a prescription.*



- 1 (2) The sale of a drug containing ephedrine or pseudoephedrine
 2 to a licensed health care provider, pharmacist, retail distributor,
 3 wholesaler, manufacturer, or an agent of any of these persons if
 4 the sale occurs in the regular course of lawful business activities.
 5 However, a retail distributor, wholesaler, or manufacturer is
 6 required to report a suspicious order to the state police department
 7 in accordance with subsection (g).
- 8 (3) The sale of a drug containing ephedrine or pseudoephedrine
 9 by a person who does not sell exclusively to walk-in customers for
 10 the personal use of the walk-in customers. However, if the person
 11 described in this subdivision is a retail distributor, wholesaler, or
 12 manufacturer, the person is required to report a suspicious order
 13 to the state police department in accordance with subsection (g).
- 14 (b) The following definitions apply throughout this section:
- 15 (1) "Constant video monitoring" means the surveillance by an
 16 automated camera that:
- 17 (A) records at least one (1) photograph or digital image every
 18 ten (10) seconds;
- 19 (B) retains a photograph or digital image for at least
 20 seventy-two (72) hours;
- 21 (C) has sufficient resolution and magnification to permit the
 22 identification of a person in the area under surveillance; and
- 23 (D) stores a recorded photograph or digital image at a location
 24 that is immediately accessible to a law enforcement officer.
- 25 (2) "Convenience package" means a package that contains a drug
 26 having as an active ingredient not more than sixty (60) milligrams
 27 of ephedrine or pseudoephedrine, or both.
- 28 (3) "Ephedrine" means pure or adulterated ephedrine.
- 29 (4) "Pharmacy or NPLeX retailer" means:
- 30 (A) a pharmacy, as defined in IC 25-26-13-2;
- 31 (B) a retailer containing a pharmacy, as defined in
 32 IC 25-26-13-2; or
- 33 (C) a retailer that electronically submits the required
 34 information to the National Precursor Log Exchange (NPLeX).
- 35 (5) "Pseudoephedrine" means pure or adulterated
 36 pseudoephedrine.
- 37 (6) "Retailer" means a grocery store, general merchandise store,
 38 or other similar establishment. The term does not include a
 39 pharmacy or NPLeX retailer.
- 40 (7) "Suspicious order" means a sale or transfer of a drug
 41 containing ephedrine or pseudoephedrine if the sale or transfer:
- 42 (A) is a sale or transfer that the retail distributor, wholesaler,



- 1 or manufacturer is required to report to the United States Drug
2 Enforcement Administration;
- 3 (B) appears suspicious to the retail distributor, wholesaler, or
4 manufacturer in light of the recommendations contained in
5 Appendix A of the report to the United States attorney general
6 by the suspicious orders task force under the federal
7 Comprehensive Methamphetamine Control Act of 1996; or
8 (C) is for cash or a money order in a total amount of at least
9 two hundred dollars (\$200).
- 10 (8) "Unusual theft" means the theft or unexplained disappearance
11 from a particular pharmacy or NPLeX retailer of drugs containing
12 ten (10) grams or more of ephedrine, pseudoephedrine, or both in
13 a twenty-four (24) hour period.
- 14 (c) A drug containing ephedrine or pseudoephedrine may be sold
15 only by a pharmacy or NPLeX retailer. *Except as provided in*
16 *subsection (f), a retailer may not sell a drug containing ephedrine or*
17 *pseudoephedrine.*
- 18 (d) A pharmacy or NPLeX retailer may sell a drug that contains the
19 active ingredient of ephedrine, pseudoephedrine, or both only if the
20 pharmacy or NPLeX retailer complies with the following conditions:
- 21 (1) The pharmacy or NPLeX retailer does not sell the drug to a
22 person less than eighteen (18) years of age.
- 23 (2) The pharmacy or NPLeX retailer does not sell drugs
24 containing more than:
- 25 (A) three and six-tenths (3.6) grams of ephedrine or
26 pseudoephedrine, or both, to one (1) individual on one (1) day;
27 (B) seven and two-tenths (7.2) grams of ephedrine or
28 pseudoephedrine, or both, to one (1) individual in a thirty (30)
29 day period; or
30 (C) sixty-one and two-tenths (61.2) grams of ephedrine or
31 pseudoephedrine, or both, to one (1) individual in a three
32 hundred sixty-five (365) day period.
- 33 (3) *Except as provided in subsection (f), before the sale occurs*
34 *the pharmacist or the pharmacy technician (as defined by*
35 *IC 25-26-19-2) has determined that the purchaser has a*
36 *relationship on record with the pharmacy, in compliance with*
37 *rules adopted by the board under IC 25-26-13-4. If it has been*
38 *determined that the purchaser does not have a relationship on*
39 *record with the pharmacy, the pharmacist shall make a*
40 *professional determination as to whether there is a legitimate*
41 *medical or pharmaceutical need for ephedrine or*
42 *pseudoephedrine before selling ephedrine or pseudoephedrine to*



1 *an individual. The pharmacist's professional determination must*
 2 *comply with the rules adopted under IC 25-26-13-4 and may*
 3 *include the following:*

4 (A) *Prior medication filling history of the individual.*

5 (B) *Consulting with the individual.*

6 (C) *Other tools that provide professional reassurance to the*
 7 *pharmacist that a legitimate medical or pharmaceutical need*
 8 *for ephedrine or pseudoephedrine exists.*

9 *A pharmacist who in good faith does not sell ephedrine or*
 10 *pseudoephedrine to an individual under this subdivision is*
 11 *immune from civil liability unless the refusal to sell constitutes*
 12 *gross negligence or intentional, wanton, or willful misconduct.*

13 ~~(3)~~ (4) *The pharmacy or NPLeX retailer requires:*

14 (A) *the purchaser to produce a valid government issued photo*
 15 *identification card showing the date of birth of the person;*

16 (B) *the purchaser to sign a written or electronic log attesting*
 17 *to the validity of the information; and*

18 (C) *the clerk who is conducting the transaction to initial or*
 19 *electronically record the clerk's identification on the log.*

20 Records from the completion of a log must be retained for at least
 21 two (2) years. A law enforcement officer has the right to inspect
 22 and copy a log or the records from the completion of a log in
 23 accordance with state and federal law. A pharmacy or NPLeX
 24 retailer may not sell or release a log or the records from the
 25 completion of a log for a commercial purpose. The Indiana
 26 criminal justice institute may obtain information concerning a log
 27 or the records from the completion of a log from a law
 28 enforcement officer if the information may not be used to identify
 29 a specific individual and is used only for statistical purposes. A
 30 pharmacy or NPLeX retailer that in good faith releases
 31 information maintained under this subsection is immune from
 32 civil liability unless the release constitutes gross negligence or
 33 intentional, wanton, or willful misconduct.

34 ~~(4)~~ (5) *The pharmacy or NPLeX retailer maintains a record of*
 35 *information for each sale of a nonprescription product containing*
 36 *pseudoephedrine or ephedrine. Required information includes:*

37 (A) *the name and address of each purchaser;*

38 (B) *the type of identification presented;*

39 (C) *the governmental entity that issued the identification;*

40 (D) *the identification number; and*

41 (E) *the ephedrine or pseudoephedrine product purchased,*
 42 *including the number of grams the product contains and the*



- 1 date and time of the transaction.
- 2 ~~(5)~~ (6) *Beginning January 1, 2012*, A pharmacy or NPLeX retailer
- 3 shall, except as provided in subdivision ~~(6)~~, (7), before
- 4 completing a sale of an over-the-counter product containing
- 5 pseudoephedrine or ephedrine, electronically submit the required
- 6 information to the National Precursor Log Exchange (NPLeX), if
- 7 the NPLeX system is available to pharmacies or NPLeX retailers
- 8 in the state without a charge for accessing the system. The
- 9 pharmacy or NPLeX retailer may not complete the sale if the
- 10 system generates a stop sale alert, including a stop sale alert for
- 11 a person convicted of a **drug related** felony reported under
- 12 IC 33-24-6-3.
- 13 ~~(6)~~ (7) If a pharmacy or NPLeX retailer selling an
- 14 over-the-counter product containing ephedrine or
- 15 pseudoephedrine experiences mechanical or electronic failure of
- 16 the electronic sales tracking system and is unable to comply with
- 17 the electronic sales tracking requirement, the pharmacy or NPLeX
- 18 retailer shall maintain a written log or an alternative electronic
- 19 ~~recordkeeping~~ **record keeping** mechanism until the pharmacy or
- 20 NPLeX retailer is able to comply with the electronic sales tracking
- 21 requirement.
- 22 ~~(7)~~ (8) The pharmacy or NPLeX retailer stores the drug behind a
- 23 counter in an area inaccessible to a customer or in a locked
- 24 display case that makes the drug unavailable to a customer
- 25 without the assistance of an employee.
- 26 (e) A person may not purchase drugs containing more than:
- 27 (1) three and six-tenths (3.6) grams of ephedrine or
- 28 pseudoephedrine, or both, on one (1) day;
- 29 (2) seven and two-tenths (7.2) grams of ephedrine or
- 30 pseudoephedrine, or both, in a thirty (30) day period; or
- 31 (3) sixty-one and two-tenths (61.2) grams of ephedrine or
- 32 pseudoephedrine, or both, in a three hundred sixty-five (365) day
- 33 period.
- 34 These limits apply to the total amount of base ephedrine and
- 35 pseudoephedrine contained in the products and not to the overall
- 36 weight of the products.
- 37 *(f) This subsection only applies to convenience packages. A retailer*
- 38 *may sell convenience packages under this section without complying*
- 39 *with the conditions listed in subsection (d):*
- 40 *(1) after June 30, 2013; and*
- 41 *(2) before January 1, 2014.*
- 42 *A retailer may not sell drugs containing more than sixty ~~(60)~~*



1 *milligrams of ephedrine or pseudoephedrine, or both in any one (1)*
 2 *transaction. A retailer who sells convenience packages must secure the*
 3 *convenience packages behind the counter in an area inaccessible to a*
 4 *customer or in a locked display case that makes the drug unavailable*
 5 *to a customer without the assistance of an employee. A retailer may not*
 6 *sell a drug containing ephedrine or pseudoephedrine after December*
 7 *31, 2013.*

8 *(f) If a purchaser does not have a relationship on record with the*
 9 *pharmacy, as determined by rules adopted by the board under*
 10 *IC 25-26-13-4, or the pharmacist has made a professional*
 11 *determination that there is not a legitimate medical or pharmaceutical*
 12 *need for ephedrine or pseudoephedrine under subsection (d), the*
 13 *purchaser may, at the pharmacist's discretion, purchase only the*
 14 *following:*

15 *(1) A product that has been determined under section 14.3 of this*
 16 *chapter to be an extraction resistant or a conversion resistant*
 17 *form of ephedrine or pseudoephedrine.*

18 *(2) A product that contains not more than:*

19 *(A) a total of seven hundred twenty (720) milligrams of*
 20 *ephedrine or pseudoephedrine per package; and*

21 *(B) thirty (30) milligrams of ephedrine or pseudoephedrine*
 22 *per tablet.*

23 *The pharmacist may not sell more than one (1) package of*
 24 *ephedrine or pseudoephedrine to a purchaser under this*
 25 *subdivision per day.*

26 *However, if the pharmacist believes that the ephedrine or*
 27 *pseudoephedrine purchase will be used to manufacture*
 28 *methamphetamine, the pharmacist may refuse to sell ephedrine or*
 29 *pseudoephedrine to the purchaser.*

30 *(g) A retail distributor, wholesaler, or manufacturer shall report a*
 31 *suspicious order to the state police department in writing.*

32 *(h) Not later than three (3) days after the discovery of an unusual*
 33 *theft at a particular retail store, the pharmacy or NPEX retailer shall*
 34 *report the unusual theft to the state police department in writing. If*
 35 *three (3) unusual thefts occur in a thirty (30) day period at a particular*
 36 *pharmacy or NPEX retailer, the pharmacy or NPEX retailer shall, for*
 37 *at least one hundred eighty (180) days after the date of the last unusual*
 38 *theft, locate all drugs containing ephedrine or pseudoephedrine at that*
 39 *particular pharmacy or NPEX retailer behind a counter in an area*
 40 *inaccessible to a customer or in a locked display case that makes the*
 41 *drug unavailable to customers without the assistance of an employee.*

42 *(i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance*



1 after February 1, 2005, that is more stringent than this section.

2 (j) A person who knowingly or intentionally violates this section
3 commits a Class C misdemeanor. However, the offense is a Class A
4 misdemeanor if the person has a prior unrelated conviction under this
5 section.

6 (k) A pharmacy or NPLEEx retailer that uses the electronic sales
7 tracking system in accordance with this section is immune from civil
8 liability for any act or omission committed in carrying out the duties
9 required by this section, unless the act or omission was due to
10 *negligence*, recklessness or deliberate or wanton misconduct. A
11 pharmacy or NPLEEx retailer is immune from liability to a third party
12 unless the pharmacy or NPLEEx retailer has violated a provision of this
13 section and the third party brings an action based on the pharmacy's or
14 NPLEEx retailer's violation of this section.

15 (l) The following requirements apply to the NPLEEx:

16 (1) Information contained in the NPLEEx may be shared only with
17 law enforcement officials.

18 (2) A law enforcement official may access Indiana transaction
19 information maintained in the NPLEEx for investigative purposes.

20 (3) NADDI may not modify sales transaction data that is shared
21 with law enforcement officials.

22 (4) At least one (1) time per day, Indiana data contained in the
23 NPLEEx for the previous calendar day shall be forwarded to the
24 state police department.

25 (m) *A person or corporate entity may not mandate a protocol or*
26 *procedure that interferes with the pharmacist's ability to exercise the*
27 *pharmacist's independent professional judgment under this section,*
28 *including whether to deny the sale of ephedrine or pseudoephedrine*
29 *under subsection (f).*

30 SECTION 24. IC 35-48-4-15, AS AMENDED BY P.L.217-2014,
31 SECTION 194, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2017]: Sec. 15. If a person is convicted of an
33 offense under section 1, 1.1, **1.2**, 2, 3, 4, or 10 of this chapter, and the
34 court finds that a motor vehicle was used in the commission of the
35 offense, the court may, in addition to any other order the court enters,
36 order that the person's driving privileges be suspended by the bureau
37 of motor vehicles for a period specified by the court of not more than
38 two (2) years.

39 SECTION 25. IC 35-50-2-2.2, AS AMENDED BY P.L.10-2016,
40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2017]: Sec. 2.2. (a) Except as provided in subsection (b), (c),
42 or (d), the court may suspend any part of a sentence for a felony.



1 (b) If a person is convicted of a Level 2 felony or a Level 3 felony,
 2 except a Level 2 felony or a Level 3 felony concerning a controlled
 3 substance under IC 35-48-4, and has any prior unrelated felony
 4 conviction, the court may suspend only that part of a sentence that is in
 5 excess of the minimum sentence for the:

- 6 (1) Level 2 felony; or
 7 (2) Level 3 felony.

8 (c) If:

9 (1) a person has a prior unrelated felony conviction in any
 10 jurisdiction for dealing in a controlled substance that is not
 11 marijuana, hashish, hash oil, salvia divinorum, or a synthetic
 12 drug, including an attempt or conspiracy to commit the offense;
 13 and

14 (2) the person is convicted of a Level 2 felony under:

15 (A) IC 35-48-4-1 and the offense involves the:

- 16 (i) manufacture;
 17 (ii) delivery; or
 18 (iii) financing of the manufacture or delivery;
 19 of heroin; or

20 (B) IC 35-48-4-1.1; or

21 (C) **IC 35-48-4-1.2;**

22 the court may suspend only that part of a sentence that is in excess of
 23 the minimum sentence for the Level 2 felony.

24 (d) The court may suspend only that part of a sentence for murder
 25 or a Level 1 felony conviction that is in excess of the minimum
 26 sentence for murder or the Level 1 felony conviction.

27 SECTION 26. IC 35-50-5-3, AS AMENDED BY P.L.180-2014,
 28 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2017]: Sec. 3. (a) Except as provided in subsection (i), (j), (l),
 30 or (m), in addition to any sentence imposed under this article for a
 31 felony or misdemeanor, the court may, as a condition of probation or
 32 without placing the person on probation, order the person to make
 33 restitution to the victim of the crime, the victim's estate, or the family
 34 of a victim who is deceased. The court shall base its restitution order
 35 upon a consideration of:

- 36 (1) property damages of the victim incurred as a result of the
 37 crime, based on the actual cost of repair (or replacement if repair
 38 is inappropriate);
 39 (2) medical and hospital costs incurred by the victim (before the
 40 date of sentencing) as a result of the crime;
 41 (3) the cost of medical laboratory tests to determine if the crime
 42 has caused the victim to contract a disease or other medical



- 1 condition;
- 2 (4) earnings lost by the victim (before the date of sentencing) as
- 3 a result of the crime including earnings lost while the victim was
- 4 hospitalized or participating in the investigation or trial of the
- 5 crime; and
- 6 (5) funeral, burial, or cremation costs incurred by the family or
- 7 estate of a homicide victim as a result of the crime.
- 8 (b) A restitution order under subsection (a), (i), (j), (l), or (m), is a
- 9 judgment lien that:
- 10 (1) attaches to the property of the person subject to the order;
- 11 (2) may be perfected;
- 12 (3) may be enforced to satisfy any payment that is delinquent
- 13 under the restitution order by the person in whose favor the order
- 14 is issued or the person's assignee; and
- 15 (4) expires;
- 16 in the same manner as a judgment lien created in a civil proceeding.
- 17 (c) When a restitution order is issued under subsection (a), the
- 18 issuing court may order the person to pay the restitution, or part of the
- 19 restitution, directly to:
- 20 (1) the victim services division of the Indiana criminal justice
- 21 institute in an amount not exceeding:
- 22 (A) the amount of the award, if any, paid to the victim under
- 23 IC 5-2-6.1; and
- 24 (B) the cost of the reimbursements, if any, for emergency
- 25 services provided to the victim under IC 16-10-1.5 (before its
- 26 repeal) or IC 16-21-8; or
- 27 (2) a probation department that shall forward restitution or part of
- 28 restitution to:
- 29 (A) a victim of a crime;
- 30 (B) a victim's estate; or
- 31 (C) the family of a victim who is deceased.
- 32 The victim services division of the Indiana criminal justice institute
- 33 shall deposit the restitution it receives under this subsection in the
- 34 violent crime victims compensation fund established by IC 5-2-6.1-40.
- 35 (d) When a restitution order is issued under subsection (a), (i), (j),
- 36 (l), or (m), the issuing court shall send a certified copy of the order to
- 37 the clerk of the circuit court in the county where the felony or
- 38 misdemeanor charge was filed. The restitution order must include the
- 39 following information:
- 40 (1) The name and address of the person that is to receive the
- 41 restitution.
- 42 (2) The amount of restitution the person is to receive.



1 Upon receiving the order, the clerk shall enter and index the order in
2 the circuit court judgment docket in the manner prescribed by
3 IC 33-32-3-2. The clerk shall also notify the department of insurance
4 of an order of restitution under subsection (i).

5 (e) An order of restitution under subsection (a), (i), (j), (l), or (m),
6 does not bar a civil action for:

7 (1) damages that the court did not require the person to pay to the
8 victim under the restitution order but arise from an injury or
9 property damage that is the basis of restitution ordered by the
10 court; and

11 (2) other damages suffered by the victim.

12 (f) Regardless of whether restitution is required under subsection (a)
13 as a condition of probation or other sentence, the restitution order is not
14 discharged by the completion of any probationary period or other
15 sentence imposed for a felony or misdemeanor.

16 (g) A restitution order under subsection (a), (i), (j), (l), or (m), is not
17 discharged by the liquidation of a person's estate by a receiver under
18 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,
19 IC 34-1-12, or IC 34-2-7 before their repeal).

20 (h) The attorney general may pursue restitution ordered by the court
21 under subsections (a) and (c) on behalf of the victim services division
22 of the Indiana criminal justice institute established under IC 5-2-6-8.

23 (i) The court may order the person convicted of an offense under
24 IC 35-43-9 to make restitution to the victim of the crime. The court
25 shall base its restitution order upon a consideration of the amount of
26 money that the convicted person converted, misappropriated, or
27 received, or for which the convicted person conspired. The restitution
28 order issued for a violation of IC 35-43-9 must comply with subsections
29 (b), (d), (e), and (g), and is not discharged by the completion of any
30 probationary period or other sentence imposed for a violation of
31 IC 35-43-9.

32 (j) The court may order the person convicted of an offense under
33 IC 35-43-5-3.5 to make restitution to the victim of the crime, the
34 victim's estate, or the family of a victim who is deceased. The court
35 shall base its restitution order upon a consideration of the amount of
36 fraud or harm caused by the convicted person and any reasonable
37 expenses (including lost wages) incurred by the victim in correcting the
38 victim's credit report and addressing any other issues caused by the
39 commission of the offense under IC 35-43-5-3.5. If, after a person is
40 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's
41 estate, or the family of a victim discovers or incurs additional expenses
42 that result from the convicted person's commission of the offense under



1 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders
 2 to require the convicted person to make restitution, even if the court
 3 issued a restitution order at the time of sentencing. For purposes of
 4 entering a restitution order after sentencing, a court has continuing
 5 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5
 6 for five (5) years after the date of sentencing. Each restitution order
 7 issued for a violation of IC 35-43-5-3.5 must comply with subsections
 8 (b), (d), (e), and (g), and is not discharged by the completion of any
 9 probationary period or other sentence imposed for an offense under
 10 IC 35-43-5-3.5.

11 (k) The court shall order a person convicted of an offense under
 12 IC 35-42-3.5 to make restitution to the victim of the crime in an amount
 13 equal to the greater of the following:

14 (1) The gross income or value to the person of the victim's labor
 15 or services.

16 (2) The value of the victim's labor as guaranteed under the
 17 minimum wage and overtime provisions of:

18 (A) the federal Fair Labor Standards Act of 1938, as amended
 19 (29 U.S.C. 201-209); or

20 (B) IC 22-2-2 (Minimum Wage);

21 whichever is greater.

22 (l) The court shall order a person who:

23 (1) is convicted of dealing in methamphetamine under
 24 IC 35-48-4-1.1 **or manufacturing methamphetamine under**
 25 **IC 35-48-4-1.2;** and

26 (2) manufactured the methamphetamine on property owned by
 27 another person, without the consent of the property owner;

28 to pay liquidated damages to the property owner in the amount of ten
 29 thousand dollars (\$10,000) or to pay actual damages to the property
 30 owner, including lost rent and the costs of decontamination by an
 31 inspector approved under IC 13-14-1-15.

32 (m) The court shall order a person who:

33 (1) is convicted of dealing in marijuana under
 34 IC 35-48-4-10(a)(1)(A); and

35 (2) manufactured the marijuana on property owned by another
 36 person, without the consent of the property owner;

37 to pay liquidated damages to the property owner in the amount of two
 38 thousand dollars (\$2,000).

39 SECTION 27. IC 35-50-10-1, AS ADDED BY P.L.106-2016,
 40 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2017]: Sec. 1. (a) If an individual is a teacher in a primary or
 42 secondary school, including a public or nonpublic school, and is



- 1 convicted of:
- 2 (1) kidnapping (IC 35-42-3-2);
- 3 (2) criminal confinement (IC 35-42-3-3);
- 4 (3) rape (IC 35-42-4-1);
- 5 (4) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
- 6 (5) child molesting (IC 35-42-4-3);
- 7 (6) child exploitation (IC 35-42-4-4(b));
- 8 (7) vicarious sexual gratification (IC 35-42-4-5);
- 9 (8) child solicitation (IC 35-42-4-6);
- 10 (9) child seduction (IC 35-42-4-7);
- 11 (10) sexual misconduct with a minor (IC 35-42-4-9);
- 12 (11) incest (IC 35-46-1-3);
- 13 (12) dealing in or manufacturing cocaine or a narcotic drug
- 14 (IC 35-48-4-1);
- 15 (13) dealing in methamphetamine (IC 35-48-4-1.1);
- 16 **(14) manufacturing methamphetamine (IC 35-48-4-1.2);**
- 17 ~~(14)~~ **(15)** dealing in a schedule I, II, or III controlled substance
- 18 (IC 35-48-4-2);
- 19 ~~(15)~~ **(16)** dealing in a schedule IV controlled substance
- 20 (IC 35-48-4-3);
- 21 ~~(16)~~ **(17)** dealing in a schedule V controlled substance
- 22 (IC 35-48-4-4);
- 23 ~~(17)~~ **(18)** dealing in a counterfeit substance (IC 35-48-4-5);
- 24 ~~(18)~~ **(19)** dealing in marijuana, hash oil, hashish, or salvia as a
- 25 felony (IC 35-48-4-10);
- 26 ~~(19)~~ **(20)** dealing in a synthetic drug or synthetic drug lookalike
- 27 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
- 28 amendment in 2013);
- 29 ~~(20)~~ **(21)** possession of child pornography (IC 35-42-4-4(c));
- 30 ~~(21)~~ **(22)** homicide (IC 35-42-1);
- 31 ~~(22)~~ **(23)** voluntary manslaughter (IC 35-42-1-3);
- 32 ~~(23)~~ **(24)** reckless homicide (IC 35-42-1-5);
- 33 ~~(24)~~ **(25)** battery (IC 35-42-2-1) as:
- 34 (A) a Class A felony (for a crime committed before July 1,
- 35 2014) or a Level 2 felony (for a crime committed after June
- 36 30, 2014);
- 37 (B) a Class B felony (for a crime committed before July 1,
- 38 2014) or a Level 3 felony (for a crime committed after June
- 39 30, 2014); or
- 40 (C) a Class C felony (for a crime committed before July 1,
- 41 2014) or a Level 5 felony (for a crime committed after June
- 42 30, 2014);



- 1 ~~(25)~~ **(26)** aggravated battery (IC 35-42-2-1.5);
 2 ~~(26)~~ **(27)** robbery (IC 35-42-5-1);
 3 ~~(27)~~ **(28)** carjacking (IC 35-42-5-2) (before its repeal);
 4 ~~(28)~~ **(29)** arson as a Class A felony or Class B felony (for a crime
 5 committed before July 1, 2014) or as a Level 2, Level 3, or Level
 6 4 felony (for a crime committed after June 30, 2014)
 7 (IC 35-43-1-1(a));
 8 ~~(29)~~ **(30)** burglary as a Class A felony or Class B felony (for a
 9 crime committed before July 1, 2014) or as a Level 1, Level 2,
 10 Level 3, or Level 4 felony (for a crime committed after June 30,
 11 2014) (IC 35-43-2-1);
 12 ~~(30)~~ **(31)** attempt under IC 35-41-5-1 to commit an offense listed
 13 in this subsection; or
 14 ~~(31)~~ **(32)** conspiracy under IC 35-41-5-2 to commit an offense
 15 listed in this subsection;
- 16 the judge who presided over the trial or accepted a plea agreement shall
 17 give written notice of the conviction to the state superintendent and the
 18 chief administrative officer of the primary or secondary school,
 19 including a public or nonpublic school, or, if the individual is employed
 20 in a public school, the superintendent of the school district in which the
 21 individual is employed.
- 22 (b) Notice under subsection (a) must occur not later than seven (7)
 23 days after the date the judgment is entered.
- 24 (c) The notification sent to a school or school district under
 25 subsection (a) must include only the felony for which the individual
 26 was convicted.
- 27 (d) If a judge later modifies the individual's sentence after giving
 28 notice under this section, the judge shall notify the school or the school
 29 district of the modification.
- 30 (e) After receiving a notification under subsection (a), the
 31 superintendent shall initiate procedures to revoke the individual's
 32 license to teach.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1406, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1406 as introduced.)

WASHBURN

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1406, 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 11, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 5. IC 33-23-1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 4.5. "Drug related felony" has the meaning set forth in IC 35-48-1-16.3.**

SECTION 6. IC 33-24-6-3, AS AMENDED BY P.L.9-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The division of state court administration shall do the following:

- (1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
- (2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

EH 1406—LS 7000/DI 124



- (A) The volume, condition, and type of business conducted by the courts.
 - (B) The methods of procedure in the courts.
 - (C) The work accomplished by the courts.
 - (D) The receipt and expenditure of public money by and for the operation of the courts.
 - (E) The methods of disposition or termination of cases.
- (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).
- (4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.
- (5) Administer the civil legal aid fund as required by IC 33-24-12.
- (6) Administer the judicial technology and automation project fund established by section 12 of this chapter.
- (7) By December 31, 2013, develop and implement a standard protocol for sending and receiving court data:
- (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
 - (B) at the option of the county prosecuting attorney, for:
 - (i) a prosecuting attorney's case management system;
 - (ii) a county court case management system; and
 - (iii) a county court case management system developed and operated by the division of state court administration;
 to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
 - (C) between county court case management systems and the case management system developed and operated by the division of state court administration.

The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost.

- (8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.
- (9) Establish and administer an electronic system for receiving



drug related felony conviction information for each felony described in ~~IC 35-48-4-14.5(h)(1)~~ from courts. The division shall notify NPLeX of each **drug related** felony described in ~~IC 35-48-4-14.5(h)(1)~~ entered after June 30, 2012, and do the following:

- (A) Provide NPLeX with the following information:
- (i) The convicted individual's full name.
 - (ii) The convicted individual's date of birth.
 - (iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.
 - (iv) The date the individual was convicted of the felony.

Upon receipt of the information from the division, a stop sale alert must be generated through NPLeX for each individual reported under this clause.

(B) Notify NPLeX if the felony of an individual reported under clause (A) has been:

- (i) set aside;
- (ii) reversed;
- (iii) expunged; or
- (iv) vacated.

Upon receipt of information under this clause, NPLeX shall remove the stop sale alert issued under clause (A) for the individual.

(10) Staff the judicial technology oversight committee established by IC 33-23-17-2.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section."

Page 17, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 10. IC 35-42-2-9, AS AMENDED BY P.L.158-2013, SECTION 432, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) This section does not apply to a medical procedure.

(b) As used in this section, "torso" means any part of the upper body from the collarbone to the hips.

~~(b)~~ (c) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

- (1) applies pressure to the throat or neck of another person; ~~or~~
- (2) obstructs the nose or mouth of the another person; ~~or~~
- (3) applies pressure to the torso of another person;**



in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Level 6 felony.

(d) However, the offense under subsection (c) is a Level 5 felony if:

- (1) the offense is committed against a pregnant woman; and**
- (2) the person who committed the offense knew the victim was pregnant at the time of the offense."**

Page 19, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 12. IC 35-43-1-2.1, AS AMENDED BY P.L.158-2013, SECTION 454, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2.1. (a) This section does not apply to the following:

- (1) A person who acts in a proper and acceptable manner as authorized by IC 14-21 other than a person who disturbs the earth for an agricultural purpose under the exemption to IC 14-21 that is provided in IC 14-21-1-24.
- (2) A person who acts in a proper and acceptable manner as authorized by IC 23-14.
- (b) A person who recklessly, knowingly, or intentionally:
 - (1) damages a cemetery, a burial ground (as defined in IC 14-21-1-3), or a facility used for memorializing the dead;
 - (2) damages the grounds owned or rented by a cemetery or facility used for memorializing the dead; or
 - (3) disturbs, defaces, or damages a cemetery monument, grave marker, grave artifact, grave ornamentation, or cemetery enclosure;

commits cemetery mischief, a Class A misdemeanor. However, the offense is a Level 6 felony if the pecuniary loss is at least ~~two thousand five hundred dollars (\$2,500)~~; **seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000), and a Level 5 felony if the pecuniary loss is at least fifty thousand dollars (\$50,000).**

SECTION 13. IC 35-43-4-2.5, AS AMENDED BY P.L.168-2014, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2.5. (a) As used in this section, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).

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

- (1) the vehicle's value or use; or
 - (2) a component part (as defined in IC 9-13-2-34) of the vehicle;
- commits auto theft, a Level 6 felony.

(c) A person who knowingly or intentionally receives, retains, or



disposes of a motor vehicle or any part of a motor vehicle of another person that has been the subject of theft commits receiving stolen auto parts, a Level 6 felony. **However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or under subsection (b).**

SECTION 14. IC 35-44.1-2-2, AS AMENDED BY P.L.158-2013, SECTION 502, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) A person who:

(1) knowingly or intentionally induces, by threat, coercion, false statement, or offer of goods, services, or anything of value, a witness or informant in an official proceeding or investigation to:

(A) withhold or unreasonably delay in producing any testimony, information, document, or thing;

(B) avoid legal process summoning the person to testify or supply evidence; or

(C) absent the person from a proceeding or investigation to which the person has been legally summoned;

(2) knowingly or intentionally in an official criminal proceeding or investigation:

(A) withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders the person to produce the testimony, information, document, or thing;

(B) avoids legal process summoning the person to testify or supply evidence; or

(C) absents the person from a proceeding or investigation to which the person has been legally summoned;

(3) alters, damages, or removes any record, document, or thing, with intent to prevent it from being produced or used as evidence in any official proceeding or investigation;

(4) makes, presents, or uses a false record, document, or thing with intent that the record, document, or thing, material to the point in question, appear in evidence in an official proceeding or investigation to mislead a public servant; or

(5) communicates, directly or indirectly, with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror;

commits obstruction of justice, a Level 6 felony, **except as provided in subsection (b).**

(b) Except as provided in subsection (e), the offense described in subsection (a) is a Level 5 felony if, during the investigation or pendency of a domestic violence or child abuse case under



subsection (c), a person knowingly or intentionally:

- (1) offers, gives, or promises any benefit to;
- (2) communicates a threat as defined by IC 35-45-2-1(c) to; or
- (3) intimidates, unlawfully influences, or unlawfully persuades;

any witness to abstain from attending or giving testimony at any hearing, trial, deposition, probation, or other criminal proceeding or from giving testimony or other statements to a court or law enforcement officer under IC 35-31.5-2-185.

(c) As used in this section, "domestic violence or child abuse case" means any case involving an allegation of:

- (1) the commission of a crime involving domestic or family violence under IC 35-31.5-2-76 involving a family or household member under IC 35-31.5-2-128;
- (2) the commission of a crime of domestic violence under IC 35-31.5-2-78 involving a family or household member under IC 35-31.5-2-128; or
- (3) physical abuse, sexual abuse, or child neglect, including crimes listed under IC 35-31.5-2-76 involving a victim who was less than eighteen (18) years of age at the time of the offense, whether or not the person is a family or household member under IC 35-31.5-2-128.

~~(b)~~ (d) Subsection (a)(2)(A) does not apply to:

- (1) a person who qualifies for a special privilege under IC 34-46-4 with respect to the testimony, information, document, or thing; or
- (2) a person who, as:
 - (A) an attorney;
 - (B) a physician;
 - (C) a member of the clergy; or
 - (D) a husband or wife;

is not required to testify under IC 34-46-3-1.

(e) Subsection (b) does not apply to:

- (1) an attorney;
- (2) an investigator;
- (3) a law enforcement officer; or
- (4) a judge;

engaged in that person's professional or official duties."

Page 25, between lines 21 and 22, begin a new paragraph and insert:
 "SECTION 19. IC 35-48-1-16.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16.3. "Drug related felony" means a felony conviction for an offense described in:



(1) IC 35-48-4-1 through IC 35-48-4-11.5; or

(2) IC 35-48-4-13 through IC 35-48-4-14.7."

Page 26, line 24, delete "who:" and insert **"who knowingly or intentionally manufactures or finances the manufacture of methamphetamine, pure or adulterated,"**.

Page 26, delete lines 25 through 32.

Page 26, run in lines 24 through 33.

Page 27, delete lines 8 through 42, begin a new paragraph, and insert:

"SECTION 23. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.
- (19) Benzyl cyanide.
- (20) Phenylacetic acid and its esters or salts.
- (21) Piperidine and its salts.
- (22) Methylamine and its salts.
- (23) Isosafrole.
- (24) Safrole.
- (25) Piperonal.
- (26) Hydriodic acid.



- (27) Benzaldehyde.
- (28) Nitroethane.
- (29) Gamma-butyrolactone.
- (30) White phosphorus.
- (31) Hypophosphorous acid and its salts.
- (32) Acetic anhydride.
- (33) Benzyl chloride.
- (34) Ammonium nitrate.
- (35) Ammonium sulfate.
- (36) Hydrogen peroxide.
- (37) Thionyl chloride.
- (38) Ethyl acetate.
- (39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a Level 6 felony. However, the offense is a Level 5 felony if the person possessed:

- (1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within five hundred (500) feet of:
 - (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a Level 6 felony. However, the offense is a Level 5 felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6; or
- (2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within five hundred (500) feet of:
 - (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or



- (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.
- (d) Subsection (b) does not apply to a:
- (1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
 - (2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
 - (A) the location in which the substance is stored;
 - (B) the possession of the substance in a variety of:
 - (i) strengths;
 - (ii) brands; or
 - (iii) types; or
 - (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.
- (e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a Level 6 felony.
- (f) An offense under subsection (e) is a Level 5 felony if the person possessed:
- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or
 - (2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within five hundred (500) feet of:
 - (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.
- (g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a Level 6 felony. However, the offense is a Level 5 felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.
- (h) This subsection does not apply to a drug containing ephedrine,



pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:

(1) has been convicted of **a drug related felony (as defined in IC 35-48-1-16.3); and**

(A) ~~dealing in methamphetamine (IC 35-48-4-1.1);~~

(B) ~~possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));~~

(C) ~~possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (subsection (c));~~

(D) ~~possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); or~~

(E) ~~unlawful sale of a precursor (subsection (g)); and~~

(2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a **methamphetamine drug** offender, a Level 6 felony.

SECTION 24. IC 35-48-4-14.7, AS AMENDED BY P.L.5-2016, SECTION 6, AND AS AMENDED BY P.L.9-2016, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription. *Nothing in this section prohibits a person who is denied the sale of a nonprescription product containing pseudoephedrine or ephedrine from obtaining pseudoephedrine or ephedrine pursuant to a prescription.*

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (g).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (g).



- (b) The following definitions apply throughout this section:
- (1) "Constant video monitoring" means the surveillance by an automated camera that:
 - (A) records at least one (1) photograph or digital image every ten (10) seconds;
 - (B) retains a photograph or digital image for at least seventy-two (72) hours;
 - (C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and
 - (D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.
 - (2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.
 - (3) "Ephedrine" means pure or adulterated ephedrine.
 - (4) "Pharmacy or NPLeX retailer" means:
 - (A) a pharmacy, as defined in IC 25-26-13-2;
 - (B) a retailer containing a pharmacy, as defined in IC 25-26-13-2; or
 - (C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLeX).
 - (5) "Pseudoephedrine" means pure or adulterated pseudoephedrine.
 - (6) "Retailer" means a grocery store, general merchandise store, or other similar establishment. The term does not include a pharmacy or NPLeX retailer.
 - (7) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:
 - (A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;
 - (B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or
 - (C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).
 - (8) "Unusual theft" means the theft or unexplained disappearance from a particular pharmacy or NPLeX retailer of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.



(c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy or NPLeX retailer. *Except as provided in subsection (f), a retailer may not sell a drug containing ephedrine or pseudoephedrine.*

(d) A pharmacy or NPLeX retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the pharmacy or NPLeX retailer complies with the following conditions:

(1) The pharmacy or NPLeX retailer does not sell the drug to a person less than eighteen (18) years of age.

(2) The pharmacy or NPLeX retailer does not sell drugs containing more than:

(A) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day;

(B) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; or

(C) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) *Except as provided in subsection (f), before the sale occurs the pharmacist or the pharmacy technician (as defined by IC 25-26-19-2) has determined that the purchaser has a relationship on record with the pharmacy, in compliance with rules adopted by the board under IC 25-26-13-4. If it has been determined that the purchaser does not have a relationship on record with the pharmacy, the pharmacist shall make a professional determination as to whether there is a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine before selling ephedrine or pseudoephedrine to an individual. The pharmacist's professional determination must comply with the rules adopted under IC 25-26-13-4 and may include the following:*

(A) *Prior medication filling history of the individual.*

(B) *Consulting with the individual.*

(C) *Other tools that provide professional reassurance to the pharmacist that a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine exists.*

A pharmacist who in good faith does not sell ephedrine or pseudoephedrine to an individual under this subdivision is immune from civil liability unless the refusal to sell constitutes gross negligence or intentional, wanton, or willful misconduct.

~~(3)~~ (4) The pharmacy or NPLeX retailer requires:



- (A) the purchaser to produce a valid government issued photo identification card showing the date of birth of the person;
- (B) the purchaser to sign a written or electronic log attesting to the validity of the information; and
- (C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A pharmacy or NPLEx retailer may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A pharmacy or NPLEx retailer that in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

~~(4)~~ (5) The pharmacy or NPLEx retailer maintains a record of information for each sale of a nonprescription product containing pseudoephedrine or ephedrine. Required information includes:

- (A) the name and address of each purchaser;
- (B) the type of identification presented;
- (C) the governmental entity that issued the identification;
- (D) the identification number; and
- (E) the ephedrine or pseudoephedrine product purchased, including the number of grams the product contains and the date and time of the transaction.

~~(5)~~ (6) *Beginning January 1, 2012,* A pharmacy or NPLEx retailer shall, except as provided in subdivision ~~(6)~~, (7), before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine, electronically submit the required information to the National Precursor Log Exchange (NPLEx), if the NPLEx system is available to pharmacies or NPLEx retailers in the state without a charge for accessing the system. The pharmacy or NPLEx retailer may not complete the sale if the system generates a stop sale alert, including a stop sale alert for a person convicted of a **drug related** felony reported under IC 33-24-6-3.

~~(6)~~ (7) If a pharmacy or NPLEx retailer selling an



over-the-counter product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the pharmacy or NPLeX retailer shall maintain a written log or an alternative electronic ~~recordkeeping~~ **record keeping** mechanism until the pharmacy or NPLeX retailer is able to comply with the electronic sales tracking requirement.

~~(7)~~ (8) The pharmacy or NPLeX retailer stores the drug behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

- (e) A person may not purchase drugs containing more than:
- (1) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day;
 - (2) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period; or
 - (3) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period.

These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

(f) This subsection only applies to convenience packages. A retailer may sell convenience packages under this section without complying with the conditions listed in subsection (d):

- (1) after June 30, 2013; and*
- (2) before January 1, 2014.*

A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction. A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee. A retailer may not sell a drug containing ephedrine or pseudoephedrine after December 31, 2013.

(f) If a purchaser does not have a relationship on record with the pharmacy, as determined by rules adopted by the board under IC 25-26-13-4, or the pharmacist has made a professional determination that there is not a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine under subsection (d), the purchaser may, at the pharmacist's discretion, purchase only the



following:

(1) *A product that has been determined under section 14.3 of this chapter to be an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine.*

(2) *A product that contains not more than:*

(A) a total of seven hundred twenty (720) milligrams of ephedrine or pseudoephedrine per package; and

(B) thirty (30) milligrams of ephedrine or pseudoephedrine per tablet.

The pharmacist may not sell more than one (1) package of ephedrine or pseudoephedrine to a purchaser under this subdivision per day.

However, if the pharmacist believes that the ephedrine or pseudoephedrine purchase will be used to manufacture methamphetamine, the pharmacist may refuse to sell ephedrine or pseudoephedrine to the purchaser.

(g) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(h) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the pharmacy or NPLeX retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular pharmacy or NPLeX retailer, the pharmacy or NPLeX retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular pharmacy or NPLeX retailer behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(j) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(k) A pharmacy or NPLeX retailer that uses the electronic sales tracking system in accordance with this section is immune from civil liability for any act or omission committed in carrying out the duties required by this section, unless the act or omission was due to *negligence*, recklessness or deliberate or wanton misconduct. A pharmacy or NPLeX retailer is immune from liability to a third party unless the pharmacy or NPLeX retailer has violated a provision of this section and the third party brings an action based on the pharmacy's or



NPLEx retailer's violation of this section.

(l) The following requirements apply to the NPLEx:

- (1) Information contained in the NPLEx may be shared only with law enforcement officials.
- (2) A law enforcement official may access Indiana transaction information maintained in the NPLEx for investigative purposes.
- (3) NADDI may not modify sales transaction data that is shared with law enforcement officials.
- (4) At least one (1) time per day, Indiana data contained in the NPLEx for the previous calendar day shall be forwarded to the state police department.

(m) A person or corporate entity may not mandate a protocol or procedure that interferes with the pharmacist's ability to exercise the pharmacist's independent professional judgment under this section, including whether to deny the sale of ephedrine or pseudoephedrine under subsection (f)."

Delete pages 28 through 29.

Page 30, delete lines 1 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1406 as printed February 3, 2017.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 1.

