

## SENATE BILL No. 55

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3; IC 4; IC 5; IC 6; IC 7.1; IC 9; IC 10; IC 11; IC 12; IC 16; IC 23; IC 24; IC 25; IC 28; IC 29; IC 31; IC 33; IC 34; IC 35; IC 36.

**Synopsis:** Elimination of grand juries. Abolishes the grand jury. Makes conforming amendments, and repeals superseded provisions. Makes technical corrections.

**Effective:** July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 55



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 3-6-6-12 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) A county election board  
3 shall remove a member of a precinct election board and declare the  
4 office vacant if:

5 (1) at any time before or during an election the county election  
6 board is notified by the affidavit of two (2) or more voters of the  
7 precinct that the member is not qualified; and  
8 (2) the board determines that the statements made in the affidavit  
9 concerning the disqualification of the precinct election board  
10 member are true.

11 (b) If the disqualified member has taken the oath of office required  
12 by this chapter, the circuit court clerk shall attach the oath to the poll  
13 list and shall ~~place~~ **transmit** the affidavit and oath ~~before the next~~  
14 **grand jury of the county: to the prosecuting attorney.**

15 SECTION 2. IC 3-6-8-6 IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2013]: Sec. 6. A watcher appointed under this  
17 chapter shall report any violation of the election laws that comes to the



1 watcher's attention to the ~~county grand jury~~ or prosecuting attorney.

2 SECTION 3. IC 3-10-1-31.1, AS AMENDED BY P.L.141-2011,  
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2013]: Sec. 31.1. (a) This section applies only to election  
5 materials for elections held after December 31, 2003.

6 (b) The inspector of each precinct shall deliver the bags required by  
7 section 30(a) and 30(c) of this chapter in good condition, together with  
8 poll lists, tally sheets, and other forms, to the circuit court clerk when  
9 making returns.

10 (c) Except for unused ballots disposed of under IC 3-11-3-31 or  
11 affidavits received by the county election board under IC 3-14-5-2 for  
12 delivery to the ~~foreman of a grand jury~~, **prosecuting attorney**, the  
13 circuit court clerk shall seal the ballots (including provisional ballots)  
14 and other material (including election material related to provisional  
15 ballots) during the time allowed to file a verified petition or  
16 cross-petition for a recount of votes or to contest the election. Except  
17 as provided in subsection (d) and notwithstanding any other provision  
18 of state law, after the recount or contest filing period, the election  
19 material, including election material related to provisional ballots  
20 (except for ballots and provisional ballots, which remain confidential)  
21 shall be made available for copying and inspection under IC 5-14-3.  
22 The circuit court clerk shall carefully preserve the sealed ballots and  
23 other material for twenty-two (22) months, as required by 42 U.S.C.  
24 1974, after which the sealed ballots and other material are subject to  
25 IC 5-15-6 unless an order issued under:

26 (1) IC 3-12-6-19 or IC 3-12-11-16; or

27 (2) 42 U.S.C. 1973;

28 requires the continued preservation of the ballots or other material.

29 (d) If a petition for a recount or contest is filed, the material for that  
30 election remains confidential until completion of the recount or contest.

31 (e) Upon delivery of the poll lists, the county voter registration  
32 office may unseal the envelopes containing the poll lists. For the  
33 purposes of:

34 (1) a cancellation of registration conducted under IC 3-7-43  
35 through IC 3-7-46;

36 (2) a transfer of registration conducted under IC 3-7-39,  
37 IC 3-7-40, or IC 3-7-42;

38 (3) a change of name made under IC 3-7-41;

39 (4) adding the registration of a voter under IC 3-7-48-8; or

40 (5) recording that a voter subject to IC 3-7-33-4.5 submitted the  
41 documentation required under 42 U.S.C. 15483 and IC 3-11-8 or  
42 IC 3-11-10;

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1 the county voter registration office may inspect the poll lists and update  
 2 the registration record of the county. The county voter registration  
 3 office shall use the poll lists to update the registration record to include  
 4 the voter's voter identification number if the voter's voter identification  
 5 number is not already included in the registration record. Upon  
 6 completion of the inspection, the poll list shall be preserved with the  
 7 ballots and other materials in the manner prescribed by subsection (c)  
 8 for the period prescribed by subsections (c) and (d).

9 (f) This subsection does not apply to ballots, including provisional  
 10 ballots. Notwithstanding subsection (c), if a county voter registration  
 11 office determines that the inspection and copying of precinct election  
 12 material would reveal the political parties, candidates, and public  
 13 questions for which an individual cast an absentee ballot, the county  
 14 voter registration office shall keep confidential only that part of the  
 15 election material necessary to protect the secrecy of the voter's ballot.  
 16 In addition, the county voter registration office shall keep confidential  
 17 information contained in material related to provisional ballots that  
 18 identifies an individual, except for the individual's name, address, and  
 19 birth date.

20 (g) After the expiration of the period described in subsection (c) or  
 21 (d), the ballots may be destroyed in the manner provided by  
 22 IC 3-11-3-31 or transferred to a state educational institution as  
 23 provided by IC 3-12-2-12.

24 SECTION 4. IC 3-14-3-4, AS AMENDED BY P.L.103-2005,  
 25 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2013]: Sec. 4. (a) A person who:

- 27 (1) knowingly obstructs or interferes with an election officer in  
 28 the discharge of the officer's duty; or  
 29 (2) knowingly obstructs or interferes with a voter within the  
 30 chute;

31 commits a Class D felony.

32 (b) A person who knowingly injures an election officer or a voter:

- 33 (1) in the exercise of the officer's or voter's rights or duties; or  
 34 (2) because the officer or voter has exercised the officer's or  
 35 voter's rights or duties;

36 commits a Class D felony.

37 (c) A person called as a witness to testify against another for a  
 38 violation of this section is a competent witness to prove the offense  
 39 even though the person may have been a party to the violation. The  
 40 person shall be compelled to testify as other witnesses. However, the  
 41 person's evidence may not be used against the person in a prosecution  
 42 growing out of matters about which the person testifies, and the person

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1 is not liable to ~~indictment or~~ information for the offense.

2 SECTION 5. IC 3-14-5-1, AS AMENDED BY P.L.230-2005,  
3 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2013]: Sec. 1. (a) This section applies during an election  
5 whenever a voter makes an affidavit before the inspector in a precinct  
6 that a person who has voted is an illegal voter in the precinct. This  
7 section does not apply to an affidavit executed by an individual who:

- 8 (1) is subject to the requirements set forth in IC 3-7-33-4.5;  
9 (2) is challenged solely as a result of the individual's inability or  
10 refusal to comply with IC 3-7-33-4.5; and  
11 (3) subsequently complies with IC 3-7-33-4.5 before the close of  
12 the polls on election day.

13 (b) Immediately after the close of the polls the inspector shall  
14 deliver the affidavit to the county election board for delivery by the  
15 prosecuting attorney for the county ~~to the grand jury~~ under section 2 of  
16 this chapter. The prosecuting attorney for the county shall:

- 17 (1) proceed as if the affidavit had been made before the  
18 prosecuting attorney; and  
19 (2) ~~ensure that the grand jury notifies~~ **notify** the NVRA official  
20 under section 2 of this chapter if a violation of NVRA appears to  
21 have occurred.

22 SECTION 6. IC 3-14-5-2, AS AMENDED BY P.L.230-2005,  
23 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2013]: Sec. 2. (a) Each precinct election board shall, at the  
25 close of the polls, place all affidavits prescribed by this title for use on  
26 election day to determine the eligibility of a precinct election officer (or  
27 a person who wishes to cast a ballot) in a strong paper bag or envelope  
28 and securely seal it. Each member shall endorse that member's name  
29 on the back of the bag or envelope.

30 (b) The inspector and judge of the opposite political party shall  
31 deliver the sealed bag or envelope to the county election board. The  
32 county election board shall do the following:

- 33 (1) Remove the affidavits from the bag or envelope.  
34 (2) Mail a copy of each affidavit to the secretary of state.  
35 (3) Replace the affidavits within the bag or envelope.  
36 (4) Reseal the bag or envelope with the endorsement of the name  
37 of each county election board member on the back of the bag or  
38 envelope.  
39 (5) Carefully preserve the resealed bag or envelope and deliver it,  
40 with the county election board's seal unbroken, to the ~~foreman of~~  
41 ~~the grand jury when next in session:~~ **prosecuting attorney.**

42 (c) The ~~grand jury~~ **prosecuting attorney** shall inquire into the truth

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1 or falsity of the affidavits. ~~and the court having jurisdiction over the~~  
 2 ~~grand jury shall specially charge the jury as to its duties under this~~  
 3 ~~section.~~

4 (d) The ~~grand jury prosecuting attorney~~ shall file a report of the  
 5 result of ~~its the~~ inquiry with:

6 (1) the court; and

7 (2) the NVRA official if a violation of NVRA appears to have  
 8 occurred.

9 SECTION 7. IC 3-14-5-3, AS AMENDED BY P.L.81-2005,  
 10 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2013]: Sec. 3. (a) This section does not apply to a violation of  
 12 NVRA or IC 3-7.

13 (b) The commission and each county election board shall report a  
 14 violation of this title as a felony or misdemeanor to the appropriate  
 15 prosecuting attorney and the alleged violator.

16 ~~(c) The commission and boards may have the report transmitted and~~  
 17 ~~presented to the grand jury of the county in which the violation was~~  
 18 ~~committed at its first session after making the report and at subsequent~~  
 19 ~~sessions that may be required. The commission and boards shall~~  
 20 ~~furnish the grand jury any evidence at their command necessary in the~~  
 21 ~~investigation and prosecution of the violation.~~

22 SECTION 8. IC 3-14-5-5 IS AMENDED TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2013]: Sec. 5. When an election offense is  
 24 committed, an ~~indictment~~ or information for the offense is sufficient if  
 25 it alleges that the election was authorized by law without stating the  
 26 names of the officers holding the election, the candidates voted for, or  
 27 the offices filled at the election.

28 SECTION 9. IC 4-2-7-7, AS ADDED BY P.L.222-2005, SECTION  
 29 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 30 2013]: Sec. 7. (a) If the inspector general discovers evidence of  
 31 criminal activity, the inspector general shall certify to the appropriate  
 32 prosecuting attorney the following information:

33 (1) The identity of any person who may be involved in the  
 34 criminal activity.

35 (2) The criminal statute that the inspector general believes has  
 36 been violated.

37 In addition, the inspector general shall provide the prosecuting attorney  
 38 with any relevant documents, transcripts, or written statements. If the  
 39 prosecuting attorney decides to prosecute the crime described in the  
 40 information certified to the prosecuting attorney, or any other related  
 41 crimes, the inspector general shall cooperate with the prosecuting  
 42 attorney in the investigation and prosecution of the case. Upon request



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1 of the prosecuting attorney, the inspector general may participate on  
2 behalf of the state in any resulting criminal trial.

3 (b) If:

4 (1) the prosecuting attorney to whom the inspector general issues  
5 a certification under subsection (a):

6 (A) is disqualified from investigating or bringing a criminal  
7 prosecution in the matter addressed in the certification;

8 (B) does not file an information ~~or seek an indictment~~ not later  
9 than one hundred eighty (180) days after the date on which the  
10 inspector general certified the information to the prosecuting  
11 attorney; or

12 (C) refers the case back to the inspector general; and

13 (2) the inspector general finds that there may be probable cause  
14 to believe that a person identified in a certification under  
15 subsection (a)(1) has violated a criminal statute identified in a  
16 certification under subsection (a)(2);

17 the inspector general may request that the governor recommend the  
18 inspector general be appointed as a special prosecuting attorney under  
19 subsection (h) so that the inspector general may prosecute the matter  
20 addressed in the certification.

21 (c) The governor may recommend the inspector general be  
22 appointed as a special prosecuting attorney if:

23 (1) one (1) of the conditions set forth in subsection (b)(1) relating  
24 to the prosecuting attorney is met; and

25 (2) the governor finds that the appointment of the inspector  
26 general as a special prosecuting attorney is in the best interests of  
27 justice.

28 (d) If the governor has recommended the appointment of the  
29 inspector general as a special prosecuting attorney, the inspector  
30 general shall file a notice with the chief judge of the court of appeals,  
31 stating:

32 (1) that the governor has recommended that the inspector general  
33 be appointed as a special prosecutor;

34 (2) the name of the county in which the crime that the inspector  
35 general intends to prosecute is alleged to have been committed;  
36 and

37 (3) that the inspector general requests the chief judge to assign a  
38 court of appeals judge to determine whether the inspector general  
39 should be appointed as a special prosecuting attorney.

40 Upon receipt of the notice, the chief judge of the court of appeals shall  
41 randomly select a judge of the court of appeals to determine whether  
42 the inspector general should be appointed as a special prosecuting

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1 attorney. The chief judge shall exclude from the random selection a  
 2 judge who resided in the county in which the crime is alleged to have  
 3 been committed at the time the judge was appointed to the court of  
 4 appeals.

5 (e) The inspector general shall file a verified petition for  
 6 appointment as a special prosecuting attorney with the court of appeals  
 7 judge assigned under subsection (d). In the verified petition, the  
 8 inspector general shall set forth why the inspector general should be  
 9 appointed as a special prosecutor. The inspector general may support  
 10 the verified petition by including relevant documents, transcripts, or  
 11 written statements in support of the inspector general's position. The  
 12 inspector general shall serve a copy of the verified petition, along with  
 13 any supporting evidence, on the prosecuting attorney to whom the case  
 14 was originally certified under subsection (a).

15 (f) The prosecuting attorney shall file a verified petition in support  
 16 of or opposition to the inspector general's verified petition for  
 17 appointment as a special prosecuting attorney not later than fifteen (15)  
 18 days after receipt of the inspector general's verified petition for  
 19 appointment as a special prosecuting attorney.

20 (g) Upon a showing of particularized need, the court of appeals  
 21 judge may order the verified petitions filed by the inspector general and  
 22 the prosecuting attorney to be confidential.

23 (h) After considering the verified petitions, the court of appeals  
 24 judge may appoint the inspector general or a prosecuting attorney,  
 25 other than the prosecuting attorney to whom the case was certified  
 26 under this section, as a special prosecuting attorney if the judge finds  
 27 that:

- 28 (1) one (1) of the conditions set forth in subsection (b)(1) is met;
- 29 and
- 30 (2) appointment of a special prosecuting attorney is in the best
- 31 interests of justice.

32 In making ~~its~~ **the** determination under this subsection, the court of  
 33 appeals judge shall consider only the arguments and evidence  
 34 contained in the verified petitions.

35 (i) ~~Except as provided in subsection (k);~~ A special prosecuting  
 36 attorney appointed under this section has the same powers as the  
 37 prosecuting attorney of the county. However, the court of appeals judge  
 38 shall:

- 39 (1) limit the scope of the special prosecuting attorney's duties as
- 40 a special prosecuting attorney to include only the investigation or
- 41 prosecution of a particular case, ~~or particular grand jury~~
- 42 ~~investigation;~~ including any matter that reasonably results from

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1 the investigation ~~or~~ prosecution; ~~or grand jury investigation~~; and  
 2 (2) establish for a time certain the length of the special  
 3 prosecuting attorney's term.

4 If the special prosecuting attorney's investigation or prosecution  
 5 acquires a broader scope or requires additional time to complete, the  
 6 court of appeals judge may at any time increase the scope of the special  
 7 prosecuting attorney's duties or establish a longer term for the special  
 8 prosecuting attorney.

9 (j) An inspector general or prosecuting attorney appointed to serve  
 10 as a special prosecuting attorney may appoint one (1) or more deputies  
 11 who are licensed to practice law in Indiana to serve as a special deputy  
 12 prosecuting attorney. A special deputy prosecuting attorney is subject  
 13 to the same statutory restrictions and other restrictions imposed on the  
 14 special prosecuting attorney by the court of appeals, but otherwise has  
 15 the same powers as a deputy prosecuting attorney.

16 ~~(k) An inspector general or prosecuting attorney appointed to serve~~  
 17 ~~as a special prosecuting attorney under this section may bring a~~  
 18 ~~criminal charge only after obtaining an indictment from a grand jury.~~  
 19 ~~An inspector general or prosecuting attorney appointed under this~~  
 20 ~~section to serve as a special prosecuting attorney may not bring a~~  
 21 ~~criminal charge by filing an information.~~

22 ~~(†) (k)~~ The inspector general or a deputy inspector general who is  
 23 licensed to practice law in Indiana may serve as a special deputy  
 24 prosecuting attorney under IC 33-39-2-6.

25 ~~(m) (l)~~ If the court of appeals appoints a prosecuting attorney to  
 26 serve as a special prosecuting attorney under this section, the inspector  
 27 general shall reimburse the prosecuting attorney for the reasonable  
 28 expenses of investigating and prosecuting the case.

29 SECTION 10. IC 4-6-3-5 IS AMENDED TO READ AS FOLLOWS  
 30 [EFFECTIVE JULY 1, 2013]: Sec. 5. An investigative demand may  
 31 not:

32 (1) contain a requirement that would be unreasonable if contained  
 33 in a subpoena or subpoena duces tecum issued by a court; ~~in a~~  
 34 ~~grand jury investigation~~; or

35 (2) require the giving of oral testimony, the production of written  
 36 answers to interrogatories, or the production of documentary  
 37 material that would be privileged from disclosure if demanded by  
 38 a subpoena duces tecum issued by a court. ~~in aid of a grand jury~~  
 39 ~~investigation.~~

40 SECTION 11. IC 4-6-3-11 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. When original  
 42 documentary material made available pursuant to an investigative

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1 demand is no longer required for use in a pending proceeding, or,  
 2 absent any pending proceeding, is no longer required in connection  
 3 with the investigation for which it was demanded, or at the end of the  
 4 twenty-four (24) months following the date when the material was  
 5 made available, whichever is sooner, it shall be returned, unless a  
 6 request to extend the period beyond twenty-four (24) months has been  
 7 filed in a court in which a request for an order compelling compliance  
 8 pursuant to section 6 of this chapter be filed. This section does not  
 9 require the return of documentary material that has passed into the  
 10 control of a court or ~~grand jury.~~ **prosecuting attorney.**

11 SECTION 12. IC 4-15-11-3 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An officer or  
 13 employee of the state who is charged with a crime or infraction relating  
 14 to that individual's acts as an officer or employee may apply to the  
 15 budget agency for reimbursement of reasonable expenses incurred in  
 16 the officer's or employee's defense against those charges if all charges  
 17 have been dismissed or if the officer or employee has been found not  
 18 guilty of the charges.

19 ~~(b) An officer or employee of the state who is the target of a grand  
 20 jury investigation relating to that individual's acts in carrying out the  
 21 individual's responsibilities as an officer or employee of the state may  
 22 apply to the the budget agency for reimbursement of reasonable  
 23 expenses incurred by the officer or employee resulting from the grand  
 24 jury investigation if the grand jury fails to indict the officer or  
 25 employee.~~

26 ~~(c)~~ **(b)** The budget agency may approve reimbursement of  
 27 reasonable expenses under this section if:

- 28 (1) the officer or employee who was charged with a crime or  
 29 infraction ~~or who was the target of a grand jury investigation~~  
 30 retained counsel; and  
 31 (2) the expenses for which reimbursement is sought are  
 32 reasonable.

33 ~~(d)~~ **(c)** Reimbursement payments approved under this section shall  
 34 be paid from the state general fund.

35 SECTION 13. IC 4-33-3-10 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A person may not  
 37 be appointed to the commission if:

- 38 (1) the person is not of good moral character; or  
 39 (2) the person:  
 40 (A) has been convicted of; or  
 41 (B) is under indictment for **or charged by information with;**  
 42 a felony under Indiana law, the laws of any other state, or laws of

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the United States.

SECTION 14. IC 4-33-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. An applicant for a license or an operating agent contract under this article must provide the following information to the commission:

(1) The name, business address, and business telephone number of the applicant.

(2) An identification of the applicant.

(3) The following information for an applicant that is not an individual:

(A) The state of incorporation or registration.

(B) The names of all corporate officers.

(C) The identity of the following:

(i) Any person in which the applicant has an equity interest of at least one percent (1%) of all shares. The identification must include the state of incorporation or registration if applicable. However, an applicant that has a pending registration statement filed with the Securities and Exchange Commission is not required to provide information under this item.

(ii) The shareholders or participants of the applicant. An applicant that has a pending registration statement filed with the Securities and Exchange Commission is required to provide only the names of persons holding an interest of more than one percent (1%) of all shares.

(4) An identification of any business, including the state of incorporation or registration if applicable, in which an applicant or the spouse or children of an applicant has an equity interest of more than one percent (1%) of all shares.

(5) If the applicant has been **charged by information, been** indicted, been convicted, pleaded guilty or nolo contendere, or forfeited bail concerning a criminal offense other than a traffic violation under the laws of any jurisdiction. The applicant must include the following information under this subdivision:

(A) The name and location of the following:

(i) The court.

(ii) The arresting agency.

(iii) The prosecuting agency.

(B) The case number.

(C) The date and type of offense.

(D) The disposition of the case.

(E) The location and length of incarceration.

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- 1 (6) If the applicant has had a license or certificate issued by a
- 2 licensing authority in Indiana or any other jurisdiction denied,
- 3 restricted, suspended, revoked, or not renewed. An applicant must
- 4 provide the following information under this subdivision:
- 5 (A) A statement describing the facts and circumstances
- 6 concerning the denial, restriction, suspension, revocation, or
- 7 nonrenewal.
- 8 (B) The date each action described in clause (A) was taken.
- 9 (C) The reason each action described in clause (A) was taken.
- 10 (7) If the applicant has:
- 11 (A) filed or had filed against the applicant a proceeding in
- 12 bankruptcy; or
- 13 (B) been involved in a formal process to adjust, defer,
- 14 suspend, or work out the payment of a debt;
- 15 including the date of filing, the name and location of the court,
- 16 and the case and number of the disposition.
- 17 (8) If the applicant has filed or been served with a complaint or
- 18 notice filed with a public body concerning:
- 19 (A) a delinquency in the payment of; or
- 20 (B) a dispute over a filing concerning the payment of;
- 21 a tax required under federal, state, or local law, including the
- 22 amount, type of tax, the taxing agency, and times involved.
- 23 (9) A statement listing the names and titles of public officials or
- 24 officers of units of government and relatives of the public officials
- 25 or officers who directly or indirectly:
- 26 (A) have a financial interest in;
- 27 (B) have a beneficial interest in;
- 28 (C) are the creditors of;
- 29 (D) hold a debt instrument issued by; or
- 30 (E) have an interest in a contractual or service relationship
- 31 with;
- 32 an applicant.
- 33 (10) If an applicant for an operating agent contract or an owner's
- 34 or a supplier's license has directly or indirectly made a political
- 35 contribution, loan, donation, or other payment to a candidate or an
- 36 office holder in Indiana not more than five (5) years before the
- 37 date the applicant filed the application. An applicant must provide
- 38 information concerning the amount and method of a payment
- 39 described in this subdivision.
- 40 (11) The name and business telephone number of the attorney
- 41 who will represent the applicant in matters before the
- 42 commission.

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- 1 (12) A description of a proposed or an approved riverboat gaming
- 2 operation, including the following information:
- 3 (A) The type of boat.
- 4 (B) The home dock location.
- 5 (C) The expected economic benefit to local communities.
- 6 (D) The anticipated or actual number of employees.
- 7 (E) Any statements from the applicant concerning compliance
- 8 with federal and state affirmative action guidelines.
- 9 (F) Anticipated or actual admissions.
- 10 (G) Anticipated or actual adjusted gross gaming receipts.

11 (13) A description of the product or service to be supplied by the

12 applicant if the applicant has applied for a supplier's license.

13 (14) The following information from each licensee or operating

14 agent involved in the ownership or management of gambling

15 operations:

- 16 (A) An annual balance sheet.
- 17 (B) An annual income statement.
- 18 (C) A list of the stockholders or other persons having at least
- 19 a one percent (1%) beneficial interest in the gambling
- 20 activities of the person who has been issued the owner's
- 21 license or operating agent contract.
- 22 (D) Any other information the commission considers
- 23 necessary for the effective administration of this article.

24 SECTION 15. IC 5-2-6.1-17, AS AMENDED BY P.L.48-2012,

25 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

26 JULY 1, 2013]: Sec. 17. (a) Except for an alleged victim of a child sex

27 crime, the division may not award compensation under this chapter

28 unless the violent crime was reported to a law enforcement officer not

29 more than seventy-two (72) hours after the occurrence of the crime.

30 (b) The division may not award compensation under this chapter

31 until:

- 32 (1) law enforcement and other records concerning the
- 33 circumstances of the crime are available; and
- 34 (2) any criminal investigation directly related to the crime has
- 35 been substantially completed.

36 (c) If the crime involved a motor vehicle, the division may not

37 award compensation under this chapter until an information ~~or~~

38 ~~indictment~~ alleging the commission of a crime has been filed by a

39 prosecuting attorney.

40 SECTION 16. IC 5-2-7-1 IS AMENDED TO READ AS FOLLOWS

41 [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) For each person arrested and

42 charged by information ~~or indictment~~ with a reportable offense (as

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1 defined in IC 10-13-3-18) there shall be filed with the court having  
2 jurisdiction over the case:

- 3 (1) a fingerprint sample taken from the arrested person; and
- 4 (2) an affidavit, attached to or as an integral part of the fingerprint
- 5 sample, from an employee of the law enforcement agency
- 6 effecting the arrest that identifies the sample as taken from the
- 7 arrested person.

8 (b) The failure to file a fingerprint sample or an affidavit under  
9 subsection (a) is not a ground for the dismissal of a criminal action or  
10 the continuance of a criminal action.

11 SECTION 17. IC 5-8-1-17 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. If the offense for  
13 which the defendant is convicted on impeachment is also the subject  
14 of an indictment or information, the indictment or information is not  
15 barred hereby.

16 SECTION 18. IC 5-8-1-21 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. An accusation in  
18 writing against any district officer, county officer, township officer,  
19 municipal officer, or prosecuting attorney may be presented by the  
20 grand jury prosecuting attorney of the county in which the officer  
21 accused is elected or appointed. **An accusation against a prosecuting**  
22 **attorney shall be presented to a circuit or superior court in the**  
23 **county, which may appoint a special prosecuting attorney.**

24 SECTION 19. IC 5-8-1-23 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. The accusation  
26 must be delivered by the foreman of the grand jury to the prosecuting  
27 attorney of the county (or a special prosecuting attorney, if one has  
28 been appointed) except when he is the officer accused; who must  
29 cause a copy thereof to be served shall serve a copy of the accusation  
30 to upon the defendant, and require, by notice in writing of not less than  
31 ten (10) days, that he the defendant appear before the circuit court of  
32 the county at the time mentioned in the notice, and answer the  
33 accusation. The original accusation must then be filed with the clerk of  
34 the court, or if he be the clerk is the party accused, with the judge of  
35 the court.

36 SECTION 20. IC 5-8-1-30 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 30. The trial must be  
38 by a jury, and conducted in all respects in the same manner as the trial  
39 of an indictment for a person charged with a misdemeanor.

40 SECTION 21. IC 5-8-1-31 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 31. The prosecuting  
42 attorney and the defendant are respectively entitled to such process as

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1 may be necessary to enforce the attendance of witnesses, as upon a  
 2 **criminal trial. of an indictment.**  
 3 SECTION 22. IC 5-8-1-34 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 34. The same  
 5 proceedings may be had on like grounds for the removal of a  
 6 prosecuting attorney, except that the accusation must be delivered by  
 7 ~~the foreman of the grand jury to the clerk, and by him~~ to the judge of  
 8 the circuit court of the county, ~~or criminal court, if such court exists in~~  
 9 ~~the county, who must thereupon notify the attorney-general to act as~~  
 10 ~~prosecuting officer~~ **appoint a special prosecuting attorney** in the  
 11 matter. ~~and shall designate some resident attorney to act as assistant to~~  
 12 ~~the attorney-general in such prosecution, whose compensation shall be~~  
 13 ~~fixed by the court and paid out of the county treasury.~~  
 14 SECTION 23. IC 5-11-5-1, AS AMENDED BY P.L.136-2012,  
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2013]: Sec. 1. (a) Whenever an examination is made under  
 17 this article, a report of the examination shall be made. The report must  
 18 include a list of findings and shall be signed and verified by the  
 19 examiner making the examination. A finding that is critical of an  
 20 examined entity must be based upon one (1) of the following:  
 21 (1) Failure of the entity to observe a uniform compliance  
 22 guideline established under IC 5-11-1-24(a).  
 23 (2) Failure of the entity to comply with a specific law.  
 24 A report that includes a finding that is critical of an examined entity  
 25 must designate the uniform compliance guideline or the specific law  
 26 upon which the finding is based. ~~The reports~~ **report** shall immediately  
 27 be filed with the state examiner, and, after inspection of the report, the  
 28 state examiner shall immediately file one (1) copy with the officer or  
 29 person examined, one (1) copy with the auditing department of the  
 30 municipality examined and reported upon, and one (1) copy in an  
 31 electronic format under IC 5-14-6 of the reports of examination of state  
 32 agencies, instrumentalities of the state, and federal funds administered  
 33 by the state with the legislative services agency, as staff to the general  
 34 assembly. Upon filing, the report becomes a part of the public records  
 35 of the office of the state examiner, of the office or the person examined,  
 36 of the auditing department of the municipality examined and reported  
 37 upon, and of the legislative services agency, as staff to the general  
 38 assembly. A report is open to public inspection at all reasonable times  
 39 after it is filed. If an examination discloses malfeasance, misfeasance,  
 40 or nonfeasance in office or of any officer or employee, a copy of the  
 41 report, signed and verified, shall be placed by the state examiner with  
 42 the attorney general and the inspector general. The attorney general

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1 shall diligently institute and prosecute civil proceedings against the  
 2 delinquent officer, or upon the officer's official bond, or both, and  
 3 against any other proper person that will secure to the state or to the  
 4 proper municipality the recovery of any funds misappropriated,  
 5 diverted, or unaccounted for.

6 (b) Before an examination report is signed, verified, and filed as  
 7 required by subsection (a), the officer or the chief executive officer of  
 8 the state office, municipality, or entity examined must have an  
 9 opportunity to review the report and to file with the state examiner a  
 10 written response to that report. If a written response is filed, **it the**  
 11 **response** becomes a part of the examination report that is signed,  
 12 verified, and filed as required by subsection (a).

13 (c) Except as required by subsections (b) and (d), it is unlawful for  
 14 any deputy examiner, field examiner, or private examiner, before an  
 15 examination report is made public as provided by this section, to make  
 16 any disclosure of the result of any examination of any public account,  
 17 except to the state examiner or if directed to give publicity to the  
 18 examination report by the state examiner or by any court. If an  
 19 examination report shows or discloses the commission of a crime by  
 20 any person, it is the duty of the state examiner to transmit and present  
 21 the examination report to the ~~grand jury of the county in which the~~  
 22 ~~crime was committed at its first session after the making of the~~  
 23 ~~examination report and at any subsequent sessions that may be~~  
 24 ~~required. The state examiner shall furnish to the grand jury all evidence~~  
 25 ~~at the state examiner's command necessary in the investigation and~~  
 26 ~~prosecution of the crime: prosecuting attorney of the county in~~  
 27 ~~which the crime was committed. The state examiner shall assist the~~  
 28 **prosecuting attorney in the investigation and prosecution of the**  
 29 **crime.**

30 (d) If, during an examination under this article, a deputy examiner,  
 31 field examiner, or private examiner acting as an agent of the state  
 32 examiner determines that the following conditions are satisfied, the  
 33 examiner shall report the determination to the state examiner:

34 (1) A substantial amount of public funds has been  
 35 misappropriated or diverted.

36 (2) The deputy examiner, field examiner, or private examiner  
 37 acting as an agent of the state examiner has a reasonable belief  
 38 that the malfeasance or misfeasance that resulted in the  
 39 misappropriation or diversion of the public funds was committed  
 40 by the officer or an employee of the office.

41 (e) After receiving a preliminary report under subsection (d), the  
 42 state examiner may provide a copy of the report to the attorney general.

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1 The attorney general may institute and prosecute civil proceedings  
 2 against the delinquent officer or employee, or upon the officer's or  
 3 employee's official bond, or both, and against any other proper person  
 4 that will secure to the state or to the proper municipality the recovery  
 5 of any funds misappropriated, diverted, or unaccounted for.

6 (f) In an action under subsection (e), the attorney general may attach  
 7 the defendant's property under IC 34-25-2.

8 (g) A preliminary report under subsection (d) is confidential until  
 9 the final report under subsection (a) is issued, unless the attorney  
 10 general institutes an action under subsection (e) on the basis of the  
 11 preliminary report.

12 SECTION 24. IC 5-11-5.5-12, AS ADDED BY P.L.222-2005,  
 13 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2013]: Sec. 12. (a) A civil investigative demand issued under  
 15 this chapter may not require the production of any documentary  
 16 material, the submission of any answers to written interrogatories, or  
 17 the giving of any oral testimony if the material, answers, or testimony  
 18 would be protected from disclosure under the standards applicable:

19 (1) to a subpoena or subpoena duces tecum issued by a court; ~~to~~  
 20 ~~aid in a grand jury investigation;~~ or

21 (2) to a discovery request under the rules of trial procedure;  
 22 to the extent that the application of these standards to a civil  
 23 investigative demand is consistent with the purposes of this chapter.

24 (b) A civil investigative demand that is a specific demand for a  
 25 product of discovery supersedes any contrary order, rule, or statutory  
 26 provision, other than this section, that prevents or restricts disclosure  
 27 of the product of discovery. Disclosure of a product of discovery under  
 28 a specific demand does not constitute a waiver of a right or privilege  
 29 that the person making the disclosure may be otherwise entitled to  
 30 invoke to object to discovery of trial preparation materials.

31 SECTION 25. IC 5-11-5.5-15, AS AMENDED BY P.L.1-2006,  
 32 SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2013]: Sec. 15. (a) The official who issued the civil  
 34 investigative demand is the custodian of the documentary material,  
 35 answers to interrogatories, and transcripts of oral testimony received  
 36 under this chapter.

37 (b) An investigator who receives documentary material, answers to  
 38 interrogatories, or transcripts of oral testimony under this section shall  
 39 transmit ~~them~~ **the material, answers, or transcripts** to the official  
 40 who issued the civil investigative demand. The official shall take  
 41 physical possession of the material, answers, or transcripts and is  
 42 responsible for the use made of ~~them~~ **the material, answers, or**

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1 **transcripts** and for the return of documentary material.

2 (c) The official who issued the civil investigative demand may make  
3 copies of documentary material, answers to interrogatories, or  
4 transcripts of oral testimony as required for official use by the attorney  
5 general, the inspector general, or the state police. The material,  
6 answers, or transcripts may be used in connection with the taking of  
7 oral testimony under this chapter.

8 (d) Except as provided in subsection (e), documentary material,  
9 answers to interrogatories, or transcripts of oral testimony, while in the  
10 possession of the official who issued the civil investigative demand,  
11 may not be made available for examination to any person other than:

- 12 (1) the attorney general or designated personnel of the attorney  
13 general's office;  
14 (2) the inspector general or designated personnel of the inspector  
15 general's office; or  
16 (3) an officer of the state police who has been authorized by the  
17 official who issued the civil investigative demand.

18 (e) The restricted availability of documentary material, answers to  
19 interrogatories, or transcripts of oral testimony does not apply:

- 20 (1) if the person who provided:  
21 (A) the documentary material, answers to interrogatories, or  
22 oral testimony; or  
23 (B) a product of discovery that includes documentary material,  
24 answers to interrogatories, or oral testimony;  
25 consents to disclosure;  
26 (2) to the general assembly or a committee or subcommittee of the  
27 general assembly; or  
28 (3) to a state agency that requires the information to carry out its  
29 statutory responsibility.

30 Documentary material, answers to interrogatories, or transcripts of oral  
31 testimony requested by a state agency may be disclosed only under a  
32 court order finding that the state agency has a substantial need for the  
33 use of the information in carrying out its statutory responsibility.

34 (f) While in the possession of the official who issued the civil  
35 investigative demand, documentary material, answers to  
36 interrogatories, or transcripts of oral testimony shall be made available  
37 to the person, or to the representative of the person who produced the  
38 material, answered the interrogatories, or gave oral testimony. The  
39 official who issued the civil investigative demand may impose  
40 reasonable conditions upon the examination or use of the documentary  
41 material, answers to interrogatories, or transcripts of oral testimony.

42 (g) The official who issued the civil investigative demand and any

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1 attorney employed in the same office as the official who issued the civil  
2 investigative demand may use the documentary material, answers to  
3 interrogatories, or transcripts of oral testimony in connection with a  
4 proceeding before a ~~grand jury~~, a court or an agency. Upon the  
5 completion of the proceeding, the attorney shall return to the official  
6 who issued the civil investigative demand any documentary material,  
7 answers to interrogatories, or transcripts of oral testimony that are not  
8 under the control of the ~~grand jury~~, court or agency.

9 (h) Upon written request of a person who produced documentary  
10 material in response to a civil investigative demand, the official who  
11 issued the civil investigative demand shall return any documentary  
12 material in the official's possession to the person who produced  
13 documentary material, if:

- 14 (1) a proceeding before a ~~grand jury~~, a court or an agency  
15 involving the documentary material has been completed; or
- 16 (2) a proceeding before a ~~grand jury~~, a court or an agency  
17 involving the documentary material has not been commenced  
18 within a reasonable time after the completion of the investigation.

19 The official who issued the civil investigative demand is not required  
20 to return documentary material that is in the custody of a ~~grand jury~~, a  
21 court or an agency.

22 SECTION 26. IC 5-11-6-4 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) If a report is filed  
24 with the attorney general that discloses any offense, the state examiner  
25 shall present a certified copy of the report and competent testimony  
26 supporting the charges made in the report to the ~~grand jury~~  
27 **prosecuting attorney** of the county in which the offense is alleged to  
28 have been committed. ~~at its first convenient session~~. The attorney  
29 general shall ~~direct, supervise, and~~ assist in the prosecution of the  
30 offense ~~before the grand jury and~~ in the courts.

31 (b) The per diem and actual expenses of all field or private  
32 examiners required by the state examiner, the attorney general, or any  
33 prosecuting attorney to attend ~~sessions of grand juries or~~ trials in  
34 connection with the prosecution shall be paid by the state upon  
35 vouchers approved by the state examiner from funds available for  
36 office and traveling expenses for the state board of accounts.

37 SECTION 27. IC 6-3-2-17 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. A reward received  
39 by an individual is exempt from taxation under IC 6-3-1 through  
40 IC 6-3-7, in an amount not to exceed one thousand dollars (\$1,000), if:

- 41 (1) the reward is for information provided to a law enforcement  
42 official or agency, or to a not-for-profit corporation whose

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- 1 exclusive purpose is to assist law enforcement officials or
- 2 agencies;
- 3 (2) the information that is provided assists in the arrest
- 4 ~~indictment, of~~ or the filing of charges against a person; and
- 5 (3) the individual is not:
  - 6 (A) compensated for investigating crimes or accidents
  - 7 (including an employee of, or an individual under contract
  - 8 with, a law enforcement agency);
  - 9 (B) the person convicted of the crime; or
  - 10 (C) the victim of the crime.

11 SECTION 28. IC 6-8.1-3-13 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) The attorney  
 13 general and the respective county prosecuting attorneys have  
 14 concurrent jurisdiction in conducting criminal prosecutions of tax  
 15 matters. Either the attorney general or the respective prosecuting  
 16 attorney may initiate criminal tax proceedings, and appear ~~before grand~~  
 17 ~~juries~~ to report violations, give legal advice, or interrogate witnesses.

18 (b) Upon request by the department, the attorney general shall  
 19 prosecute a civil action to collect unpaid taxes, penalties, and interest  
 20 and to enforce the department's powers.

21 SECTION 29. IC 7.1-2-2-5 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. ~~Prosecutor: Powers~~  
 23 ~~and Duties:~~ The prosecutor shall have the following powers and duties:

- 24 (a) (1) To prosecute before the commission all violations of laws
- 25 pertaining to alcohol, alcoholic beverages, and tobacco, including
- 26 violations pertaining to tobacco vending machines.
- 27 (b) (2) To prosecute before the commission all violations of the
- 28 rules and regulations of the commission.
- 29 (c) (3) To assist the prosecuting attorneys of the various judicial
- 30 circuits in the investigation and prosecution of violations of laws
- 31 pertaining to alcohol, alcoholic beverages, and tobacco, including
- 32 violations pertaining to tobacco vending machines, and to
- 33 represent the state in these matters.
- 34 (d) (4) To ~~appear before grand juries to~~ assist in ~~their~~
- 35 investigations into matters pertaining to alcohol, alcoholic
- 36 beverages, and tobacco, including matters pertaining to tobacco
- 37 vending machines.
- 38 (e) (5) To establish a seal of ~~his~~ **the prosecutor's** office.
- 39 (f) (6) To administer oaths and to do all other acts authorized by
- 40 law for notaries public. ~~and;~~
- 41 (g) (7) To employ, with the consent of the commission and at
- 42 salaries fixed by the commission in ~~their~~ **the commission's**

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- 1 budget, the clerical staff required by ~~him~~ **the prosecutor** to  
 2 effectively discharge ~~his~~ **the prosecutor's** duties.
- 3 SECTION 30. IC 7.1-2-3-10, AS AMENDED BY P.L.94-2008,  
 4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2013]: Sec. 10. (a) The commission shall have the power to  
 6 investigate the violation of a provision of this title and of the rules and  
 7 regulations of the commission and to report its findings to the  
 8 prosecuting attorney ~~or the grand jury~~ of the county in which the  
 9 violation occurred, or to the attorney general.
- 10 (b) The commission shall enter a memorandum of understanding  
 11 with the Indiana gaming commission authorizing the commission's  
 12 unlawful gaming enforcement division to conduct revocation actions  
 13 resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or  
 14 IC 35-45-5-4 as authorized by the following statutes:
- 15 (1) IC 7.1-3-18.5.  
 16 (2) IC 7.1-3-23-2(b).  
 17 (3) IC 7.1-3-23-5.
- 18 (c) A memorandum of understanding entered into under this section  
 19 must comply with the requirements of IC 4-33-19-8.
- 20 ~~(d) The memorandum of understanding required by this section~~  
 21 ~~must be entered into before January 1, 2008.~~
- 22 SECTION 31. IC 9-22-3-35 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 35. The prosecution of  
 24 a disposal facility, automotive salvage rebuilder, insurance company,  
 25 or individual suspected of having violated this section may be instituted  
 26 by the filing of an information ~~or indictment~~ in the same manner as  
 27 other criminal cases are commenced.
- 28 SECTION 32. IC 10-13-3-25 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) If a person  
 30 whose arrest has been reported as required by section 24 of this chapter  
 31 is:
- 32 (1) transferred to the custody of another criminal justice agency;  
 33 or  
 34 (2) released without having an ~~indictment~~ ~~or~~ information filed  
 35 with any court;
- 36 a disposition report shall be furnished to the department by the agency  
 37 from whose custody the person has been transferred or released.  
 38 Disposition reports shall be made on forms provided by the department.
- 39 (b) If an ~~indictment~~ ~~or~~ information is filed in a court, the clerk of the  
 40 court shall furnish to the department, on forms provided by the  
 41 department, a report of the disposition of the case.
- 42 (c) A disposition report, whether by a criminal justice agency or a

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1 court clerk, shall be sent to the department within thirty (30) days after  
2 the disposition.

3 SECTION 33. IC 10-16-9-1 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as  
5 otherwise provided, if the Indiana national guard is in active service on  
6 behalf of the state:

- 7 (1) in case of:
  - 8 (A) public disaster;
  - 9 (B) riot;
  - 10 (C) tumult;
  - 11 (D) breach of the peace; or
  - 12 (E) resistance of process;
- 13 (2) whenever called upon in aid of civil authorities;
- 14 (3) under martial law;
- 15 (4) at encampments or any scheduled training periods or drills for  
16 which a member is entitled to pay, within or outside Indiana; or
- 17 (5) upon any other duty requiring the entire time of the Indiana  
18 national guard, or any part of the Indiana national guard;

19 the uniform code of military justice governing the armed forces of the  
20 United States with any subsequent change approved by the adjutant  
21 general as applicable to Indiana military law is in force and regarded  
22 as a part of this article for the Indiana national guard until the Indiana  
23 national guard is relieved from duty.

24 (b) Confinement in a penitentiary under this article must be in a  
25 penitentiary in Indiana. An offense committed by the member of the  
26 national guard while in active service may be tried and punished by a  
27 court-martial lawfully appointed.

28 (c) Except as provided in subsections (d) and (e), if the accused  
29 member of the Indiana national guard is found guilty, the convicted  
30 member shall be punished according to the uniform code of military  
31 justice and the rules and regulations governing the United States armed  
32 forces but within the limits prescribed by federal law for court-martial  
33 in the national guard.

34 (d) If the offense charged is also an offense by the civil law of  
35 Indiana, the officer whose duty it is to approve the charge may order  
36 the person charged to be turned over to the civil authorities for trial.

37 (e) Punishment under the rules and articles of the uniform code of  
38 military justice that extend to the taking of life may not be inflicted,  
39 except in time of actual war, invasion, or insurrection, declared by  
40 proclamation of the governor to exist, or to be threatened or  
41 anticipated.

42 (f) If a:

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1 (1) person resisting the laws of the state or unlawfully or riotously  
2 assembled for that purpose; or

3 (2) bystander or other person in the vicinity;

4 is killed or injured by state forces called into active service under this  
5 article and acting in obedience to the orders of ~~its~~ a commanding  
6 officer, the officer or member of the Indiana national guard is not  
7 subject to ~~indictment~~, **criminal charges**, trial, or any civil process  
8 other than by a court-martial, to be convened for that purpose by the  
9 governor.

10 (g) The finding of the court-martial, when submitted to and  
11 approved by the governor, in accordance with the uniform code of  
12 military justice, is final and conclusive on all persons.

13 (h) If an ~~indictment is found~~ or information is filed against the  
14 person, a writ or other process may not be issued by the clerk of the  
15 court where the ~~indictment was returned~~ or information ~~was~~ filed  
16 against the defendant. The clerk shall immediately transmit to the  
17 governor a certified copy, and, upon the receipt of the certified copy,  
18 the governor shall cause to be convened a court-martial to determine  
19 the truth of the charges and the punishment, if any, to be inflicted.

20 SECTION 34. IC 11-12-4-2 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The department  
22 shall inspect each county jail at least one (1) time each year to  
23 determine whether it is complying with the standards adopted under  
24 section 1 of this chapter. If the department determines that a jail is not  
25 complying with the standards, the commissioner shall give written  
26 notice of this determination to the county sheriff, the board of county  
27 commissioners, the prosecuting attorney, the circuit court, and all  
28 courts having criminal or juvenile jurisdiction in that county. This  
29 notice must specify which standards are not being met and state the  
30 commissioner's recommendations regarding compliance.

31 (b) If after six (6) months from the date of the written notice the  
32 department determines that the county is not making a good faith effort  
33 toward compliance with the standards specified in the notice, the  
34 commissioner may:

35 (1) petition the circuit court for an injunction prohibiting the  
36 confinement of persons in all or any part of the jail, or otherwise  
37 restricting the use of the jail; or

38 (2) recommend, in writing, to the prosecuting attorney and each  
39 court with criminal or juvenile jurisdiction that ~~a grand jury be~~  
40 **convened to the prosecuting attorney** tour and examine the  
41 county jail. ~~under IC 35-34-2-11.~~

42 (c) Upon receipt of notice by the commissioner that the jail does not

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1 comply with standards adopted under section 1 of this chapter, the  
2 sheriff may bring an action in the circuit court against the board of  
3 county commissioners or county council for appropriate mandatory or  
4 injunctive relief.

5 SECTION 35. IC 12-10-3-11 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) A person, other  
7 than a person against whom a complaint concerning an endangered  
8 adult has been made, who in good faith:

- 9 (1) makes or causes to be made a report required to be made
- 10 under this chapter;
- 11 (2) testifies or participates in any investigation or administrative
- 12 or judicial proceeding on matters arising from the report;
- 13 (3) makes or causes to be made photographs or x-rays of an
- 14 endangered adult; or
- 15 (4) discusses a report required to be made under this chapter with
- 16 the division, the adult protective services unit, a law enforcement
- 17 agency, or other appropriate agency;

18 is immune from both civil and criminal liability arising from those  
19 actions.

20 (b) An individual may not be excused from testifying before a court  
21 or grand jury concerning a report made under this chapter on the basis  
22 that the testimony is privileged information, unless the individual is an  
23 attorney, a physician, a clergyman, a husband, or a wife who is not  
24 required to testify under IC 34-46-3-1.

25 (c) An employer may not discharge, demote, transfer, prepare a  
26 negative work performance evaluation, or reduce benefits, pay, or work  
27 privileges, or take any other action to retaliate against an employee who  
28 in good faith files a report under this chapter.

29 SECTION 36. IC 16-41-8-5, AS AMENDED BY P.L.94-2010,  
30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2013]: Sec. 5. (a) This section does not apply to medical  
32 testing of an individual for whom an indictment or information is filed  
33 for a sex crime and for whom a request to have the individual tested  
34 under section 6 of this chapter is filed.

- 35 (b) The following definitions apply throughout this section:
- 36 (1) "Bodily fluid" means blood, human waste, or any other bodily
- 37 fluid.
- 38 (2) "Dangerous disease" means any of the following:
- 39 (A) Chancroid.
- 40 (B) Chlamydia.
- 41 (C) Gonorrhea.
- 42 (D) Hepatitis.

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- 1 (E) Human immunodeficiency virus (HIV).  
 2 (F) Lymphogranuloma venereum.  
 3 (G) Syphilis.  
 4 (H) Tuberculosis.
- 5 (3) "Offense involving the transmission of a bodily fluid" means  
 6 any offense (including a delinquent act that would be a crime if  
 7 committed by an adult) in which a bodily fluid is transmitted from  
 8 the defendant to the victim in connection with the commission of  
 9 the offense.
- 10 (c) This subsection applies only to a defendant who has been  
 11 charged with a potentially disease transmitting offense. At the request  
 12 of an alleged victim of the offense, the parent, guardian, or custodian  
 13 of an alleged victim who is less than eighteen (18) years of age, or the  
 14 parent, guardian, or custodian of an alleged victim who is an  
 15 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney  
 16 shall petition a court to order a defendant charged with the commission  
 17 of a potentially disease transmitting offense to submit to a screening  
 18 test to determine whether the defendant is infected with a dangerous  
 19 disease. In the petition, the prosecuting attorney must set forth  
 20 information demonstrating that the defendant has committed a  
 21 potentially disease transmitting offense. The court shall set the matter  
 22 for hearing not later than forty-eight (48) hours after the prosecuting  
 23 attorney files a petition under this subsection. The alleged victim, the  
 24 parent, guardian, or custodian of an alleged victim who is less than  
 25 eighteen (18) years of age, and the parent, guardian, or custodian of an  
 26 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)  
 27 are entitled to receive notice of the hearing and are entitled to attend  
 28 the hearing. The defendant and the defendant's counsel are entitled to  
 29 receive notice of the hearing and are entitled to attend the hearing. If,  
 30 following the hearing, the court finds probable cause to believe that the  
 31 defendant has committed a potentially disease transmitting offense, the  
 32 court may order the defendant to submit to a screening test for one (1)  
 33 or more dangerous diseases. If the defendant is charged with  
 34 committing battery by body waste (IC 35-42-2-6), the court may limit  
 35 testing under this subsection to a test only for human  
 36 immunodeficiency virus (HIV). However, the court may order  
 37 additional testing for human immunodeficiency virus (HIV) as may be  
 38 medically appropriate. The court shall take actions to ensure the  
 39 confidentiality of evidence introduced at the hearing.
- 40 (d) This subsection applies only to a defendant who has been  
 41 charged with an offense involving the transmission of a bodily fluid. At  
 42 the request of an alleged victim of the offense, the parent, guardian, or

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1       custodian of an alleged victim who is less than eighteen (18) years of  
2       age, or the parent, guardian, or custodian of an alleged victim who is  
3       an endangered adult (as defined in IC 12-10-3-2), the prosecuting  
4       attorney shall petition a court to order a defendant charged with the  
5       commission of an offense involving the transmission of a bodily fluid  
6       to submit to a screening test to determine whether the defendant is  
7       infected with a dangerous disease. In the petition, the prosecuting  
8       attorney must set forth information demonstrating that:

9               (1) the defendant has committed an offense; and

10              (2) a bodily fluid was transmitted from the defendant to the victim  
11              in connection with the commission of the offense.

12       The court shall set the matter for hearing not later than forty-eight (48)  
13       hours after the prosecuting attorney files a petition under this  
14       subsection. The alleged victim of the offense, the parent, guardian, or  
15       custodian of an alleged victim who is less than eighteen (18) years of  
16       age, and the parent, guardian, or custodian of an alleged victim who is  
17       an endangered adult (as defined in IC 12-10-3-2) are entitled to receive  
18       notice of the hearing and are entitled to attend the hearing. The  
19       defendant and the defendant's counsel are entitled to receive notice of  
20       the hearing and are entitled to attend the hearing. If, following the  
21       hearing, the court finds probable cause to believe that the defendant has  
22       committed an offense and that a bodily fluid was transmitted from the  
23       defendant to the alleged victim in connection with the commission of  
24       the offense, the court may order the defendant to submit to a screening  
25       test for one (1) or more dangerous diseases. If the defendant is charged  
26       with committing battery by body waste (IC 35-42-2-6), the court may  
27       limit testing under this subsection to a test only for human  
28       immunodeficiency virus (HIV). However, the court may order  
29       additional testing for human immunodeficiency virus (HIV) as may be  
30       medically appropriate. The court shall take actions to ensure the  
31       confidentiality of evidence introduced at the hearing.

32              (e) The testimonial privileges applying to communication between  
33       a husband and wife and between a health care provider and the health  
34       care provider's patient are not sufficient grounds for not testifying or  
35       providing other information at a hearing conducted in accordance with  
36       this section.

37              (f) A health care provider (as defined in IC 16-18-2-163) who  
38       discloses information that must be disclosed to comply with this  
39       section is immune from civil and criminal liability under Indiana  
40       statutes that protect patient privacy and confidentiality.

41              (g) The results of a screening test conducted under this section shall  
42       be kept confidential if the defendant ordered to submit to the screening

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1 test under this section has not been convicted of the potentially disease  
 2 transmitting offense or offense involving the transmission of a bodily  
 3 fluid with which the defendant is charged. The results may not be made  
 4 available to any person or public or private agency other than the  
 5 following:

- 6 (1) The defendant and the defendant's counsel.  
 7 (2) The prosecuting attorney.  
 8 (3) The department of correction or the penal facility, juvenile  
 9 detention facility, or secure private facility where the defendant  
 10 is housed.  
 11 (4) The alleged victim or the parent, guardian, or custodian of an  
 12 alleged victim who is less than eighteen (18) years of age, or the  
 13 parent, guardian, or custodian of an alleged victim who is an  
 14 endangered adult (as defined in IC 12-10-3-2), and the alleged  
 15 victim's counsel.

16 The results of a screening test conducted under this section may not be  
 17 admitted against a defendant in a criminal proceeding or against a child  
 18 in a juvenile delinquency proceeding.

19 (h) As soon as practicable after a screening test ordered under this  
 20 section has been conducted, the alleged victim or the parent, guardian,  
 21 or custodian of an alleged victim who is less than eighteen (18) years  
 22 of age, or the parent, guardian, or custodian of an alleged victim who  
 23 is an endangered adult (as defined in IC 12-10-3-2), and the victim's  
 24 counsel shall be notified of the results of the test.

25 (i) An alleged victim may disclose the results of a screening test to  
 26 which a defendant is ordered to submit under this section to an  
 27 individual or organization to protect the health and safety of or to seek  
 28 compensation for:

- 29 (1) the alleged victim;  
 30 (2) the alleged victim's sexual partner; or  
 31 (3) the alleged victim's family.

32 (j) The court shall order a petition filed and any order entered under  
 33 this section sealed.

34 (k) A person that knowingly or intentionally:

- 35 (1) receives notification or disclosure of the results of a screening  
 36 test under this section; and  
 37 (2) discloses the results of the screening test in violation of this  
 38 section;

39 commits a Class B misdemeanor.

40 SECTION 37. IC 16-41-8-6, AS ADDED BY P.L.94-2010,  
 41 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2013]: Sec. 6. (a) If an indictment or information alleges that

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1 the defendant compelled another person to engage in sexual activity by  
 2 force or threat of force, the alleged victim of the offense described in  
 3 the ~~indictment~~ or information may request that the defendant against  
 4 whom the ~~indictment~~ or information is filed be tested for the human  
 5 immunodeficiency virus (HIV).

6 (b) Not later than forty-eight (48) hours after an alleged victim  
 7 described in subsection (a) requests that the defendant be tested for the  
 8 human immunodeficiency virus (HIV), the defendant must be tested for  
 9 the human immunodeficiency virus (HIV).

10 (c) As soon as practicable, the results of a test for the human  
 11 immunodeficiency virus (HIV) conducted under subsection (b) shall be  
 12 sent to:

- 13 (1) the alleged victim;
- 14 (2) the parent or guardian of the alleged victim, if the alleged  
 15 victim is less than eighteen (18) years of age; and
- 16 (3) the defendant.

17 (d) If follow-up testing of the defendant for the human  
 18 immunodeficiency virus (HIV) is necessary, the results of follow-up  
 19 testing of the defendant shall be sent to:

- 20 (1) the alleged victim;
- 21 (2) the parent or guardian of the alleged victim if the alleged  
 22 victim is less than eighteen (18) years of age; and
- 23 (3) the defendant.

24 SECTION 38. IC 16-42-19-26 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 26. In:

- 26 (1) any complaint, information, ~~or affidavit; or indictment;~~ and
- 27 (2) any action or proceeding brought for the enforcement of any  
 28 provision of this chapter;

29 it is not necessary to negate an exception, excuse, proviso, or  
 30 exemption contained in this chapter. The burden of proof of such an  
 31 exception, excuse, proviso, or exemption is upon the defendant.

32 SECTION 39. IC 16-42-20-6 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) It is not necessary  
 34 for the state to negate any exemption or exception in this chapter or in  
 35 IC 35-48 in a complaint, an information, ~~an indictment;~~ or other  
 36 pleading or in a trial, hearing, or other proceeding under this chapter or  
 37 under IC 35-48. The burden of proof of an exemption or exception is  
 38 on the person claiming the exemption or exception.

39 (b) In the absence of proof that a person is the duly authorized  
 40 holder of an appropriate registration or order form issued under  
 41 IC 35-48-3, a person is presumed not to be the holder of the registration  
 42 or form.

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1 SECTION 40. IC 23-2-6-42 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 42. If a person claims  
 3 an exemption in any complaint, information, ~~indictment~~, writ, or  
 4 proceeding under this chapter:

5 (1) the commissioner is not required to disprove the exemption;  
 6 and

7 (2) the party claiming the exemption bears the burden of proof  
 8 concerning the existence of the exemption.

9 SECTION 41. IC 23-2-6-43 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 43. In any complaint,  
 11 information, ~~indictment~~, writ, or proceeding brought under this chapter  
 12 that alleges a violation of section 17 of this chapter solely on the failure  
 13 in an individual case to make physical delivery within the applicable  
 14 time under section 19(a)(2) of this chapter, it is a defense if both of the  
 15 following are shown:

16 (1) Failure to make physical delivery was due solely to factors  
 17 beyond the control of all of the following:

18 (A) The seller.

19 (B) Officers, directors, partners, agents, servants, or employees  
 20 of the seller.

21 (C) Each person occupying a similar status or performing  
 22 similar functions as a person described in clause (B).

23 (D) Each person who directly or indirectly controls or is  
 24 controlled by the seller or by any person described in clause  
 25 (B) or (C).

26 (E) The seller's affiliates, subsidiaries, and successors.

27 (2) Physical delivery was completed within a reasonable time  
 28 under the applicable circumstances.

29 SECTION 42. IC 23-19-7-10, AS ADDED BY P.L.85-2012,  
 30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2013]: Sec. 10. This chapter does not limit or negate any right  
 32 or obligation of any individual to ~~present evidence to a grand jury or to~~  
 33 share evidence with potential witnesses or defendants in the course of  
 34 an ongoing criminal investigation.

35 SECTION 43. IC 24-1-1-6 IS REPEALED [EFFECTIVE JULY 1,  
 36 2013]. ~~Sec. 6: It shall be the duty of the judges of the circuit courts of~~  
 37 ~~this state specially to instruct the grand juries as to the provisions of~~  
 38 ~~this chapter.~~

39 SECTION 44. IC 24-1-2-5 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. It shall be the duty  
 41 of the attorney general and of the prosecuting attorney of each judicial  
 42 circuit to institute appropriate proceedings to prevent and restrain

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1 violations of the provisions of this chapter or any other statute or the  
 2 common law relating to the subject matter of this chapter and to  
 3 prosecute any person or persons guilty of having violated any of the  
 4 penal provisions thereof. In all criminal proceedings the prosecution  
 5 may be by way of **affidavit or indictment information** the same as in  
 6 other criminal matters, and the attorney general shall have concurrent  
 7 jurisdiction with the prosecuting attorneys in instituting and  
 8 prosecuting any such actions. All civil proceedings to prevent and  
 9 restrain violations shall be in the name of the state of Indiana upon  
 10 relation of the proper party. The attorney general may file such  
 11 proceedings upon **his the attorney general's** own relation or that of  
 12 any private person in any circuit or superior court of the state, without  
 13 applying to such court for leave, when **he the attorney general** shall  
 14 deem it **his the attorney general's** duty so to do. Such proceedings  
 15 shall be by information filed by any prosecuting attorney in a circuit or  
 16 superior court of the proper county upon **his the prosecuting**  
 17 **attorney's** own relation whenever **he the prosecuting attorney shall**  
 18 **deem it his believes it is the prosecuting attorney's** duty so to do, or  
 19 shall be directed by the court or governor or attorney general, and an  
 20 information may be filed by any taxpayer on **his the taxpayer's** own  
 21 relation. If judgment or decree be rendered against any domestic  
 22 corporation or against any person claiming to be a corporation, the  
 23 court may cause the costs to be collected by execution against the  
 24 person claiming to be a corporation or by attachment against any or all  
 25 of the directors or officers of the corporation, and may restrain the  
 26 corporation or any director, agent, employee, or stockholder and  
 27 appoint a receiver for **its the corporation's** property and effects, and  
 28 take an accounting and make distribution of **its the corporation's**  
 29 assets among **its the corporation's** creditors, and exercise any other  
 30 power or authority necessary and proper for carrying out the provisions  
 31 of this chapter. If judgment or decree be rendered against any  
 32 corporation incorporated under the laws of the United States, or of any  
 33 district or territory thereof, or of any state other than this state, or of any  
 34 foreign country, the court may cause the costs to be collected as in this  
 35 section provided and may render judgment and decree of ouster  
 36 perpetually excluding such corporation from the privilege of  
 37 transacting business in the state of Indiana and forfeiting to the school  
 38 fund any or all property of such corporation within the state, and shall  
 39 exercise such power and authority with regard to the property of such  
 40 corporation as may be exercised with regard to that of domestic  
 41 corporations.

42 SECTION 45. IC 24-1-2-11 IS AMENDED TO READ AS



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1       FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. Any person or  
 2       officer, agent, or employee of a corporation may be examined as a  
 3       witness or a party as in other cases, in any civil action instituted under  
 4       the provisions of this chapter and required to disclose all the facts  
 5       relevant to the case in **his the witness's or party's** knowledge as  
 6       provided in this chapter, but the testimony of such witness or party or  
 7       any answer to any question propounded to **him the witness or party** in  
 8       such examination shall not be used against such witness or party in any  
 9       criminal prosecution except in case of perjury committed by **him the**  
 10       **witness or party** therein; and **he the witness or party** shall not be  
 11       liable to **criminal** trial ~~by indictment or affidavit~~ or to punishment for  
 12       any offense inquired about. ~~provided,~~ However, ~~that~~ such exemption  
 13       shall be personal to such witness **or party** and shall not exempt or  
 14       render immune the corporation of which such witness **or party** shall  
 15       be an officer, agent, or employee, and such corporation shall be as  
 16       liable for any violation of this chapter as if such officer, agent, or  
 17       employee had not so testified.

18       SECTION 46. IC 25-4-1-4, AS AMENDED BY P.L.194-2005,  
 19       SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20       JULY 1, 2013]: Sec. 4. The board shall be entitled to the services of the  
 21       attorney general in connection with any of the business of the board.  
 22       The board shall have the power to administer oaths and take testimony  
 23       and proofs concerning any matter which may come within its  
 24       jurisdiction. The attorney general, the prosecuting attorney of any  
 25       county, the board, or a citizen of a county wherein any person, not  
 26       herein exempted, shall engage in the practice of architecture or  
 27       landscape architecture, as herein defined, without first having obtained  
 28       a certificate of registration, or without first having renewed an expired  
 29       certificate of registration, so to practice, may, in accordance with the  
 30       provisions of the laws of this state governing injunctions, maintain an  
 31       action, in the name of the state of Indiana, to enjoin such person from  
 32       engaging in the practice of architecture or landscape architecture, as  
 33       herein defined, until a certificate of registration is secured, or renewed,  
 34       in accordance with the provisions of this chapter. Any person who has  
 35       been so enjoined and who violates the injunction shall be punished for  
 36       contempt of court. The injunction shall not relieve such person so  
 37       practicing architecture or landscape architecture without a certificate  
 38       of registration, or without first having renewed an expired certificate of  
 39       registration, from a criminal prosecution therefor, as is provided by this  
 40       chapter, but such remedy by injunction shall be in addition to any  
 41       remedy provided for herein for the criminal prosecution of such  
 42       offender. In charging any person in a complaint for an injunction or in

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1 an affidavit ~~or information or indictment~~, with the violation of the  
 2 provisions of this chapter, by practicing architecture or landscape  
 3 architecture without a certificate of registration or without having  
 4 renewed an expired certificate of registration, it shall be sufficient to  
 5 charge that the person did upon a certain day and in a certain county  
 6 engage in the practice of architecture or landscape architecture, without  
 7 having a certificate of registration or without having renewed an  
 8 expired certificate of registration, to so practice, without averring any  
 9 further or more particular facts concerning the same. The attorney  
 10 general and the Indiana professional licensing agency may use the  
 11 registered architects and registered landscape architects investigative  
 12 fund established by section 32 of this chapter to hire investigators and  
 13 other employees to enforce the provisions of this article and to  
 14 investigate and prosecute violations of this article.

15 SECTION 47. IC 25-6.1-7-4 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. ~~Affidavits,~~  
 17 ~~Informations, Indictments.~~ In charging any person in an affidavit **or**  
 18 information ~~or indictment~~ with a violation of this article by carrying on  
 19 (without a license obtained under, or pursuant to an exemption defined  
 20 in, this article) an activity for the carrying-on of which a license issued  
 21 under, or an exemption defined in, this article is required, it shall be  
 22 sufficient to charge that the person did, upon a certain day and in a  
 23 certain county, engage in such an activity and that ~~he or it~~ **the person**  
 24 did not have a license to do so or an exemption (defined in this article)  
 25 permitting ~~him or it~~ **the person** to do so. No further or more particular  
 26 facts need be averred concerning the matter.

27 SECTION 48. IC 25-14-1-14 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. The attorney  
 29 general, prosecuting attorney, the state board of dentistry, or any citizen  
 30 of any county where any person shall engage in the practice of  
 31 dentistry, as herein defined, without possessing a valid license so to do,  
 32 may, in accordance with the laws of the state of Indiana governing  
 33 injunctions, maintain an action in the name of the state of Indiana to  
 34 enjoin such person from engaging in the practice of dentistry, as herein  
 35 defined, until a valid license to practice dentistry be secured. ~~And~~ Any  
 36 person who has been so enjoined who shall violate such injunction  
 37 shall be punished for contempt of court. ~~Provided, that~~ **However**, such  
 38 injunction shall not relieve such person so practicing dentistry without  
 39 a valid license from a criminal prosecution therefor as is now provided  
 40 by law, but such remedy by injunction shall be in addition to any  
 41 remedy now provided for the criminal prosecution of such offender. In  
 42 charging any person in a complaint for injunction, or in an affidavit **or**

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1 information, ~~or indictment~~, with a violation of this law by practicing  
 2 dentistry without a valid license, it shall be sufficient to charge that  
 3 such person did, upon a certain day and in a certain county, engage in  
 4 the practice of dentistry, ~~he the person~~ not having a valid license so to  
 5 do, without averring any further or more particular facts concerning the  
 6 same.

7 SECTION 49. IC 25-22.5-8-4 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. ~~Injunctions~~. The  
 9 attorney general, prosecuting attorney, the board, or any citizen of any  
 10 county where any person engages in the practice of medicine or  
 11 osteopathic medicine without a license or a permit to do so, may,  
 12 according to the laws of Indiana governing injunctions, maintain an  
 13 action in the name of the state of Indiana to enjoin the person from  
 14 engaging in the practice of medicine or osteopathic medicine. In  
 15 charging any person in an affidavit ~~or information or indictment~~, with  
 16 a violation of this law by practicing medicine or osteopathic medicine  
 17 without a license or permit, it is sufficient to charge that ~~he the person~~  
 18 did, upon a certain day and in a certain county, engage in the unlawful  
 19 practice of medicine or osteopathic medicine and that ~~he the person~~  
 20 did not have any license or permit to do so. No further or more  
 21 particular fact need be averred concerning the matter.

22 SECTION 50. IC 25-38.1-4-12, AS ADDED BY P.L.2-2008,  
 23 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 12. (a) If a person engages in the practice of  
 25 veterinary medicine without a license or certificate issued under this  
 26 article:

- 27 (1) the attorney general;
- 28 (2) a prosecuting attorney;
- 29 (3) the board; or
- 30 (4) a citizen;

31 may maintain an action in the name of the state to enjoin the person  
 32 from engaging in the practice of veterinary medicine.

33 (b) In charging a person under subsection (a) in an affidavit ~~or~~  
 34 information ~~or indictment~~ with a violation of this article, it is sufficient  
 35 to charge that the person did, on a certain date and in a certain county,  
 36 engage in the practice of veterinary medicine without a license or  
 37 permit issued under this article.

38 SECTION 51. IC 28-1-7.5-4, AS AMENDED BY P.L.217-2007,  
 39 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2013]: Sec. 4. (a) The bank, trust company, corporate  
 41 fiduciary, or stock savings bank and the holding company shall file  
 42 with the department three (3) copies of the plan of exchange certified



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1 by an officer of each as having been approved in accordance with  
 2 section 3 of this chapter. They shall also file a statement ~~which that~~  
 3 includes:

4 (1) information as to the earnings and financial condition of the  
 5 bank, trust company, corporate fiduciary, or stock savings bank as  
 6 of the end of its last preceding year as filed with the department,  
 7 and similar information, to the extent readily available, as of a  
 8 date not earlier than one hundred twenty (120) days before the  
 9 filing of the plan of exchange;

10 (2) a balance sheet of the holding company as of the date of the  
 11 most recent statement of condition of the bank, trust company,  
 12 corporate fiduciary, or stock savings bank required by subdivision  
 13 (1);

14 (3) a pro forma balance sheet of the holding company based on  
 15 the assumption that the plan of exchange was effective as  
 16 proposed at the date of the balance sheet of the holding company  
 17 required by subdivision (2);

18 (4) a description of the business intended to be done by the  
 19 holding company and of any plans or proposals that the holding  
 20 company may have to sell its assets or merge or consolidate with  
 21 any other person, or to make any other material change in its  
 22 investment policy, business, corporate structures, or management;

23 (5) a list of all persons who are or who have been selected to  
 24 become directors or officers of the holding company, a  
 25 description of their principal occupations, a list of all offices and  
 26 positions held by them during the past five (5) years, and  
 27 information about whether any of them:

28 (A) is under indictment for **or has been charged with;**

29 (B) has been convicted of; or

30 (C) has pleaded guilty or nolo contendere to;

31 a felony involving fraud, deceit, or misrepresentation under the  
 32 laws of Indiana or any other jurisdiction;

33 (6) a description of any plans or proposals that the holding  
 34 company may have to liquidate the bank, trust company,  
 35 corporate fiduciary, or stock savings bank to sell its assets or  
 36 merge or consolidate it with any person, or to make any other  
 37 material change in its investment policy, business, corporate  
 38 structure, or management;

39 (7) a copy of a preliminary proxy or information statement  
 40 prepared for distribution to the shareholders of the bank, trust  
 41 company, corporate fiduciary, or stock savings bank setting forth  
 42 all material facts relating to the holding company and the

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1 proposed plan of exchange; and  
 2 (8) such other information as the director may prescribe.  
 3 (b) The statement must:  
 4 (1) assert the completeness and accuracy of the information  
 5 referred to in subsection (a)(1) through (a)(8); and  
 6 (2) be made under oath or affirmation by an officer of the bank,  
 7 trust company, corporate fiduciary, or stock savings bank and an  
 8 officer of the holding company.  
 9 If any material change occurs in the facts set forth in the statement filed  
 10 with the department, an amendment setting forth the change, together  
 11 with copies of all documents and other material relevant to the change,  
 12 shall be filed with the department within five (5) business days after the  
 13 parties learn of the change.  
 14 SECTION 52. IC 28-1-29-5, AS AMENDED BY P.L.35-2010,  
 15 SECTION 123, IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Every person doing business  
 17 as a debt management company shall make application to the  
 18 department for a license to engage in such business. Such application  
 19 shall be in the form prescribed by the department and shall contain  
 20 such information as the department may require.  
 21 (b) The department may not issue a license unless the department  
 22 finds that the financial responsibility, character, and fitness of:  
 23 (1) the applicant and any significant affiliate of the applicant;  
 24 (2) each executive officer, director, or manager of the applicant,  
 25 or any other individual having a similar status or performing a  
 26 similar function for the applicant; and  
 27 (3) if known, each person directly or indirectly owning of record  
 28 or owning beneficially at least ten percent (10%) of the  
 29 outstanding shares of any class of equity security of the applicant;  
 30 warrant belief that the business will be operated honestly and fairly  
 31 under this chapter. The department is entitled to request evidence of an  
 32 applicant's financial responsibility, character, and fitness.  
 33 (c) An application submitted under this section must indicate  
 34 whether any individuals described in subsection (b)(2) or (b)(3):  
 35 (1) are, at the time of the application, **named in an information**  
 36 **or** under indictment for a felony under the laws of Indiana or any  
 37 other jurisdiction; or  
 38 (2) have been convicted of or pleaded guilty or nolo contendere  
 39 to a felony under the laws of Indiana or any other jurisdiction.  
 40 (d) The department may deny an application under this section if the  
 41 director of the department determines that the application was  
 42 submitted for the benefit of, or on behalf of, a person who does not

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1 qualify for a license.

2 (e) Upon written request, an applicant is entitled to a hearing under  
3 IC 4-21.5 on the question of the qualifications of the applicant for a  
4 license.

5 SECTION 53. IC 28-7-5-4, AS AMENDED BY P.L.35-2010,  
6 SECTION 170, IS AMENDED TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) Application for a  
8 pawnbroker's license shall be submitted on a form prescribed by the  
9 department and must include all information required by the  
10 department. An application submitted under this section must identify  
11 the location or locations at which the applicant proposes to engage in  
12 business as a pawnbroker in Indiana. If any business, other than the  
13 business of acting as a pawnbroker under this chapter, will be  
14 conducted by the applicant or another person at any location identified  
15 under this subsection, the applicant shall indicate for each location at  
16 which another business will be conducted:

- 17 (1) the nature of the other business;
- 18 (2) the name under which the other business operates;
- 19 (3) the address of the principal office of the other business;
- 20 (4) the name and address of the business's resident agent in  
21 Indiana; and
- 22 (5) any other information the director may require.

23 (b) An application submitted under this section must indicate  
24 whether any individual described in section 8(a)(2) or 8(a)(3) of this  
25 chapter at the time of the application:

- 26 (1) **has been charged with or** is under indictment for a felony  
27 under the laws of Indiana or any other jurisdiction; or
- 28 (2) has been convicted of or pleaded guilty or nolo contendere to  
29 a felony under the laws of Indiana or any other jurisdiction.

30 (c) The director may request that the applicant provide evidence of  
31 compliance with this section at:

- 32 (1) the time of application;
- 33 (2) the time of renewal of a license; or
- 34 (3) any other time considered necessary by the director.

35 (d) For purposes of subsection (c), evidence of compliance with this  
36 section may include:

- 37 (1) criminal background checks, including a national criminal  
38 history background check (as defined in IC 10-13-3-12) by the  
39 Federal Bureau of Investigation for any individual described in  
40 subsection (b);
- 41 (2) credit histories; and
- 42 (3) other background checks considered necessary by the director.

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1 If the director requests a national criminal history background check  
 2 under subdivision (1) for an individual described in ~~that~~ subdivision  
 3 **(1)**, the director shall require the individual to submit fingerprints to the  
 4 department or to the state police department, as appropriate, at the time  
 5 evidence of compliance is requested under subsection (c). The  
 6 individual to whom the request is made shall pay any fees or costs  
 7 associated with the fingerprints and the national criminal history  
 8 background check. The national criminal history background check  
 9 may be used by the director to determine the individual's compliance  
 10 with this section. The director or the department may not release the  
 11 results of the national criminal history background check to any private  
 12 entity.

13 SECTION 54. IC 28-8-4-20, AS AMENDED BY P.L.172-2011,  
 14 SECTION 134, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2013]: Sec. 20. (a) A person may not engage in  
 16 the business of money transmission without a license required by this  
 17 chapter.

18 (b) An application for a license must be submitted on a form  
 19 prescribed by the department and must include the information  
 20 required by the department.

21 (c) An application submitted under this section must indicate  
 22 whether any individuals described in section 35(b)(2) or 35(b)(3) of  
 23 this chapter:

24 (1) are, at the time of the application, **named in an information**  
 25 **or** under indictment for a felony under the laws of Indiana or any  
 26 other jurisdiction; or

27 (2) have been convicted of or pleaded guilty or nolo contendere  
 28 to a felony under the laws of Indiana or any other jurisdiction.

29 (d) The director may request evidence of compliance with this  
 30 section at:

31 (1) the time of application;

32 (2) the time of renewal of a license; or

33 (3) any other time considered necessary by the director.

34 (e) For purposes of subsection (d), evidence of compliance may  
 35 include:

36 (1) criminal background checks, including a national criminal  
 37 history background check (as defined in IC 10-13-3-12) by the  
 38 Federal Bureau of Investigation for an individual described in  
 39 section 35(b)(2) or 35(b)(3) of this chapter;

40 (2) credit histories; and

41 (3) other background checks considered necessary by the director.

42 If the director requests a national criminal history background check

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1 under subdivision (1) for an individual described in ~~that~~ subdivision (1)  
 2 the director shall require the individual to submit fingerprints to the  
 3 department or to the state police department, as appropriate, at the time  
 4 evidence of compliance is requested under subsection (d). The  
 5 individual to whom the request is made shall pay any fees or costs  
 6 associated with the fingerprints and the national criminal history  
 7 background check. The national criminal history background check  
 8 may be used by the director to determine the individual's compliance  
 9 with this section. The director or the department may not release the  
 10 results of the national criminal history background check to any private  
 11 entity.

12 (f) If the department of state revenue notifies the department that a  
 13 person is on the most recent tax warrant list, the department shall not  
 14 issue or renew the person's license until:

- 15 (1) the person provides to the department a statement from the  
 16 department of state revenue that the person's tax warrant has been  
 17 satisfied; or
- 18 (2) the department receives a notice from the commissioner of the  
 19 department of state revenue under IC 6-8.1-8-2(k).

20 SECTION 55. IC 28-8-4-24, AS AMENDED BY P.L.217-2007,  
 21 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2013]: Sec. 24. An application must contain the following:

- 23 (1) The name of the applicant.
- 24 (2) The applicant's principal address.
- 25 (3) A fictitious or trade name, if any, used by the applicant in the  
 26 conduct of its business.
- 27 (4) The location of the applicant's business records.
- 28 (5) The history of the applicant's:
  - 29 (A) material litigation; and
  - 30 (B) criminal indictments, **informations**, convictions, and  
 31 guilty or nolo contendere pleas for felonies involving fraud,  
 32 deceit, or misrepresentation under the laws of Indiana or any  
 33 other jurisdiction.
- 34 (6) A description of:
  - 35 (A) the activities conducted by the applicant;
  - 36 (B) the applicant's history of operations; and
  - 37 (C) the business activities in which the applicant seeks to be  
 38 engaged in Indiana.
- 39 (7) A list identifying the applicant's proposed authorized delegates  
 40 in Indiana.
- 41 (8) A sample authorized delegate contract, if applicable.
- 42 (9) A sample form of payment instrument, if applicable.



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1 (10) The location or locations at which the applicant and its  
2 authorized delegates propose to conduct the licensed activities in  
3 Indiana. If any business, other than the business of money  
4 transmission under this chapter, will be conducted by the  
5 applicant or another person at any location identified under this  
6 subdivision, the applicant shall indicate for each location at which  
7 another business will be conducted:

- 8 (A) the nature of the other business;
- 9 (B) the name under which the other business operates;
- 10 (C) the address of the principal office of the other business;
- 11 (D) the name and address of the business's resident agent in  
12 Indiana; and
- 13 (E) any other information that the director may require.

14 However, the applicant is not required to submit the information  
15 required by this subdivision if the location at which the other  
16 business will be conducted is the place of business of an  
17 authorized delegate that is not under common control with the  
18 applicant.

19 (11) The name and address of the clearing bank or banks on  
20 which the applicant's payment instruments will be drawn or  
21 through which such payment instruments will be payable.

22 (12) Documents revealing that the applicant has a net worth of at  
23 least one hundred thousand dollars (\$100,000), calculated in  
24 accordance with generally accepted accounting principles.

25 (13) In addition to the requirements of subdivision (12), an  
26 applicant that sells payment instruments at more than one (1)  
27 location or through authorized delegates must have an additional  
28 net worth of the lesser of:

- 29 (A) fifty thousand dollars (\$50,000) for each location in  
30 Indiana;
- 31 (B) fifty thousand dollars (\$50,000) for each authorized  
32 delegate located in Indiana; or
- 33 (C) five hundred thousand dollars (\$500,000).

34 SECTION 56. IC 28-8-4-39 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 39. A licensee shall file  
36 a written report with the director not later than fifteen (15) days after  
37 the occurrence of one (1) or more of the following events:

- 38 (1) The filing for bankruptcy or reorganization by the licensee.
- 39 (2) The institution of revocation or suspension proceedings  
40 against the licensee by a state or governmental authority with  
41 regard to the licensee's money transmission activities.
- 42 (3) ~~A felony indictment of~~ The licensee or ~~of~~ a key officer or

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1 director of the licensee **is named in an information or**  
 2 **indictment under the laws of Indiana or any other jurisdiction**  
 3 related to money transmission activities.

4 (4) A felony conviction of the licensee or a key officer or director  
 5 of the licensee related to money transmission activities.

6 The written report must give details concerning the event.

7 SECTION 57. IC 28-8-5-11, AS AMENDED BY P.L.172-2011,  
 8 SECTION 135, IS AMENDED TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) A person shall not engage  
 10 in the business of cashing checks for consideration without first  
 11 obtaining a license.

12 (b) Each application for a license shall be in writing in such form as  
 13 the director may prescribe and shall include all of the following:

14 (1) The following information pertaining to the applicant:

- 15 (A) Name.
- 16 (B) Residence address.
- 17 (C) Business address.

18 (2) The following information pertaining to any individual  
 19 described in section 12(b)(1) of this chapter:

- 20 (A) Name.
- 21 (B) Residence address.
- 22 (C) Business address.
- 23 (D) Whether the person:
  - 24 (i) is, at the time of the application, **named in an**  
 25 **information or** under indictment for a felony under the laws  
 26 of Indiana or any other jurisdiction; or
  - 27 (ii) has been convicted of or pleaded guilty or nolo  
 28 contendere to a felony under the laws of Indiana or any other  
 29 jurisdiction.

30 (3) The address where the applicant's office or offices will be  
 31 located. If any business, other than the business of cashing checks  
 32 under this chapter, will be conducted by the applicant or another  
 33 person at any of the locations identified under this subdivision,  
 34 the applicant shall indicate for each location at which another  
 35 business will be conducted:

- 36 (A) the nature of the other business;
- 37 (B) the name under which the other business operates;
- 38 (C) the address of the principal office of the other business;
- 39 (D) the name and address of the business's resident agent in  
 40 Indiana; and
- 41 (E) any other information that the director may require.

42 (4) If the department of state revenue notifies the department that

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- 1 a person is on the most recent tax warrant list, the department
- 2 shall not issue or renew the person's license until:
- 3 (A) the person provides to the department a statement from the
- 4 department of state revenue that the person's tax warrant has
- 5 been satisfied; or
- 6 (B) the department receives a notice from the commissioner of
- 7 the department of state revenue under IC 6-8.1-8-2(k).
- 8 (5) Such other data, financial statements, and pertinent
- 9 information as the director may require.
- 10 (c) The application shall be filed with a nonrefundable fee fixed by
- 11 the department under IC 28-11-3-5.

12 SECTION 58. IC 28-11-4-3, AS AMENDED BY P.L.35-2010,  
 13 SECTION 198, IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) If the director determines that  
 15 a current or former director, officer, or employee of a financial  
 16 institution has:

- 17 (1) committed a violation of a statute, a rule, a final cease and
- 18 desist order, any condition imposed in writing by the director in
- 19 connection with the grant of any application or other request by
- 20 the financial institution, or any written agreement between the
- 21 financial institution and the director or the department;
- 22 (2) engaged or participated in an unsafe or unsound practice in
- 23 connection with the financial institution;
- 24 (3) committed or engaged in an act, an omission, or a practice that
- 25 constitutes a breach of fiduciary duty as director, officer, or
- 26 employee; or
- 27 (4) been convicted of, has pleaded guilty or nolo contendere to, or
- 28 is **named in an information** or under indictment for, a felony
- 29 involving fraud, deceit, or misrepresentation under the laws of
- 30 Indiana or any other jurisdiction;

31 the director, subject to subsection (b), may issue and serve upon the  
 32 officer, director, or employee a notice of the director's intent to issue an  
 33 order removing the person from the person's office or employment, an  
 34 order prohibiting any participation by the person in the conduct of the  
 35 affairs of any financial institution, or an order both removing the person  
 36 and prohibiting the person's participation.

37 (b) A violation, practice, or breach specified in subdivision (a) is  
 38 subject to the authority of the director under subsection (a) if the  
 39 director finds any of the following:

- 40 (1) By reason of the violation, practice, or breach, the financial
- 41 institution has suffered or will probably suffer substantial
- 42 financial loss or other damage.

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- 1 (2) The interests of the financial institution's depositors could be
- 2 seriously prejudiced by reason of the violation, practice, or breach
- 3 of fiduciary duty.
- 4 (3) The violation, practice, or breach involves personal dishonesty
- 5 on the part of the officer, director, or employee involved.
- 6 (4) The violation, practice, or breach demonstrates a willful or
- 7 continuing disregard by the officer, director, or employee for the
- 8 safety and soundness of the financial institution.

- 9 (c) A person who:
- 10 (1) is **named in an information** or under indictment for;
- 11 (2) has been convicted of; or
- 12 (3) has pleaded guilty or nolo contendere to;
- 13 a felony involving fraud, deceit, or misrepresentation under the laws of
- 14 Indiana or any other jurisdiction may not serve as a director, an officer,
- 15 or an employee of a financial institution, or serve in any similar
- 16 capacity, unless the person obtains the written consent of the director.

17 (d) A financial institution that willfully permits a person to serve the  
 18 financial institution in violation of subsection (b) or (c) is subject to a  
 19 civil penalty of five hundred dollars (\$500) for each day the violation  
 20 continues. A civil penalty paid under this subsection must be deposited  
 21 into the financial institutions fund established by IC 28-11-2-9.

22 SECTION 59. IC 29-3-2-0.2, AS ADDED BY P.L.220-2011,  
 23 SECTION 481, IS AMENDED TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2013]: Sec. 0.2. (a) As used in this section,  
 25 "affected statutes" refers to the following:

- 26 (1) IC 16-8-12-7 (repealed, now codified at IC 16-36-1-8).
- 27 (2) IC 29-1-7.5-2.
- 28 (3) IC 33-16-2-2 (repealed, now codified at IC 33-42-2-2).
- 29 (4) IC 33-19-3-2 (repealed, now codified at IC 33-37-3-2).
- 30 (5) IC 35-34-2-3 (**repealed**).
- 31 (6) IC 35-37-1-5.

32 (b) This article and the amendments made by P.L.169-1988 to the  
 33 affected statutes apply to guardianships in existence on June 30, 1989,  
 34 except to the extent that application of this article and the amendments  
 35 made by P.L.169-1988 to the affected statutes would contravene any  
 36 vested or contractual rights in effect on June 30, 1989, in which case  
 37 the law in effect before July 1, 1989, prevails.

38 SECTION 60. IC 31-30-3-11 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. The prosecuting  
 40 attorney shall file a copy of the waiver order with the court to which the  
 41 child has been waived when the prosecuting attorney files the  
 42 ~~indictment~~ or information.

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1 SECTION 61. IC 31-33-18-1.5, AS AMENDED BY P.L.128-2012,  
 2 SECTION 154, IS AMENDED TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2013]: Sec. 1.5. (a) This section applies to  
 4 records held by:

- 5 (1) a local office;  
 6 (2) the department;  
 7 (3) a local child fatality review team established under  
 8 IC 31-33-24;  
 9 (4) the statewide child fatality review committee established  
 10 under IC 31-33-25; or  
 11 (5) the department of child services ombudsman established by  
 12 IC 4-13-19-3;

13 regarding a child whose death or near fatality may have been the result  
 14 of abuse, abandonment, or neglect.

15 (b) For purposes of subsection (a), a child's death or near fatality  
 16 may have been the result of abuse, abandonment, or neglect if:

- 17 (1) an entity described in subsection (a) determines that the child's  
 18 death or near fatality is the result of abuse, abandonment, or  
 19 neglect; or  
 20 (2) a prosecuting attorney files:  
 21 (A) an ~~indictment~~ or information; or  
 22 (B) a complaint alleging the commission of a delinquent act;  
 23 that, if proven, would cause a reasonable person to believe that  
 24 the child's death or near fatality may have been the result of  
 25 abuse, abandonment, or neglect.

26 Upon the request of any person, or upon its own motion, the court  
 27 exercising juvenile jurisdiction in the county in which the child's death  
 28 or near fatality occurred shall determine whether the allegations  
 29 contained in the ~~indictment~~, information or complaint described in  
 30 subdivision (2), if proven, would cause a reasonable person to believe  
 31 that the child's death or near fatality may have been the result of abuse,  
 32 abandonment, or neglect.

33 (c) If the juvenile court finds that the child's death or near fatality  
 34 was the result of abuse, abandonment, or neglect, the court shall make  
 35 written findings and provide a copy of the findings and the ~~indictment~~,  
 36 information or complaint described under subsection (b)(2) to the  
 37 department.

38 (d) As used in this section:

- 39 (1) "case" means:  
 40 (A) any intake report generated by the department;  
 41 (B) any investigation or assessment conducted by the  
 42 department; or

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1 (C) ongoing involvement between the department and a child  
 2 or family that is the result of:  
 3 (i) a program of informal adjustment; or  
 4 (ii) a child in need of services action;  
 5 for which related records and documents have not been expunged  
 6 as required by law or by a court at the time the department is  
 7 notified of a fatality or near fatality;  
 8 (2) "contact" means in person communication about a case in  
 9 which:  
 10 (A) the child who is the victim of a fatality or near fatality is  
 11 alleged to be a victim; or  
 12 (B) the perpetrator of the fatality or near fatality is alleged to  
 13 be the perpetrator;  
 14 (3) "identifying information" means information that identifies an  
 15 individual, including an individual's:  
 16 (A) name, address, date of birth, occupation, place of  
 17 employment, and telephone number;  
 18 (B) employer identification number, mother's maiden name,  
 19 Social Security number, or any identification number issued by  
 20 a governmental entity;  
 21 (C) unique biometric data, including the individual's  
 22 fingerprint, voice print, or retina or iris image;  
 23 (D) unique electronic identification number, address, or  
 24 routing code;  
 25 (E) telecommunication identifying information; or  
 26 (F) telecommunication access device, including a card, a plate,  
 27 a code, an account number, a personal identification number,  
 28 an electronic serial number, a mobile identification number, or  
 29 another telecommunications service or device or means of  
 30 account access; and  
 31 (4) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.  
 32 (e) Unless information in a record is otherwise confidential under  
 33 state or federal law, a record described in subsection (a) that has been  
 34 redacted in accordance with this section is not confidential and may be  
 35 disclosed to any person who requests the record. The person requesting  
 36 the record may be required to pay the reasonable expenses of copying  
 37 the record.  
 38 (f) When a person requests a record described in subsection (a), the  
 39 entity having control of the record shall immediately transmit a copy of  
 40 the record to the court exercising juvenile jurisdiction in the county in  
 41 which the death or near fatality of the child occurred. However, if the  
 42 court requests that the entity having control of a record transmit the

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1 original record, the entity shall transmit the original record.

2 (g) Upon receipt of the record described in subsection (a), the court  
3 shall, within thirty (30) days, redact the record to exclude:

- 4 (1) identifying information described in subsection (d)(3)(B)  
5 through (d)(3)(F) of a person; and  
6 (2) all identifying information of a child less than eighteen (18)  
7 years of age.

8 (h) The court shall disclose the record redacted in accordance with  
9 subsection (g) to any person who requests the record, if the person has  
10 paid:

- 11 (1) to the entity having control of the record, the reasonable  
12 expenses of copying under IC 5-14-3-8; and  
13 (2) to the court, the reasonable expenses of copying the record.

14 (i) The data and information in a record disclosed under this section  
15 must include the following:

- 16 (1) A summary of the report of abuse or neglect and a factual  
17 description of the contents of the report.  
18 (2) The date of birth and gender of the child.  
19 (3) The cause of the fatality or near fatality, if the cause has been  
20 determined.  
21 (4) Whether the department had any contact with the child or the  
22 perpetrator before the fatality or near fatality, and, if the  
23 department had contact, the following:

- 24 (A) The frequency of the contact with the child or the  
25 perpetrator before the fatality or near fatality and the date on  
26 which the last contact occurred before the fatality or near  
27 fatality.  
28 (B) A summary of the status of the child's case at the time of  
29 the fatality or near fatality, including:

- 30 (i) whether the child's case was closed by the department  
31 before the fatality or near fatality; and  
32 (ii) if the child's case was closed as described under item (i),  
33 the date of closure and the reasons that the case was closed.

34 (j) The court's determination under subsection (g) that certain  
35 identifying information or other information is not relevant to  
36 establishing the facts and circumstances leading to the death or near  
37 fatality of a child is not admissible in a criminal proceeding or civil  
38 action.

39 SECTION 62. IC 31-33-18-2, AS AMENDED BY P.L.48-2012,  
40 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2013]: Sec. 2. The reports and other material described in  
42 section 1(a) of this chapter and the unredacted reports and other

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1 material described in section 1(b) of this chapter shall be made  
2 available only to the following:

3 (1) Persons authorized by this article.

4 (2) A legally mandated public or private child protective agency  
5 investigating a report of child abuse or neglect or treating a child  
6 or family that is the subject of a report or record.

7 (3) A police or other law enforcement agency, prosecuting  
8 attorney, or coroner in the case of the death of a child who is  
9 investigating a report of a child who may be a victim of child  
10 abuse or neglect.

11 (4) A physician who has before the physician a child whom the  
12 physician reasonably suspects may be a victim of child abuse or  
13 neglect.

14 (5) An individual legally authorized to place a child in protective  
15 custody if:

16 (A) the individual has before the individual a child whom the  
17 individual reasonably suspects may be a victim of abuse or  
18 neglect; and

19 (B) the individual requires the information in the report or  
20 record to determine whether to place the child in protective  
21 custody.

22 (6) An agency having the legal responsibility or authorization to  
23 care for, treat, or supervise a child who is the subject of a report  
24 or record or a parent, guardian, custodian, or other person who is  
25 responsible for the child's welfare.

26 (7) An individual named in the report or record who is alleged to  
27 be abused or neglected or, if the individual named in the report is  
28 a child or is otherwise incompetent, the individual's guardian ad  
29 litem or the individual's court appointed special advocate, or both.

30 (8) Each parent, guardian, custodian, or other person responsible  
31 for the welfare of a child named in a report or record and an  
32 attorney of the person described under this subdivision, with  
33 protection for the identity of reporters and other appropriate  
34 individuals.

35 (9) A court, for redaction of the record in accordance with section  
36 1.5 of this chapter, or upon the court's finding that access to the  
37 records may be necessary for determination of an issue before the  
38 court. However, except for disclosure of a redacted record in  
39 accordance with section 1.5 of this chapter, access is limited to in  
40 camera inspection unless the court determines that public  
41 disclosure of the information contained in the records is necessary  
42 for the resolution of an issue then pending before the court.

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- 1           ~~(10)~~ A grand jury upon the grand jury's determination that access  
 2           to the records is necessary in the conduct of the grand jury's  
 3           official business.
- 4           ~~(11)~~ **(10)** An appropriate state or local official responsible for  
 5           child protection services or legislation carrying out the official's  
 6           official functions.
- 7           ~~(12)~~ **(11)** A foster care review board established by a juvenile  
 8           court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal)  
 9           upon the court's determination that access to the records is  
 10          necessary to enable the foster care review board to carry out the  
 11          board's purpose under IC 31-34-21.
- 12          ~~(13)~~ **(12)** The community child protection team appointed under  
 13          IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to  
 14          enable the team to carry out the team's purpose under IC 31-33-3.
- 15          ~~(14)~~ **(13)** A person about whom a report has been made, with  
 16          protection for the identity of:
- 17                (A) any person reporting known or suspected child abuse or  
 18                neglect; and
- 19                (B) any other person if the person or agency making the  
 20                information available finds that disclosure of the information  
 21                would be likely to endanger the life or safety of the person.
- 22          ~~(15)~~ **(14)** An employee of the department, a caseworker, or a  
 23          juvenile probation officer conducting a criminal history check  
 24          under IC 31-26-5, IC 31-34, or IC 31-37 to determine the  
 25          appropriateness of an out-of-home placement for a:
- 26                (A) child at imminent risk of placement;
- 27                (B) child in need of services; or
- 28                (C) delinquent child.
- 29          The results of a criminal history check conducted under this  
 30          subdivision must be disclosed to a court determining the  
 31          placement of a child described in clauses (A) through (C).
- 32          ~~(16)~~ **(15)** A local child fatality review team established under  
 33          IC 31-33-24-6.
- 34          ~~(17)~~ **(16)** The statewide child fatality review committee  
 35          established by IC 31-33-25-6.
- 36          ~~(18)~~ **(17)** The department.
- 37          ~~(19)~~ **(18)** The division of family resources, if the investigation  
 38          report:
- 39                (A) is classified as substantiated; and
- 40                (B) concerns:
- 41                    (i) an applicant for a license to operate;
- 42                    (ii) a person licensed to operate;

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1 (iii) an employee of; or  
 2 (iv) a volunteer providing services at;  
 3 a child care center licensed under IC 12-17.2-4 or a child care  
 4 home licensed under IC 12-17.2-5.  
 5 ~~(20)~~ **(19)** A citizen review panel established under  
 6 IC 31-25-2-20.4.  
 7 ~~(21)~~ **(20)** The department of child services ombudsman  
 8 established by IC 4-13-19-3.  
 9 ~~(22)~~ **(21)** The state superintendent of public instruction with  
 10 protection for the identity of:  
 11 (A) any person reporting known or suspected child abuse or  
 12 neglect; and  
 13 (B) any other person if the person or agency making the  
 14 information available finds that disclosure of the information  
 15 would be likely to endanger the life or safety of the person.  
 16 SECTION 63. IC 31-34-7-4 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. A person who is  
 18 accused of committing child abuse or neglect is entitled under  
 19 ~~IC 31-33-18-2(14)~~ **IC 31-33-18-2(13)** to access to a report relevant to  
 20 an alleged accusation.  
 21 SECTION 64. IC 33-28-5-12, AS AMENDED BY P.L.118-2007,  
 22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2013]: Sec. 12. (a) Under the supervision of the supervising  
 24 judge, the jury administrator shall prepare a written plan for the  
 25 selection of ~~grand and~~ petit jurors in the county. The plan must be  
 26 designed to achieve the objectives of this chapter. The plan must  
 27 specify the following:  
 28 (1) Source of names for the master list.  
 29 (2) Form of the master list.  
 30 (3) Method of selecting names from the master list.  
 31 (4) Methods for maintaining records of names drawn, jurors  
 32 qualified, and jurors' deferrals and reasons to be deferred,  
 33 including specifying any necessary forms.  
 34 (5) Method of drawing names of qualified jurors for prospective  
 35 service.  
 36 (6) Procedures to be followed by prospective jurors in requesting  
 37 to be deferred from jury service.  
 38 (7) Number of petit jurors that constitutes a panel for civil and  
 39 criminal cases or a description of the uniform manner in which  
 40 this determination is made.  
 41 ~~(8) That upon receipt of an order for a grand jury, the jury~~  
 42 ~~administrator shall publicly, and in accordance with section 20 of~~

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1 this chapter; draw at random from the jury pool twelve (12)  
 2 qualified jurors and direct them to appear before the supervising  
 3 judge. The supervising judge shall randomly select six (6) jurors  
 4 after:

5 (A) explaining to the twelve (12) prospective jurors the duties  
 6 and responsibilities of a grand jury; and

7 (B) deferring jurors under section 18 of this chapter.

8 (b) The plan must be submitted by the jury administrator to the  
 9 judges of the courts. The judges of the courts shall approve or direct  
 10 modification of the plan not later than sixty (60) days after its receipt.  
 11 If the plan is found not to comply, the court shall order the jury  
 12 administrator to make the necessary changes to bring the plan into  
 13 compliance. The approved plan must go into effect not later than sixty  
 14 (60) days after the plan is approved by the judges of the courts.

15 (c) The plan may be modified at any time according to the  
 16 procedure specified under this chapter.

17 (d) The plan is a public document on file in the office of the jury  
 18 administrator and must be available for inspection at all reasonable  
 19 times.

20 SECTION 65. IC 33-28-5-14, AS AMENDED BY P.L.118-2007,  
 21 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2013]: Sec. 14. (a) Names must be drawn for the jury pool at  
 23 least one (1) time each year based on a calendar year commencing in  
 24 January. Drawing of names for the first jury pool for a calendar year  
 25 must be held during the last quarter of the calendar year preceding the  
 26 calendar year for which names are being drawn, at a time and place  
 27 prescribed by the jury administrator.

28 (b) The number of names required to be drawn from the jury pool  
 29 for jury service must be determined by the jury administrator after  
 30 consultation with all judges of the courts who may conduct jury trials.  
 31 ~~taking into consideration the number of jurors required for the grand~~  
 32 ~~jury.~~

33 (c) The frequency of the drawing of names to be summoned for jury  
 34 service may be increased by the jury administrator if the jury  
 35 administrator determines it necessary for purposes of fairness,  
 36 efficiency, or to ensure compliance with this chapter.

37 (d) Names to be summoned for jury service must be drawn  
 38 randomly under section 20 of this chapter.

39 (e) Except by order of the supervising judge, names drawn from the  
 40 jury pool to be summoned for jury service may not be returned to the  
 41 jury pool until all nonexempt persons in the jury pool have been called.

42 (f) This section shall be construed liberally, to the effect that

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1           ~~(1) an indictment may not be quashed; and~~

2           ~~(2) a trial, a judgment, an order, or a proceeding may not be~~  
 3           ~~reversed or held invalid~~

4           on the ground that the terms of this section have not been followed,  
 5           unless it appears that the noncompliance was either in bad faith or was  
 6           objected to promptly upon discovery and was probably harmful to the  
 7           substantial rights of the objecting party.

8           SECTION 66. IC 33-28-5-18, AS AMENDED BY P.L.157-2009,  
 9           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10          JULY 1, 2013]: Sec. 18. (a) The supervising judge or the jury  
 11          administrator shall determine whether a prospective juror is qualified  
 12          to serve or, if disabled but otherwise qualified, whether the prospective  
 13          juror could serve with reasonable accommodation. A person who is not  
 14          eligible for jury service may not serve. The facts supporting juror  
 15          disqualification or exemption must be recorded under oath or  
 16          affirmation. A disqualification or exemption is not authorized unless  
 17          supported by the facts. The jury administrator shall make a record of all  
 18          disqualifications.

19          (b) A prospective juror is disqualified to serve on a jury if any of the  
 20          following conditions exist:

21           (1) The person is not a citizen of the United States, at least  
 22           eighteen (18) years of age, and a resident of the county.

23           (2) The person is unable to read, speak, and understand the  
 24           English language with a degree of proficiency sufficient to fill out  
 25           satisfactorily a juror qualification form.

26           (3) The person is incapable of rendering satisfactory jury service  
 27           due to physical or mental disability. However, a person claiming  
 28           this disqualification may be required to submit a physician's or  
 29           authorized Christian Science practitioner's certificate confirming  
 30           the disability, and the certifying physician or practitioner is then  
 31           subject to inquiry by the court at the court's discretion.

32           (4) A guardian has been appointed for the person under IC 29-3  
 33           because the person has a mental incapacity.

34           (5) The person has had the right to vote revoked by reason of a  
 35           felony conviction and the right has not been restored.

36          (c) A person scheduled to appear for jury service has the right to  
 37          defer the date of the person's initial appearance for jury service one (1)  
 38          time upon a showing of hardship, extreme inconvenience, or necessity.  
 39          The court shall grant a prospective juror's request for deferral if the  
 40          following conditions are met:

41           (1) The prospective juror has not previously been granted a  
 42           deferral.

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- 1 (2) The prospective juror requests a deferral by contacting the  
 2 jury administrator:  
 3 (A) by telephone;  
 4 (B) by electronic mail;  
 5 (C) in writing; or  
 6 (D) in person.
- 7 (3) The prospective juror selects another date on which the  
 8 prospective juror will appear for jury service that is:  
 9 (A) not more than one (1) year after the date upon which the  
 10 prospective juror was originally scheduled to appear; and  
 11 (B) a date when the court will be in session.
- 12 (4) The court determines that the prospective juror has  
 13 demonstrated that a deferral is necessary due to:  
 14 (A) hardship;  
 15 (B) extreme inconvenience; or  
 16 (C) necessity.
- 17 (d) A prospective juror who is at least seventy-five (75) years of age  
 18 may be exempted from jury service if the prospective juror notifies the  
 19 jury administrator that the prospective juror is at least seventy-five (75)  
 20 years of age and wishes to be exempted from jury service.
- 21 (e) A person may not serve as a petit juror in any county if the  
 22 person served as a petit juror in the same county within the previous  
 23 three hundred sixty-five (365) days in a case that resulted in a verdict.  
 24 The fact that a person's selection as a juror would violate this  
 25 subsection is sufficient cause for challenge.
- 26 (f) ~~A grand jury~~; A petit jury or an individual juror drawn for service  
 27 in one (1) court may serve in another court of the county, in accordance  
 28 with orders entered on the record in each of the courts.
- 29 (g) The same petit jurors may be used in civil cases and in criminal  
 30 cases.
- 31 (h) A person may not be excluded from jury service on account of  
 32 race, color, religion, sex, national origin, or economic status.
- 33 SECTION 67. IC 33-28-5-21, AS AMENDED BY P.L.118-2007,  
 34 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2013]: Sec. 21. (a) Not later than seven (7) days after a  
 36 moving party discovers or by the exercise of diligence could have  
 37 discovered grounds, but before a petit jury is sworn to try a case, a  
 38 party may:  
 39 (1) in a civil case move to stay the proceedings; and  
 40 (2) in a criminal case move:  
 41 (~~A~~) to dismiss the indictment (if the case has been brought by  
 42 indictment);

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- 1           ~~(B)~~ (A) to stay the proceedings; or  
 2           ~~(C)~~ (B) for other appropriate relief;  
 3 on the ground of substantial failure to comply with this chapter in  
 4 selecting the prospective grand jurors **(before the abolishment of the**  
 5 **grand jury)** or petit jurors.  
 6           (b) Upon a motion filed under subsection (a) containing a sworn  
 7 statement of facts that, if true, would constitute a substantial failure to  
 8 comply with this chapter, the moving party may present evidence in  
 9 support of the motion.  
 10           (c) If the court determines that in selecting either a grand jury  
 11 **(before the abolishment of the grand jury)** or a petit jury there has  
 12 been a substantial failure to comply with this chapter, the court:  
 13           (1) shall stay the proceedings pending the selection of the jury in  
 14 conformity with this chapter; and  
 15           (2) may ~~dismiss an indictment (if the case was brought by~~  
 16 ~~indictment)~~ or grant other appropriate relief.  
 17           (d) The procedures required by this section are the exclusive means  
 18 by which the state, a person accused of an offense, or a party in a civil  
 19 case may challenge a jury on the ground that the jury was not selected  
 20 in conformity with this chapter.  
 21           (e) The parties to the case may inspect, reproduce, and copy the  
 22 records or papers of the jury administrator at all reasonable times  
 23 during the preparation and pendency of a motion under subsection (a).  
 24           SECTION 68. IC 33-28-5-23, AS AMENDED BY P.L.118-2007,  
 25 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2013]: Sec. 23. (a) A person who appears for service as a petit  
 27 ~~or grand~~ juror serves until the conclusion of the first trial in which the  
 28 juror is sworn, regardless of the length of the trial or the manner in  
 29 which the trial is disposed. A person who appears for service but is not  
 30 selected and sworn as a juror completes the person's service when jury  
 31 selection is complete.  
 32           (b) Except by order of the supervising judge, a person who:  
 33           (1) serves as a juror under this chapter; or  
 34           (2) serves until jury selection is complete but is not chosen to  
 35 serve as a juror;  
 36 may not be selected for another jury panel until all nonexempt persons  
 37 in the jury pool have been called for jury duty.  
 38           SECTION 69. IC 33-29-1-8, AS AMENDED BY P.L.118-2007,  
 39 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2013]: Sec. 8. ~~(a)~~ A jury in the standard superior court shall  
 41 be selected as provided in IC 33-28-5.  
 42           ~~(b) A grand jury selected for the circuit court of the county in which~~

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1 the standard superior court is located shall serve as the grand jury for  
2 the standard superior court.

3 SECTION 70. IC 33-37-2-2, AS AMENDED BY P.L.156-2007,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2013]: Sec. 2. (a) Costs in a criminal action are not a part of  
6 the sentence and may be suspended only under section 3 of this  
7 chapter. However, if:

8 (1) two (2) or more charges against a person are joined for trial;  
9 and

10 (2) the person is convicted of two (2) or more offenses in the trial;  
11 the court may waive the person's liability for costs for all but one (1) of  
12 the offenses.

13 (b) If a person is acquitted or an indictment or information is  
14 dismissed by order of the court, the person is not liable for costs.

15 SECTION 71. IC 33-37-10-1, AS AMENDED BY P.L.118-2007,  
16 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2013]: Sec. 1. (a) A juror of a circuit, superior, county, or  
18 probate court or a member of a grand jury is entitled to the sum of the  
19 following:

20 (1) Except as provided in subsection (f), an amount for mileage  
21 at the mileage rate paid to state officers and employees for each  
22 mile necessarily traveled to and from the court.

23 (2) Payment at the rate of:

24 (A) fifteen dollars (\$15) for each day the juror is in actual  
25 attendance in court until the jury is impaneled; and

26 (B) forty dollars (\$40) for each day the juror is in actual  
27 attendance after impaneling and until the jury is discharged.

28 (b) A county fiscal body may adopt an ordinance to pay from county  
29 funds a supplemental fee in addition to the fees prescribed by  
30 subsection (a)(2).

31 (c) A juror of a city or town court is entitled to the sum of the  
32 following:

33 (1) Except as provided in subsection (f), an amount for mileage  
34 at the mileage rate paid to state officers and employees for each  
35 mile necessarily traveled to and from the court.

36 (2) Fifteen dollars (\$15) per day while the juror is in actual  
37 attendance.

38 (d) A city or town fiscal body may adopt an ordinance to pay from  
39 city or town funds a supplemental fee in addition to the fee prescribed  
40 by subsection (c)(2).

41 (e) For purposes of this section, a prospective juror who is  
42 summoned for jury duty and who reports to the summoning court on

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1 the day specified in the summons is in actual attendance on that day.

2 (f) A county, city, or town fiscal body may adopt an ordinance  
3 providing for the payment by the county, city, or town of the parking  
4 fees incurred by jurors of circuit, superior, county, and probate courts.  
5 ~~and members of grand juries~~. If a county, city, or town fiscal body  
6 adopts an ordinance under this subsection, the county, city, or town  
7 may pay the parking fees incurred by a juror of a circuit, superior,  
8 county, or probate court ~~or a member of a grand jury~~ instead of paying  
9 the juror ~~or grand jury member~~ an amount for mileage at the rate  
10 provided in subsection (a)(1) or (c)(1).

11 SECTION 72. IC 33-37-10-2 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A witness in a  
13 criminal action may receive a fee if the witness:

- 14 (1) is summoned by the state;  
15 (2) is named on the ~~indictment~~ or information; and  
16 (3) testifies under oath to a material fact in aid of the prosecution.

17 (b) A fee paid under subsection (a) is the sum of the following:

- 18 (1) An amount for mileage at the mileage rate paid to state  
19 officers for each mile necessarily traveled to and from the court.  
20 (2) For each day of attendance in court equal to:

- 21 (A) fifteen dollars (\$15) for witnesses subpoenaed under  
22 IC 35-37-5-4; or  
23 (B) five dollars (\$5) for all other witnesses.

24 SECTION 73. IC 33-39-1-6, AS AMENDED BY P.L.114-2012,  
25 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2013]: Sec. 6. (a) Special prosecutors may be appointed under  
27 this section or in accordance with IC 4-2-7-7.

28 (b) A circuit or superior court judge:

- 29 (1) shall appoint a special prosecutor if:  
30 (A) any person other than the prosecuting attorney or the  
31 prosecuting attorney's deputy files a verified petition  
32 requesting the appointment of a special prosecutor; and  
33 (B) the prosecuting attorney agrees that a special prosecutor is  
34 needed;  
35 (2) may appoint a special prosecutor if:  
36 (A) a person files a verified petition requesting the  
37 appointment of a special prosecutor; and  
38 (B) the court, after:  
39 (i) notice is given to the prosecuting attorney; and  
40 (ii) an evidentiary hearing is conducted at which the  
41 prosecuting attorney is given an opportunity to be heard;  
42 finds by clear and convincing evidence that the appointment

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- 1 is necessary to avoid an actual conflict of interest or there is  
 2 probable cause to believe that the ~~prosecutor~~ **prosecuting**  
 3 **attorney** has committed a crime;
- 4 (3) may appoint a special prosecutor if:  
 5 (A) the prosecuting attorney files a petition requesting the  
 6 court to appoint a special prosecutor; and  
 7 (B) the court finds that the appointment is necessary to avoid  
 8 the appearance of impropriety;
- 9 (4) may appoint a special prosecutor if:  
 10 (A) an elected public official, who is a defendant in a criminal  
 11 proceeding, files a verified petition requesting a special  
 12 prosecutor within ten (10) days after the date of the initial  
 13 hearing; and  
 14 (B) the court finds that the appointment of a special prosecutor  
 15 is in the best interests of justice; and
- 16 (5) shall appoint a special prosecutor if:  
 17 (A) a previously appointed special prosecutor:  
 18 (i) files a motion to withdraw as special prosecutor; or  
 19 (ii) has become incapable of continuing to represent the  
 20 interests of the state; and  
 21 (B) the court finds that the facts that established the basis for  
 22 the initial appointment of a special prosecutor still exist.  
 23 The elected prosecuting attorney of the appointing jurisdiction  
 24 shall receive notice of all pleadings filed and orders issued under  
 25 this subdivision.
- 26 (c) Each person appointed to serve as a special prosecutor:  
 27 (1) must consent to the appointment; and  
 28 (2) must be:  
 29 (A) the prosecuting attorney or a deputy prosecuting attorney  
 30 in a county other than the county in which the person is to  
 31 serve as special prosecutor; or  
 32 (B) except as provided in subsection (d), a senior prosecuting  
 33 attorney.
- 34 (d) A senior prosecuting attorney may be appointed in the county in  
 35 which the senior prosecuting attorney previously served if the court  
 36 finds that an appointment under this subsection would not create the  
 37 appearance of impropriety.
- 38 (e) A person appointed to serve as a special prosecutor has the same  
 39 powers as the prosecuting attorney of the county. However, the  
 40 appointing judge shall limit scope of the special prosecutor's duties to  
 41 include only the investigation or prosecution of a particular case. ~~or~~  
 42 ~~particular grand jury investigation.~~

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1 (f) The court shall establish the length of the special prosecutor's  
 2 term. If the target of an investigation by the special prosecutor is a  
 3 public servant (as defined in IC 35-31.5-2-261), the court shall order  
 4 the special prosecutor to file a report of the investigation with the court  
 5 at the conclusion of the investigation. The report is a public record.

6 (g) If the special prosecutor is not regularly employed as a full-time  
 7 prosecuting attorney or full-time deputy prosecuting attorney, the  
 8 compensation for the special prosecutor's services:

9 (1) shall be paid to the special prosecutor from the unappropriated  
 10 funds of the appointing county; and

11 (2) may not exceed:

12 (A) an hourly rate based upon the regular salary of a full-time  
 13 prosecuting attorney of the appointing circuit;

14 (B) travel expenses and reasonable accommodation expenses  
 15 actually incurred; and

16 (C) other reasonable expenses actually incurred, including the  
 17 costs of investigation, discovery, and secretarial work, if:

18 (i) before incurring the other reasonable expenses described  
 19 in this clause, the special prosecutor submits an application  
 20 to the court to receive the other reasonable expenses; and

21 (ii) the court approves the expenses.

22 The amount of compensation a special prosecutor receives for services  
 23 performed during a calendar day under subdivision (2)(A) may not  
 24 exceed the amount of compensation a full-time prosecuting attorney  
 25 would receive in salary for the calendar day.

26 (h) If the special prosecutor is regularly employed as a full-time  
 27 prosecuting attorney or deputy prosecuting attorney, the compensation  
 28 for the special prosecutor's services:

29 (1) shall be paid out of the appointing county's unappropriated  
 30 funds to the treasurer of the county in which the special  
 31 prosecutor regularly serves; and

32 (2) must include a per diem equal to the regular salary of a  
 33 full-time prosecuting attorney of the appointing circuit, travel  
 34 expenses, and reasonable accommodation expenses actually  
 35 incurred.

36 (i) The combination of:

37 (1) the compensation paid to a senior prosecuting attorney under  
 38 this chapter; and

39 (2) retirement benefits that the person appointed as a senior  
 40 prosecuting attorney is receiving or entitled to receive;

41 may not exceed the minimum compensation to which a full-time  
 42 prosecuting attorney is entitled under IC 33-39-6-5.

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1 (j) A senior prosecuting attorney appointed under this chapter may  
 2 not be compensated as senior prosecuting attorney for more than one  
 3 hundred (100) calendar days in total during a calendar year if the senior  
 4 prosecuting attorney receives retirement benefits during the calendar  
 5 year. However, if the senior prosecuting attorney does not receive  
 6 retirement benefits during a calendar year, the senior prosecuting  
 7 attorney may be compensated as a senior prosecuting attorney for not  
 8 more than two hundred (200) calendar days in total during the calendar  
 9 year.

10 SECTION 74. IC 33-40-2-1 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Upon a  
 12 determination by the judge of any court having criminal jurisdiction  
 13 that:

- 14 (1) the court is unable within a reasonable time to appoint an  
 15 available attorney, public defender or otherwise, who is  
 16 competent in the practice of law in criminal cases as legal counsel  
 17 for any person charged in the court with a criminal offense and  
 18 who does not have sufficient means to employ an attorney; or  
 19 (2) in the interest of justice an attorney from another judicial  
 20 circuit, not regularly practicing in the court, should be appointed  
 21 to defend the indigent defendant or appeal the defendant's case,  
 22 but the judge is unable within a reasonable time to provide for the  
 23 direct appointment of an attorney;

24 the judge may make written request to the state public defender to  
 25 provide a qualified attorney for the defense of the indigent person.

26 (b) The judge shall attach to the written request a copy of the  
 27 affidavit or ~~indictment~~, **information** and state in the request the  
 28 amount of the applicable minimum fee to be paid for the legal services  
 29 of defense counsel in the case, subject to:

- 30 (1) any additional amount reasonable under all the circumstances  
 31 of the case, to be determined and approved by the judge upon the  
 32 final determination of the case; and  
 33 (2) reasonable partial allowances as may be approved and ordered  
 34 by the judge pending final determination.

35 SECTION 75. IC 33-40-7-10 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) This chapter  
 37 does not prevent a court from appointing counsel other than counsel  
 38 provided for under the board's plan for providing defense services to an  
 39 indigent person when the interests of justice require. A court may also  
 40 appoint counsel to assist counsel provided for under the board's plan as  
 41 co-counsel when the interests of justice require. Expenditures by a  
 42 county for defense services not provided under the county public

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1 defender board's plan are not subject to reimbursement from the public  
2 defense fund under IC 33-40-6.

3 (b) A judge of a court having criminal jurisdiction may make a  
4 written request to the state public defender to provide a qualified  
5 attorney for the defense of a person charged in the court with a criminal  
6 offense and eligible for representation at public expense if the judge  
7 determines:

8 (1) that an attorney provided under the county public defender  
9 board's plan is not qualified or available to represent the person;  
10 or

11 (2) that in the interests of justice an attorney other than the  
12 attorney provided for by the county defender board's plan should  
13 be appointed.

14 The judge shall attach to the request a copy of the information. ~~or~~  
15 ~~indictment~~. Expenditures for representation under this subsection shall  
16 be paid by the county according to a fee schedule approved by the  
17 commission. These expenditures are eligible for reimbursement from  
18 the public defense fund.

19 SECTION 76. IC 34-25.5-5-1 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as  
21 provided in subsection (b), the court or judge shall not inquire into the  
22 legality of any judgment or process by which the party is in custody, or  
23 discharge the party when the term of commitment has not expired in  
24 any of the following cases:

25 (1) Upon process issued by any court or judge of the United States  
26 where the court or judge has exclusive jurisdiction.

27 (2) Upon any process issued on a final judgment of a court of  
28 competent jurisdiction.

29 (3) For any contempt of any court, officer, or body with authority  
30 to commit.

31 (4) Upon a warrant issued from the circuit court upon an  
32 ~~indictment~~ or information.

33 (b) Subsection (a)(1), (a)(2), and (a)(3) do not include an order of  
34 commitment, as for contempt, upon proceedings to enforce the remedy  
35 of a party.

36 SECTION 77. IC 35-31.5-2-323 IS REPEALED [EFFECTIVE  
37 JULY 1, 2013]. ~~Sec. 323: "Target"; for purposes of IC 35-34-2, has the~~  
38 ~~meaning set forth in IC 35-34-2-1.~~

39 SECTION 78. IC 35-33-2-1 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. ~~(a) Except as~~  
41 ~~provided in chapter 4 of this article, whenever an indictment is filed~~  
42 ~~and the defendant has not been arrested or otherwise brought within the~~

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1 custody of the court, the court, without making a determination of  
2 probable cause, shall issue a warrant for the arrest of the defendant.

3 (b) (a) Whenever an information is filed and the defendant has not  
4 been arrested or otherwise brought within the custody of the court, the  
5 court shall issue a warrant for the arrest of the defendant after first  
6 determining that probable cause exists for the arrest.

7 (c) (b) No warrant for arrest of a person may be issued until

8 (1) an indictment has been found charging him with the  
9 commission of an offense; or

10 (2) a judge has determined that probable cause exists that the  
11 person committed a crime and an information has been filed  
12 charging him the person with a crime.

13 SECTION 79. IC 35-33-2-2, AS AMENDED BY P.L.2-2005,  
14 SECTION 115, IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A warrant of arrest shall:

16 (1) be in writing;

17 (2) specify the name of the person to be arrested, or if his the  
18 person's name is unknown, shall designate such person by any  
19 name or description by which he the person can be identified  
20 with reasonable certainty;

21 (3) set forth the nature of the offense for which the warrant is  
22 issued;

23 (4) state the date and county of issuance;

24 (5) be signed by the clerk or the judge of the court with the title  
25 of his the clerk's or judge's office;

26 (6) command that the person against whom the indictment or  
27 information was filed be arrested and brought before the court  
28 issuing the warrant, without unnecessary delay;

29 (7) specify the amount of bail, if any; and

30 (8) be directed to the sheriff of the county.

31 (b) An arrest warrant may be in substantially the following form:

32 TO: \_\_\_\_\_

33 You are hereby commanded to arrest \_\_\_\_\_ forthwith, and  
34 hold that person to bail in the sum of \_\_\_\_\_ dollars, to answer in the  
35 \_\_\_\_\_ Court of \_\_\_\_\_ County, in the State of Indiana, an  
36 information or indictment for \_\_\_\_\_.

37 And for want of bail commit him the person to the jail of the  
38 County, and thereafter without unnecessary delay to bring him the  
39 person before the said court.

40 IN WITNESS WHEREOF, I, \_\_\_\_\_ (Clerk/Judge) of said  
41 Court, hereto affix the seal thereof, and subscribe my name at  
42 \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_.



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Clerk or Judge of the Court

SECTION 80. IC 35-33-2-3, AS AMENDED BY P.L.201-2011, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The warrant is issued to the sheriff of the county where the ~~indictment~~ or information is filed. This warrant may be served or arrests on it made:

- (1) by any law enforcement officer;
- (2) on any day of the week; and
- (3) at any time of the day or night.

(b) A law enforcement officer may break open any outer or inner door or window in order to execute an arrest warrant, if the officer is not admitted following an announcement of the officer's authority and purpose.

(c) The accused person shall be delivered to the sheriff of the county in which the ~~indictment~~ or information was filed, and the sheriff shall commit the accused person to jail or hold the accused person to bail as provided in this article.

(d) A person or persons whose property is wrongfully damaged or whose person is wrongfully injured by any law enforcement officer or officers who wrongfully enter may recover such damage from the responsible authority and the law enforcement officer or officers as the court may determine. The action may be filed in the circuit court or superior court in the county where the wrongful entry took place.

SECTION 81. IC 35-33-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. When an information ~~or indictment~~ has been dismissed, the court shall order the sheriff to make a return on any outstanding arrest warrant or summons issued regarding a charge stating that the charge has been dismissed. The sheriff shall notify any law enforcement officer to whom the arrest warrant or summons has been delivered that it has been revoked.

SECTION 82. IC 35-33-4-1, AS AMENDED BY P.L.2-2005, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) When an ~~indictment~~ or information is filed against a person charging ~~him~~ **the person** with a misdemeanor, the court may, in lieu of issuing an arrest warrant under IC 35-33-2, issue a summons. The summons must set forth substantially the nature of the offense, and command the accused person to appear before the court at a stated time and place. However, the date set by the court must be at least seven (7) days after the issuance of the summons. The summons may be served in the same manner as the summons in a civil action.

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1           Signature \_\_\_\_\_  
2           YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT.  
3           (h) When any law enforcement officer issues a summons and  
4           promise to appear, ~~he~~ **the officer** shall:  
5                (1) promptly file the summons and promise to appear and the  
6                certificate of service with the court designated in the summons  
7                and promise to appear; and  
8                (2) provide the prosecuting attorney with a copy thereof.  
9           SECTION 83. IC 35-33-7-3 IS AMENDED TO READ AS  
10          FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) When a person  
11          is arrested for a crime before a formal charge has been filed, an  
12          information ~~or indictment~~ shall be filed or be prepared to be filed at or  
13          before the initial hearing, unless the prosecuting attorney has informed  
14          the court that there will be no charges filed in the case.  
15          (b) If the prosecuting attorney states that more time is required to  
16          evaluate the case and determine whether a charge should be filed, or if  
17          it is necessary to transfer the person to another court, then the court  
18          shall recess or continue the initial hearing for up to seventy-two (72)  
19          hours, excluding intervening Saturdays, Sundays, and legal holidays.  
20          (c) Before recessing the initial hearing and after the ex parte  
21          probable cause determination has been made, the court shall inform a  
22          defendant charged with a felony of the rights specified in ~~subdivisions~~  
23          ~~(1); (2); (3); (4); and (5)~~ **of section 5 5(1) through 5(5)** of this chapter.  
24          SECTION 84. IC 35-33-8-3.2, AS AMENDED BY P.L.35-2012,  
25          SECTION 107, IS AMENDED TO READ AS FOLLOWS  
26          [EFFECTIVE JULY 1, 2013]: Sec. 3.2. (a) A court may admit a  
27          defendant to bail and impose any of the following conditions to assure  
28          the defendant's appearance at any stage of the legal proceedings, or,  
29          upon a showing of clear and convincing evidence that the defendant  
30          poses a risk of physical danger to another person or the community, to  
31          assure the public's physical safety:  
32                (1) Require the defendant to:  
33                   (A) execute a bail bond with sufficient solvent sureties;  
34                   (B) deposit cash or securities in an amount equal to the bail;  
35                   (C) execute a bond secured by real estate in the county, where  
36                   thirty-three hundredths (0.33) of the true tax value less  
37                   encumbrances is at least equal to the amount of the bail;  
38                   (D) post a real estate bond; or  
39                   (E) perform any combination of the requirements described in  
40                   clauses (A) through (D).  
41          If the court requires the defendant to deposit cash or cash and  
42          another form of security as bail, the court may require the

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1 defendant and each person who makes the deposit on behalf of the  
 2 defendant to execute an agreement that allows the court to retain  
 3 all or a part of the cash to pay publicly paid costs of  
 4 representation and fines, costs, fees, and restitution that the court  
 5 may order the defendant to pay if the defendant is convicted. The  
 6 defendant must also pay the fee required by subsection (d).

7 (2) Require the defendant to execute:

8 (A) a bail bond by depositing cash or securities with the clerk  
 9 of the court in an amount not less than ten percent (10%) of  
 10 the bail; and

11 (B) an agreement that allows the court to retain all or a part of  
 12 the cash or securities to pay fines, costs, fees, and restitution  
 13 that the court may order the defendant to pay if the defendant  
 14 is convicted.

15 A portion of the deposit, not to exceed ten percent (10%) of the  
 16 monetary value of the deposit or fifty dollars (\$50), whichever is  
 17 the lesser amount, may be retained as an administrative fee. The  
 18 clerk shall also retain from the deposit under this subdivision  
 19 fines, costs, fees, and restitution as ordered by the court, publicly  
 20 paid costs of representation that shall be disposed of in  
 21 accordance with subsection (b), and the fee required by  
 22 subsection (d). In the event of the posting of a real estate bond,  
 23 the bond shall be used only to insure the presence of the  
 24 defendant at any stage of the legal proceedings, but shall not be  
 25 foreclosed for the payment of fines, costs, fees, or restitution. The  
 26 individual posting bail for the defendant or the defendant  
 27 admitted to bail under this subdivision must be notified by the  
 28 sheriff, court, or clerk that the defendant's deposit may be  
 29 forfeited under section 7 of this chapter or retained under  
 30 subsection (b).

31 (3) Impose reasonable restrictions on the activities, movements,  
 32 associations, and residence of the defendant during the period of  
 33 release.

34 (4) Except as provided in section 3.6 of this chapter, require the  
 35 defendant to refrain from any direct or indirect contact with an  
 36 individual and, if the defendant has been charged with an offense  
 37 under IC 35-46-3, any animal belonging to the individual,  
 38 including if the defendant has not been released from lawful  
 39 detention.

40 (5) Place the defendant under the reasonable supervision of a  
 41 probation officer, pretrial services agency, or other appropriate  
 42 public official. If the court places the defendant under the

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1 supervision of a probation officer or pretrial services agency, the  
 2 court shall determine whether the defendant must pay the pretrial  
 3 services fee under section 3.3 of this chapter.

4 (6) Release the defendant into the care of a qualified person or  
 5 organization responsible for supervising the defendant and  
 6 assisting the defendant in appearing in court. The supervisor shall  
 7 maintain reasonable contact with the defendant in order to assist  
 8 the defendant in making arrangements to appear in court and,  
 9 where appropriate, shall accompany the defendant to court. The  
 10 supervisor need not be financially responsible for the defendant.

11 (7) Release the defendant on personal recognizance unless:

12 (A) the state presents evidence relevant to a risk by the  
 13 defendant:

14 (i) of nonappearance; or

15 (ii) to the physical safety of the public; and

16 (B) the court finds by a preponderance of the evidence that the  
 17 risk exists.

18 (8) Require a defendant charged with an offense under IC 35-46-3  
 19 to refrain from owning, harboring, or training an animal.

20 (9) Impose any other reasonable restrictions designed to assure  
 21 the defendant's presence in court or the physical safety of another  
 22 person or the community.

23 (b) Within thirty (30) days after disposition of the charges against  
 24 the defendant, the court that admitted the defendant to bail shall order  
 25 the clerk to remit the amount of the deposit remaining under subsection  
 26 (a)(2) to the defendant. The portion of the deposit that is not remitted  
 27 to the defendant shall be deposited by the clerk in the supplemental  
 28 public defender services fund established under IC 33-40-3.

29 (c) For purposes of subsection (b), "disposition" occurs when the  
 30 indictment or information is dismissed or the defendant is acquitted or  
 31 convicted of the charges.

32 (d) Except as provided in subsection (e), the clerk of the court shall:

33 (1) collect a fee of five dollars (\$5) from each bond or deposit  
 34 required under subsection (a)(1); and

35 (2) retain a fee of five dollars (\$5) from each deposit under  
 36 subsection (a)(2).

37 The clerk of the court shall semiannually remit the fees collected under  
 38 this subsection to the board of trustees of the Indiana public retirement  
 39 system for deposit in the special death benefit fund. The fee required  
 40 by subdivision (2) is in addition to the administrative fee retained under  
 41 subsection (a)(2).

42 (e) With the approval of the clerk of the court, the county sheriff

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1 may collect the bail posted under this section. The county sheriff shall  
 2 remit the bail to the clerk of the court by the following business day  
 3 and remit monthly the five dollar (\$5) special death benefit fee to the  
 4 county auditor.

5 (f) When a court imposes a condition of bail described in subsection  
 6 (a)(4):

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

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

11 SECTION 85. IC 35-33-8-4, AS AMENDED BY P.L.171-2011,  
 12 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2013]: Sec. 4. (a) The court shall order the amount in which  
 14 a person charged by an indictment or information is to be held to bail,  
 15 and the clerk shall enter the order on the order book and indorse the  
 16 amount on each warrant when issued. If no order fixing the amount of  
 17 bail has been made, the sheriff shall present the warrant to the judge of  
 18 an appropriate court of criminal jurisdiction, and the judge shall  
 19 indorse on the warrant the amount of bail.

20 (b) Bail may not be set higher than that amount reasonably required  
 21 to assure the defendant's appearance in court or to assure the physical  
 22 safety of another person or the community if the court finds by clear  
 23 and convincing evidence that the defendant poses a risk to the physical  
 24 safety of another person or the community. In setting and accepting an  
 25 amount of bail, the judicial officer shall take into account all facts  
 26 relevant to the risk of nonappearance, including:

27 (1) the length and character of the defendant's residence in the  
 28 community;

29 (2) the defendant's employment status and history and **his the**  
 30 **defendant's** ability to give bail;

31 (3) the defendant's family ties and relationships;

32 (4) the defendant's character, reputation, habits, and mental  
 33 condition;

34 (5) the defendant's criminal or juvenile record, insofar as it  
 35 demonstrates instability and a disdain for the court's authority to  
 36 bring **him the defendant** to trial;

37 (6) the defendant's previous record in not responding to court  
 38 appearances when required or with respect to flight to avoid  
 39 criminal prosecution;

40 (7) the nature and gravity of the offense and the potential penalty  
 41 faced, insofar as these factors are relevant to the risk of  
 42 nonappearance;

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1 (8) the source of funds or property to be used to post bail or to pay  
2 a premium, insofar as it affects the risk of nonappearance;

3 (9) that the defendant is a foreign national who is unlawfully  
4 present in the United States under federal immigration law; and

5 (10) any other factors, including any evidence of instability and  
6 a disdain for authority, which might indicate that the defendant  
7 might not recognize and adhere to the authority of the court to  
8 bring ~~him~~ **the defendant** to trial.

9 SECTION 86. IC 35-33-8.5-6 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. When any person is  
11 ~~indicted~~ **named in an information** for murder, the court in which the  
12 ~~indictment~~ **information** is pending, upon motion, upon application by  
13 writ of habeas corpus, may admit the defendant to bail when it appears  
14 upon examination that the defendant is entitled to be let to bail.

15 SECTION 87. IC 35-33-10-2 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) When an  
17 ~~indictment~~ **or** information is pending against a defendant confined in  
18 this state under a judgment or court order, the court with jurisdiction  
19 over the pending criminal action shall, after application by the  
20 prosecuting attorney, order that the defendant be produced before the  
21 court for prosecution. The defendant shall not be entitled to release  
22 pending trial on the ~~indictment~~ **or** information. The court may order  
23 that the defendant be surrendered to the sheriff of the county in which  
24 the court issuing the order is located. The court may order the sheriff  
25 to convey the defendant from the institution and commit the defendant  
26 to the jail or to another place of custody specified in the order. If the  
27 proceeding is delayed, the court may order the defendant returned  
28 temporarily to the institution until the presence of the defendant before  
29 the court is required.

30 (b) When an ~~indictment~~ **or** information is pending against a  
31 defendant:

32 (1) confined in an institution within this state pending trial for  
33 another offense; or

34 (2) who has been released by order of another court pending trial  
35 before that court for another offense;

36 the court shall, upon motion of the prosecuting attorney, issue a warrant  
37 of detainer to the court before which the other prosecution is pending.  
38 The court to which the order of detainer is issued, shall, upon  
39 termination of the proceedings before the court, deliver custody of the  
40 defendant to the sheriff of the county in which the court issuing the  
41 warrant is situated. Upon delivery, the court shall return the warrant to  
42 the court of issuance showing such fact. A duplicate copy of the return

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1 shall be served upon the prosecuting attorney who requested the  
2 issuance of the warrant.

3 SECTION 88. IC 35-33-10-5 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. Securing Attendance  
5 of Defendant Confined in Federal Institutions. (1) A defendant against  
6 whom a criminal action is pending in a court of record of this state, and  
7 who is confined in a federal prison or other institution either within or  
8 outside this state, may, with the consent of the attorney general of the  
9 United States, be produced in such court for the purpose of criminal  
10 prosecution, pursuant to the provisions of:

11 (a) Section four thousand eighty-five of title eighteen of the  
12 United States Code as in effect on July 26, 1973; or

13 (b) subsection 2 of this section.

14 (2) When such a defendant is in federal custody as specified in  
15 subsection (1), a court in which the criminal action against such  
16 defendant is pending, may, upon application of the prosecuting attorney  
17 of such county, issue a certificate, known as a writ of habeas corpus ad  
18 prosequendum, addressed to the attorney general of the United States,  
19 certifying that such defendant has been charged by ~~indictment or~~  
20 information filed against ~~him the defendant~~ in the specified court with  
21 the offense or offenses alleged therein, and that attendance of the  
22 defendant in such court for the purpose of criminal prosecution thereon  
23 is necessary in the interest of justice and requesting the attorney  
24 general of the United States to cause such defendant to be produced in  
25 such court, under custody of a federal public servant, upon a designated  
26 date and for a period of time necessary to complete the prosecution.  
27 Upon issuing such a certificate, the court may deliver it, or cause or  
28 authorize it to be delivered, together with a certified copy of the  
29 ~~indictment or~~ information upon which it is based, to the attorney  
30 general of the United States or to ~~his the attorney general's~~  
31 representative authorized to entertain the request.

32 SECTION 89. IC 35-33-10-6 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. Securing Attendance  
34 of Defendants Who Are Outside The United States. (1) When a  
35 criminal action for a crime committed in this state is pending in a court  
36 of this state with jurisdiction over the crime against a defendant who is  
37 in a foreign country with which the United States has an extradition  
38 treaty, and when the ~~indictment or~~ information charges a crime which  
39 is specified in such treaty as an extraditable one, the prosecuting  
40 attorney of the county in which such crime was allegedly committed  
41 may make an application to the governor, requesting ~~him the governor~~  
42 to make an application to the president of the United States to institute

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1 extradition proceedings for the return of the defendant to this country  
 2 and state for the purpose of prosecution of such action. The prosecuting  
 3 attorney's application must comply with any rules, regulations, and  
 4 guidelines established by the governor for such applications and must  
 5 be accompanied by all the documents required by such rules,  
 6 regulations, and guidelines.

7 (2) Upon receipt of the prosecuting attorney's application, the  
 8 governor, if satisfied that the defendant is in the foreign country in  
 9 question, that the crime charged is an extraditable one pursuant to the  
 10 treaty in question, and that there are no factors or impediments which  
 11 in law preclude such an extradition, may, in **his the governor's**  
 12 discretion, make an application, addressed to the secretary of state of  
 13 the United States, requesting that the president of the United States  
 14 institute extradition proceedings for the return of the defendant from  
 15 such foreign country. The governor's application must comply with any  
 16 rules, regulations, and guidelines established by the secretary of state  
 17 for such applications and must be accompanied by all the documents  
 18 required by such rules, regulations, and guidelines.

19 (3) If the governor's application is granted and the extradition is  
 20 achieved or attempted, all expenses incurred therein must be borne by  
 21 the county from which the application emanated.

22 (4) The provisions of this section apply equally to extradition or  
 23 attempted extradition of a person who is a fugitive following the entry  
 24 of a judgment of conviction against **him the person** in a criminal court  
 25 of this state.

26 SECTION 90. IC 35-33.5-5-3 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A law  
 28 enforcement officer who has obtained knowledge under this article of  
 29 the contents of an interception or of evidence derived from that  
 30 interception may:

- 31 (1) disclose the contents to another law enforcement officer; or  
 32 (2) use the contents of the interception;

33 only to the extent that use or disclosure of the contents of the  
 34 interception is appropriate to the proper performance of the official  
 35 duties of the law enforcement officer.

36 (b) If a recorded interception is transcribed by order of a court or by  
 37 a law enforcement agency, only that part of the interception that is  
 38 relevant to the prosecution of a designated offense may be transcribed.

39 (c) A person, other than a law enforcement officer, who has  
 40 received, by a means authorized by this article, information concerning  
 41 an interception or evidence derived from an interception under this  
 42 article may disclose the contents of the interception or evidence derived

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1 from the interception only while giving testimony under oath or  
 2 affirmation in a criminal court proceeding. ~~or grand jury proceeding.~~  
 3 This subsection does not apply to a disclosure by a person of the  
 4 contents of reports submitted under IC 35-33.5-2-4 and IC 35-33.5-2-5  
 5 or to the contents of an interception or evidence derived from an  
 6 interception that is either:

7 (1) maintained in the record of a court proceeding and made  
 8 accessible to the public; or

9 (2) previously disclosed in a court proceeding that is open to the  
 10 public.

11 (d) An otherwise privileged communication that is intercepted in  
 12 accordance with or in violation of this article does not lose the  
 13 communication's privileged character.

14 (e) When a law enforcement officer, while engaged in intercepting  
 15 communications in a manner authorized by this article, intercepts  
 16 communications relating to offenses other than those specified in the  
 17 order of authorization, the contents of those interceptions, and evidence  
 18 derived from those interceptions, may be disclosed or used as provided  
 19 in subsections (a) and (c). The contents and evidence may be used  
 20 under subsection (d) when authorized by the court upon a finding, on  
 21 subsequent application, that the contents were otherwise intercepted in  
 22 accordance with this article. A subsequent application shall be made as  
 23 soon as practicable.

24 SECTION 91. IC 35-34-1-1 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) All prosecutions  
 26 of crimes shall be brought in the name of the state of Indiana. ~~Any~~  
 27 **Every** crime ~~may~~ **must** be charged by ~~indictment or~~ information.

28 (b) Except as provided in IC 12-15-23-6(d), all prosecutions of  
 29 crimes shall be instituted by the filing of an information ~~or indictment~~  
 30 by the prosecuting attorney, in a court with jurisdiction over the crime  
 31 charged.

32 (c) Whenever an ~~indictment or~~ information is filed, the clerk of the  
 33 court shall:

34 (1) mark the date of filing on the instrument;

35 (2) record it in a record book; and

36 (3) upon request, make a copy of it available to the defendant or  
 37 ~~his~~ **the defendant's** attorney.

38 (d) The court, upon motion of the prosecuting attorney, may order  
 39 that the ~~indictment or~~ information be sealed. If a court has sealed an  
 40 ~~indictment or~~ information, no person may disclose the fact that an  
 41 ~~indictment or~~ information is in existence or pending until the defendant  
 42 has been arrested or otherwise brought within the custody of the court.



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1 However, any person may make any disclosure necessarily incident to  
 2 the arrest of the defendant. A violation of this subsection is punishable  
 3 as a contempt.

4 SECTION 92. IC 35-34-1-2, AS AMENDED BY P.L.2-2005,  
 5 SECTION 119, IS AMENDED TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The ~~indictment~~ or information  
 7 shall be in writing and allege the commission of an offense by:

8 (1) stating the title of the action and the name of the court in  
 9 which the ~~indictment~~ or information is filed;

10 (2) stating the name of the offense in the words of the statute or  
 11 any other words conveying the same meaning;

12 (3) citing the statutory provision alleged to have been violated,  
 13 except that any failure to include such a citation or any error in  
 14 such a citation does not constitute grounds for reversal of a  
 15 conviction where the defendant was not otherwise misled as to the  
 16 nature of the charges against the defendant;

17 (4) setting forth the nature and elements of the offense charged in  
 18 plain and concise language without unnecessary repetition;

19 (5) stating the date of the offense with sufficient particularity to  
 20 show that the offense was committed within the period of  
 21 limitations applicable to that offense;

22 (6) stating the time of the offense as definitely as can be done if  
 23 time is of the essence of the offense;

24 (7) stating the place of the offense with sufficient particularity to  
 25 show that the offense was committed within the jurisdiction of the  
 26 court where the charge is to be filed;

27 (8) stating the place of the offense as definitely as can be done if  
 28 the place is of the essence of the offense; and

29 (9) stating the name of every defendant, if known, and if not  
 30 known, by designating the defendant by any name or description  
 31 by which ~~he~~ **the defendant** can be identified with reasonable  
 32 certainty.

33 (b) An indictment shall be signed by:

34 (1) ~~the foreman or five (5) members of the grand jury;~~ and

35 (2) ~~the prosecuting attorney or his deputy.~~

36 An information shall be signed by the prosecuting attorney or ~~his~~  
 37 deputy **prosecuting attorney** and sworn to or affirmed by ~~him~~ **the**  
 38 **prosecuting attorney, the deputy prosecuting attorney,** or any other  
 39 person.

40 (c) An ~~indictment~~ or information shall have stated upon it the names  
 41 of all the material witnesses. Other witnesses may afterwards be  
 42 subpoenaed by the state, but unless the name of a witness is stated on

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1 the ~~indictment or~~ information, no continuance shall be granted to the  
2 state due to the absence of the witness.

3 (d) The ~~indictment or~~ information shall be a plain, concise, and  
4 definite written statement of the essential facts constituting the offense  
5 charged. It need not contain a formal commencement, a formal  
6 conclusion, or any other matter not necessary to the statement.  
7 Presumptions of law and matters of which judicial notice is taken need  
8 not be stated.

9 (e) The ~~indictment~~ **information** may be substantially in the  
10 following form:

11 IN THE \_\_\_\_\_ COURT OF INDIANA, 20\_\_\_\_  
12 STATE OF INDIANA  
13 vs. CAUSE NUMBER \_\_\_\_\_  
14 A \_\_\_\_\_ B \_\_\_\_\_

15 The grand jury of the county of \_\_\_\_\_ upon their oath or  
16 affirmation do present **CD**, being duly sworn under oath or having  
17 affirmed, says that AB, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
18 at the county of \_\_\_\_\_ in the state of Indiana (HERE SET FORTH  
19 THE OFFENSE CHARGED).

20 (f) The information may be substantially in the same form as the  
21 indictment, substituting for the words, "the grand jury of the county of  
22 \_\_\_\_\_, upon their oath or affirmation so present" the following:  
23 "**CD**; being duly sworn on his oath or having affirmed, says." It is not  
24 necessary in an information to state the reason why the proceeding is  
25 by information rather than indictment.

26 (g) (f) This section applies to a traffic offense (as defined in  
27 IC 9-30-3-5) if the traffic offense is:

- 28 (1) a felony; or  
29 (2) a misdemeanor.

30 SECTION 93. IC 35-34-1-2.4, AS AMENDED BY P.L.126-2012,  
31 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2013]: Sec. 2.4. (a) If an ~~indictment~~, information, pleading,  
33 motion, petition, probable cause affidavit, or other document is  
34 required to be verified or sworn under oath before it is submitted to the  
35 court in a criminal action, the document meets the requirements of the  
36 law as a sworn document if the following form or a substantially  
37 similar form is used:

38 I swear (affirm), under penalty of perjury as specified by  
39 IC 35-44.1-2-1, that the foregoing (the following) representations  
40 are true.

41 Signed \_\_\_\_\_

42 (b) If a document complies with subsection (a), the swearing or

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1 affirming need not be done before a notary or other officer empowered  
2 to administer oaths.

3 (c) A person who makes a false affirmation or verification under this  
4 section may be prosecuted under IC 35-44.1-2-1.

5 SECTION 94. IC 35-34-1-3 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. When an ~~indictment~~  
7 ~~or~~ information which has been returned or presented to a court as  
8 authorized by law has become illegible or cannot be produced, the  
9 defendant may be tried using a copy certified by the clerk of the court.

10 SECTION 95. IC 35-34-1-4 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The court may,  
12 upon motion of the defendant, dismiss the ~~indictment or~~ information  
13 upon any of the following grounds:

14 (1) The ~~indictment or~~ information, or any count thereof, is  
15 defective under section 6 of this chapter.

16 (2) Misjoinder of offenses or parties defendant, or duplicity of  
17 allegation in counts.

18 ~~(3) The grand jury proceeding was defective.~~

19 ~~(4) (3) The indictment or~~ information does not state the offense  
20 with sufficient certainty.

21 ~~(5) (4) The facts stated do not constitute an offense.~~

22 ~~(6) (5) The defendant has immunity with respect to the offense~~  
23 charged.

24 ~~(7) (6) The prosecution is barred by reason of a previous~~  
25 prosecution.

26 ~~(8) (7) The prosecution is untimely brought.~~

27 ~~(9) (8) The defendant has been denied the right to a speedy trial.~~

28 ~~(10) (9) There exists some jurisdictional impediment to~~  
29 conviction of the defendant for the offense charged.

30 ~~(11) (10) Any other ground that is a basis for dismissal as a matter~~  
31 of law.

32 (b) Except as otherwise provided, a motion under this section shall  
33 be made no later than:

34 (1) twenty (20) days if the defendant is charged with a felony; or

35 (2) ten (10) days if the defendant is charged only with one (1) or  
36 more misdemeanors;

37 prior to the omnibus date. A motion made thereafter may be summarily  
38 denied if based upon a ground specified in ~~subdivision subsection~~  
39 (a)(1), (a)(2), (a)(3), ~~or~~ (a)(4). ~~or (a)(5) of this section.~~ A motion to  
40 dismiss based upon a ground specified in ~~subdivision subsection~~  
41 (a)(5), (a)(6), (a)(7), (a)(8), (a)(9), ~~or~~ (a)(10) ~~or (a)(11) of this section~~  
42 may be made or renewed at any time before or during trial. A motion

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1 to dismiss based upon lack of jurisdiction over the subject matter may  
2 be made at any time.

3 (c) Upon the motion to dismiss, a defendant who is in a position  
4 adequately to raise more than one (1) ground in support thereof shall  
5 raise every ground upon which ~~he~~ **the defendant** intends to challenge  
6 the ~~indictment~~ or information. A subsequent motion based upon a  
7 ground not properly raised may be summarily denied. However, the  
8 court, in the interest of justice and for good cause shown, may entertain  
9 and dispose of such a motion on the merits.

10 (d) Upon the motion to dismiss, the court shall:

- 11 (1) overrule the motion to dismiss;  
12 (2) grant the motion to dismiss and discharge the defendant; or  
13 (3) grant the motion to dismiss and deny discharge of the  
14 defendant if the court determines that the ~~indictment~~ or  
15 information may be cured by amendment under section 5 of this  
16 chapter and the prosecuting attorney has moved for leave to  
17 amend.

18 If the court grants the motion under subdivision (3) and grants the  
19 prosecuting attorney leave to amend, any prior order imposing  
20 conditions of release pending trial shall stand unless otherwise  
21 modified or removed by order of the court.

22 (e) If the court grants a motion under subsection (a)(3) and the  
23 prosecuting attorney informs the court on the record that the charges  
24 will be refiled within seventy-two (72) hours by information:

- 25 (1) the court may not discharge the defendant; and  
26 (2) any prior order concerning release pending trial remains in  
27 force unless it is modified or removed by the court.

28 (f) An order of dismissal does not, of itself, constitute a bar to a  
29 subsequent prosecution of the same crime or crimes except as  
30 otherwise provided by law.

31 SECTION 96. IC 35-34-1-5, AS AMENDED BY P.L.178-2007,  
32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2013]: Sec. 5. (a) An ~~indictment~~ or information which charges  
34 the commission of an offense may not be dismissed but may be  
35 amended on motion by the prosecuting attorney at any time because of  
36 any immaterial defect, including:

- 37 (1) any miswriting, misspelling, or grammatical error;  
38 (2) any misjoinder of parties defendant or offenses charged;  
39 (3) the presence of any unnecessary repugnant allegation;  
40 (4) the failure to negate any exception, excuse, or provision  
41 contained in the statute defining the offense;  
42 (5) the use of alternative or disjunctive allegations as to the acts,

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1 means, intents, or results charged;

2 (6) any mistake in the name of the court or county in the title of  
3 the action, or the statutory provision alleged to have been  
4 violated;

5 (7) the failure to state the time or place at which the offense was  
6 committed where the time or place is not of the essence of the  
7 offense;

8 (8) the failure to state an amount of value or price of any matter  
9 where that value or price is not of the essence of the offense; or

10 (9) any other defect which does not prejudice the substantial  
11 rights of the defendant.

12 (b) The ~~indictment or~~ information may be amended in matters of  
13 substance and the names of material witnesses may be added, by the  
14 prosecuting attorney, upon giving written notice to the defendant at any  
15 time:

16 (1) up to:

17 (A) thirty (30) days if the defendant is charged with a felony;  
18 or

19 (B) fifteen (15) days if the defendant is charged only with one  
20 (1) or more misdemeanors;

21 before the omnibus date; or

22 (2) before the commencement of trial;

23 if the amendment does not prejudice the substantial rights of the  
24 defendant. When the information ~~or indictment~~ is amended, it shall be  
25 signed by the prosecuting attorney or a deputy prosecuting attorney.

26 (c) Upon motion of the prosecuting attorney, the court may, at any  
27 time before, during, or after the trial, permit an amendment to the  
28 ~~indictment or~~ information in respect to any defect, imperfection, or  
29 omission in form which does not prejudice the substantial rights of the  
30 defendant.

31 (d) Before amendment of any ~~indictment or~~ information other than  
32 amendment as provided in subsection (b), ~~of this section~~, the court  
33 shall give all parties adequate notice of the intended amendment and  
34 an opportunity to be heard. Upon permitting such amendment, the court  
35 shall, upon motion by the defendant, order any continuance of the  
36 proceedings which may be necessary to accord the defendant adequate  
37 opportunity to prepare ~~his~~ a defense.

38 (e) An amendment of an ~~indictment or~~ information to include a  
39 habitual offender charge under IC 35-50-2-8, IC 35-50-2-8.5, or  
40 IC 35-50-2-10 must be made not later than ten (10) days after the  
41 omnibus date. However, upon a showing of good cause, the court may  
42 permit the filing of a habitual offender charge at any time before the

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1 commencement of the trial.

2 SECTION 97. IC 35-34-1-6 IS AMENDED TO READ AS

3 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) An indictment or

4 information is defective when:

5 (1) it does not substantially conform to the requirements of

6 section 2(a) of this chapter;

7 (2) the allegations demonstrate that the court does not have

8 jurisdiction of the offense charged; or

9 (3) the statute defining the offense charged is unconstitutional or

10 otherwise invalid.

11 (b) An information is defective if:

12 (1) the defendant was a grand jury target identified under

13 IC 35-34-2-12(a)(1);

14 (2) the offense alleged was identified on the record under

15 IC 35-34-2-12(a)(2) as an offense that the defendant allegedly

16 committed; and

17 (3) the grand jury proceeded to deliberate on whether to issue an

18 indictment, and voted not to indict the defendant for the offense

19 identified on the record under IC 35-34-2-12(a)(2).

20 However, if the prosecuting attorney shows that there is newly

21 discovered material evidence that was not presented to the grand jury

22 before the grand jury's failure to indict, then the information is not

23 defective.

24 (c) (b) Except as provided in section 5 of this chapter, an indictment

25 or information or a count thereof shall be dismissed upon motion when

26 it is defective.

27 SECTION 98. IC 35-34-1-7 IS REPEALED [EFFECTIVE JULY 1,

28 2013]. Sec. 7. An indictment shall be dismissed upon motion when the

29 grand jury proceeding which resulted in the indictment was conducted

30 in violation of IC 35-34-2.

31 SECTION 99. IC 35-34-1-8 IS AMENDED TO READ AS

32 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) A motion to

33 dismiss an indictment or information under section 4 of this chapter

34 shall be in writing. The prosecutor must be given reasonable notice of

35 a motion to dismiss. If the motion is expressly or impliedly based upon

36 the existence or occurrence of facts, the motion shall be accompanied

37 by affidavits containing sworn allegations of these facts. The sworn

38 allegations may be based upon personal knowledge of the affiant or

39 upon information and belief, ~~provided that if~~ in the latter event the

40 affiant discloses the sources of the information and the grounds for the

41 belief. If the motion is expressly or impliedly based upon the existence

42 of any question of law, the motion shall be accompanied by a

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1 memorandum stating specifically the legal question in issue. The  
 2 defendant may also submit documentary evidence tending to support  
 3 the allegations of the motion.

4 (b) The prosecutor may:

5 (1) file with the court an answer denying or admitting any or all  
 6 of the allegations of the motion; and

7 (2) submit documentary evidence tending to refute the  
 8 allegations.

9 (c) After all papers of both parties have been filed, and after all  
 10 documentary evidence has been submitted, the court shall determine  
 11 whether, under subsections (d) and (e) of this section, a hearing is  
 12 necessary to resolve questions of fact.

13 (d) The court shall grant the motion without conducting a hearing  
 14 only if:

15 (1) the motion alleges a ground constituting a legal basis for the  
 16 motion under section 4 of this chapter;

17 (2) the ground, if expressly or impliedly based upon the existence  
 18 or occurrence of facts, is supported by sworn allegations of all  
 19 facts essential to support the motion; and

20 (3) the sworn allegations of fact essential to support the motion  
 21 are admitted as true by the prosecutor or are conclusively  
 22 established by documentary evidence.

23 (e) The court may deny the motion without conducting a hearing  
 24 only if:

25 (1) the motion does not allege a ground constituting a legal basis  
 26 for the motion under section 4 of this chapter;

27 (2) the motion is expressly or impliedly based upon the existence  
 28 or occurrence of facts, and the motion does not contain sworn  
 29 allegations supporting all the essential facts; or

30 (3) an allegation of fact essential to support the motion is  
 31 conclusively refuted by documentary evidence.

32 (f) If a hearing is necessary to resolve questions of fact, the court  
 33 shall conduct a hearing and make findings of fact essential to the  
 34 determination of the motion. The defendant has a right to be present  
 35 and represented by counsel at the hearing but may waive this right. The  
 36 defendant has the burden of proving by a preponderance of the  
 37 evidence every fact essential to support the motion.

38 SECTION 100. IC 35-34-1-9 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) Two (2) or more  
 40 offenses may be joined in the same indictment or information, with  
 41 each offense stated in a separate count, when the offenses:

42 (1) are of the same or similar character, even if not part of a single

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1 scheme or plan; or

2 (2) are based on the same conduct or on a series of acts connected  
3 together or constituting parts of a single scheme or plan.

4 (b) Two (2) or more defendants can be joined in the same  
5 indictment or information when:

6 (1) each defendant is charged with each offense included;

7 (2) each of the defendants is charged as a conspirator or party to  
8 the commission of the offense and some of the defendants are also  
9 charged with one (1) or more offenses alleged to be in furtherance  
10 of the conspiracy or common scheme or plan; however, a party to  
11 the commission of an offense or conspirator need not be  
12 designated as such in the indictment or information; or

13 (3) conspiracy is not charged and not all of the defendants are  
14 charged in each count, if it is alleged in the indictment or  
15 information that the offenses charged:

16 (A) were part of a common scheme or plan; or

17 (B) were so closely connected in respect to time, place, and  
18 occasion that it would be difficult to separate proof of one (1)  
19 charge from proof of the others.

20 SECTION 101. IC 35-34-1-10 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) When a  
22 defendant has been charged with two (2) or more offenses in two (2) or  
23 more indictments or informations and the offenses could be joined in  
24 the same indictment or information under section 9(a)(1) of this  
25 chapter, the court, upon motion of the defendant, may order that the  
26 indictments or informations be joined for trial. Such motion shall be  
27 made before commencement of trial on either of the offenses charged.

28 (b) When a defendant has been charged with two (2) or more  
29 offenses in two (2) or more indictments or informations and the  
30 offenses could have been joined in the same indictment or information  
31 under section ~~(9)(a)(2)~~ 9(a)(2) of this chapter, the court, upon motion  
32 of the defendant or the prosecuting attorney, or on its own motion, shall  
33 join for trial all of such indictments or informations unless the court, in  
34 the interests of justice, orders that one (1) or more of such offenses  
35 shall be tried separately. Such motion shall be made before  
36 commencement of trial on either of the offenses charged.

37 (c) A defendant who has been tried for one (1) offense may  
38 thereafter move to dismiss an indictment or information for an offense  
39 which could have been joined for trial with the prior offenses under  
40 section 9 of this chapter. The motion to dismiss shall be made prior to  
41 the second trial, and shall be granted if the prosecution is barred by  
42 reason of the former prosecution.

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1 (d) A defendant who has been sentenced on a plea of guilty to one  
 2 (1) offense may move to dismiss an indictment or information for a  
 3 related offense. The motion shall be granted if the plea of guilty was  
 4 entered on the basis of a plea agreement in which the prosecutor agreed  
 5 to seek or not to oppose dismissal of other related offenses or not to  
 6 prosecute other potential related offenses.

7 (e) Subject to the provisions of section 11(a) of this chapter, two (2)  
 8 or more offenses which are within the jurisdiction of the same court  
 9 and which could have been joined in one (1) prosecution constitute  
 10 related offenses.

11 SECTION 102. IC 35-34-1-11 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) Whenever two  
 13 (2) or more offenses have been joined for trial in the same indictment  
 14 or information solely on the ground that they are of the same or similar  
 15 character, the defendant shall have a right to a severance of the  
 16 offenses. In all other cases the court, upon motion of the defendant or  
 17 the prosecutor, shall grant a severance of offenses whenever the court  
 18 determines that severance is appropriate to promote a fair  
 19 determination of the defendant's guilt or innocence of each offense  
 20 considering:

- 21 (1) the number of offenses charged;  
 22 (2) the complexity of the evidence to be offered; and  
 23 (3) whether the trier of fact will be able to distinguish the  
 24 evidence and apply the law intelligently as to each offense.

25 (b) Whenever two (2) or more defendants have been joined for trial  
 26 in the same indictment or information and one (1) or more defendants  
 27 move for a separate trial because another defendant has made an  
 28 out-of-court statement which makes reference to the moving defendant  
 29 but is not admissible as evidence against him; **the moving defendant,**  
 30 the court shall require the prosecutor to elect:

- 31 (1) a joint trial at which the statement is not admitted into  
 32 evidence;  
 33 (2) a joint trial at which the statement is admitted into evidence  
 34 only after all references to the moving defendant have been  
 35 effectively deleted; or  
 36 (3) a separate trial for the moving defendant.

37 In all other cases, upon motion of the defendant or the prosecutor, the  
 38 court shall order a separate trial of defendants whenever the court  
 39 determines that a separate trial is necessary to protect a defendant's  
 40 right to a speedy trial or is appropriate to promote a fair determination  
 41 of the guilt or innocence of a defendant.

42 (c) The court may order the prosecutor to disclose in camera any

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1 information concerning statements made by the defendants which the  
 2 prosecutor intends to introduce in evidence at the trial if this  
 3 information would assist the court in ruling on a motion for a separate  
 4 trial.

5 SECTION 103. IC 35-34-1-13 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) Upon motion of  
 7 the prosecuting attorney, the court shall order the dismissal of the  
 8 ~~indictment~~ or information. The motion may be made at any time before  
 9 sentencing and may be made on the record or in writing. The motion  
 10 shall state the reason for dismissal.

11 (b) In any case where an order sustaining a motion to dismiss would  
 12 otherwise constitute a bar to further prosecution of the crime charged,  
 13 unless the defendant objects to dismissal, the granting of the motion  
 14 does not bar a subsequent trial of the defendant on the offense charged.

15 SECTION 104. IC 35-34-1-14 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. In any ~~indictment~~  
 17 or information, an averment substantially in compliance with the  
 18 provisions of this section shall be sufficient.

19 (a) The age of the defendant or the victim need not be alleged,  
 20 except where the age of the defendant or the victim is an essential  
 21 element of the offense charged.

22 (b) Averments as to any money or bills or notes or postal orders  
 23 issued by any lawful authority and intended to pass and circulate as  
 24 money are sufficient to be alleged simply as money without further  
 25 identification.

26 (c) It is sufficient to describe a written instrument by any name or  
 27 designation by which it is usually known or to aver generally the  
 28 contents of such instrument.

29 (d) Averments of dates and numbers may be by words or figures or  
 30 both.

31 SECTION 105. IC 35-34-1-15 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) If the stated  
 33 name of the defendant in the ~~indictment~~ or information is incorrect:

34 (1) this defect shall not be a ground for dismissal of the  
 35 ~~indictment~~ or information; and

36 (2) any variance between the allegations and the proof of the  
 37 defendant's name shall not be considered material.

38 (b) If at any time during the proceedings the true name of the  
 39 defendant becomes known, the court shall order the ~~indictment~~ or  
 40 information amended to show both the name by which the defendant  
 41 was first charged and the name later alleged to be true.

42 SECTION 106. IC 35-34-1-16 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) In an indictment  
 2 or information for perjury, it is necessary to set forth only:

3 (1) the substance of the controversy or the matter in respect to  
 4 which the alleged offense was committed; and

5 (2) in what court or before whom the false statement was made.

6 It is not necessary to set forth any part of any record or proceeding, or  
 7 the commission or authority of the court or person before whom the  
 8 perjury was allegedly committed.

9 (b) In an indictment or information for perjury, in swearing to any  
 10 written instrument, it is necessary to set forth only that part of the  
 11 instrument alleged to have been falsely sworn to, and to negative the  
 12 same, with the name of the officer or court before whom the instrument  
 13 was sworn.

14 SECTION 107. IC 35-34-1-17 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. When an  
 16 instrument which is the subject of an indictment or information for  
 17 forgery has been destroyed, or is withheld by the act or procurement of  
 18 the defendant, and the fact of the destruction or withholding is alleged  
 19 in the indictment or information, and established at trial, the  
 20 misdescription of the instrument is immaterial.

21 SECTION 108. IC 35-34-1-18 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. The indictment or  
 23 information for an offense which was committed upon or in relation to  
 24 any property belonging to partners, or to several joint owners, or  
 25 property which, when the offense was committed, was in possession of  
 26 a bailee or tenant, is sufficient if it **the information** alleges the  
 27 ownership of the property to be in the name of:

28 (1) the partnership or any partner;

29 (2) an owner;

30 (3) a bailor;

31 (4) a bailee; or

32 (5) a tenant.

33 SECTION 109. IC 35-34-1-19 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. The words used in  
 35 an indictment or information shall be construed using their ordinary  
 36 and common meaning, except words and phrases defined by law, which  
 37 are to be construed according to their legal meaning.

38 SECTION 110. IC 35-34-2 IS REPEALED [EFFECTIVE JULY 1,  
 39 2013]. (Grand Jury and Special Grand Jury).

40 SECTION 111. IC 35-35-2-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Pleadings in  
 42 criminal proceedings are:

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- 1           (+) an indictment;  
 2           (2) (1) an information; and  
 3           (3) (2) pleas of:  
 4                (A) not guilty;  
 5                (B) guilty; and  
 6                (C) guilty but mentally ill at the time of the crime.

7 Defenses and objections raised before trial which, before July 26, 1973,  
 8 could have been raised by a plea in abatement, a plea in bar, a  
 9 demurrer, a motion to quash, or any other plea not specifically allowed  
 10 under this subsection may be raised only by motion to dismiss or to  
 11 grant appropriate relief as provided in this title.

12           (b) Except as provided in this title, an application to the court for an  
 13 order must be by motion. A motion other than one made during a trial  
 14 or hearing must be in writing unless the court permits it to be made  
 15 orally. It must state the grounds upon which it is made and set forth the  
 16 relief or order sought. It may be supported by affidavit.

17           (c) Except as provided in this title, whenever the defendant files a  
 18 motion, the state may file an answer to that motion. If no answer is filed  
 19 by the state, all issues of fact and law raised by the motion stand at  
 20 issue and the court shall proceed.

21           SECTION 112. IC 35-36-2-2 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) At the trial of a  
 23 criminal case in which the defendant intends to interpose the defense  
 24 of insanity, evidence may be introduced to prove the defendant's sanity  
 25 or insanity at the time at which the defendant is alleged to have  
 26 committed the offense charged in the indictment or information.

27           (b) When notice of an insanity defense is filed, the court shall  
 28 appoint two (2) or three (3) competent disinterested psychiatrists,  
 29 psychologists endorsed by the state psychology board as health service  
 30 providers in psychology, or physicians, at least one (1) of whom must  
 31 be a psychiatrist, to examine the defendant and to testify at the trial.  
 32 This testimony shall follow the presentation of the evidence for the  
 33 prosecution and for the defense, including testimony of any medical  
 34 experts employed by the state or by the defense.

35           (c) If a defendant does not adequately communicate, participate, and  
 36 cooperate with the medical witnesses appointed by the court, after  
 37 being ordered to do so by the court, the defendant may not present as  
 38 evidence the testimony of any other medical witness:

- 39                (1) with whom the defendant adequately communicated,  
 40                participated, and cooperated; and  
 41                (2) whose opinion is based upon examinations of the defendant;  
 42 unless the defendant shows by a preponderance of the evidence that the

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1 defendant's failure to communicate, participate, or cooperate with the  
 2 medical witnesses appointed by the court was caused by the defendant's  
 3 mental illness.

4 (d) The medical witnesses appointed by the court may be  
 5 cross-examined by both the prosecution and the defense, and each side  
 6 may introduce evidence in rebuttal to the testimony of such a medical  
 7 witness.

8 SECTION 113. IC 35-36-4-2 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) When a  
 10 defendant files a notice of alibi, the prosecuting attorney shall file with  
 11 the court and serve upon the defendant, or upon **his the defendant's**  
 12 counsel, a specific statement containing:

13 (1) the date the defendant was alleged to have committed the  
 14 crime; and

15 (2) the exact place where the defendant was alleged to have  
 16 committed the crime;

17 that ~~he~~ **the prosecuting attorney** intends to present at trial. However,  
 18 the prosecuting attorney need not comply with this requirement if ~~he~~  
 19 **the prosecuting attorney** intends to present at trial the date and place  
 20 listed in the ~~indictment~~ or information as the date and place of the  
 21 crime.

22 (b) If a reply by the prosecuting attorney is required by subsection  
 23 (a), ~~of this section~~ the prosecuting attorney shall serve such a statement  
 24 upon the defendant, or **his the defendant's** counsel, within seven (7)  
 25 days after the filing of the defendant's first notice of alibi.

26 (c) If the prosecuting attorney's statement to the defendant contains  
 27 a date or place other than the date or place stated in the defendant's  
 28 original statement, the defendant shall file a second statement of alibi  
 29 if the defendant intends to produce at trial evidence of an alibi for the  
 30 date or place contained in the prosecutor's statement. The defendant  
 31 shall:

32 (1) file the second statement with the court; and

33 (2) serve the second statement upon the prosecuting attorney;  
 34 within four (4) days after the filing of the prosecuting attorney's  
 35 statement. The defendant's second statement must contain the same  
 36 details required in the defendant's original statement.

37 SECTION 114. IC 35-36-4-3 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) If either the  
 39 defendant or the prosecuting attorney fails to file or serve statements  
 40 in accordance with section 2 of this chapter, the judge may extend the  
 41 time for filing.

42 (b) If at the trial it appears that the defendant has failed to file and

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1 serve an original statement of alibi in accordance with section 1 of this  
 2 chapter, and if the defendant does not show good cause for ~~his the~~  
 3 **defendant's** failure, then the court shall exclude evidence offered by  
 4 the defendant to establish an alibi.

5 (c) If at the trial it appears that the prosecuting attorney has failed  
 6 to file and serve ~~his the~~ **prosecuting attorney's** statement in  
 7 accordance with section 2(a) of this chapter, and if the prosecuting  
 8 attorney does not show good cause for ~~his the~~ failure, then the court  
 9 shall exclude evidence offered by the prosecuting attorney to show:

10 (1) that the defendant was at a place other than the place stated in  
 11 the information; ~~or indictment~~ and

12 (2) that the date was other than the date stated in the information.  
 13 ~~or indictment.~~

14 (d) If at the trial it appears that the defendant has failed to file and  
 15 serve a second statement in accordance with section 2(c) of this  
 16 chapter, and if the defendant does not show good cause for ~~his the~~  
 17 failure, then the court shall exclude evidence offered by the defendant  
 18 to establish that:

19 (1) ~~he the~~ **defendant** was at a place other than the place specified  
 20 in the prosecuting attorney's statement; or

21 (2) the date was other than the date stated in the prosecuting  
 22 attorney's statement.

23 SECTION 115. IC 35-36-6-2 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. After a change of  
 25 venue, the cause shall be docketed and stand for trial. The court to  
 26 which the case has been venued shall proceed in all respects as if the  
 27 ~~indictment had been found and returned by a grand jury impaneled in~~  
 28 ~~that court, or as if the~~ information had been originally filed in that  
 29 court.

30 SECTION 116. IC 35-36-6-6 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. If on a new  
 32 prosecution a defendant is prosecuted for the offense in the court to  
 33 which the change of venue was taken, ~~a new indictment may be found;~~  
 34 ~~or~~ a new information may be filed and the case may be prosecuted to  
 35 final execution as if the offense had been committed in the county of  
 36 that court. However, the ~~indictment or~~ information in such a case must  
 37 state how the proceeding came into the court where the party elects to  
 38 be tried, and that ~~he the~~ **party** has elected to be tried in that county.

39 SECTION 117. IC 35-36-7-2 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A prosecuting  
 41 attorney may move to postpone the trial of a criminal cause because of  
 42 the absence of a witness whose name is endorsed on the ~~indictment or~~

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1 information, if ~~he~~ **the prosecuting attorney** makes an official  
2 statement:

- 3 (1) containing the requirements of ~~subsections (b)(1) and (b)(2)~~  
4 **of section † section 1(b)(1) and 1(b)(2)** of this chapter;  
5 (2) showing that the absence of the witness has not been procured  
6 by the act of the prosecuting attorney;  
7 (3) stating the facts to which ~~he~~ **the prosecuting attorney**  
8 believes the witness will testify, and include a statement that ~~he~~  
9 **the prosecuting attorney** believes these facts to be true; and  
10 (4) stating that the prosecuting attorney is unable to prove the  
11 facts specified in accordance with subdivision (3) through the use  
12 of any other witness whose testimony can be as readily procured.

13 Upon request of the defendant the court shall order that the prosecuting  
14 attorney's motion and official statement be made in writing.

15 (b) The trial may not be postponed if:

- 16 (1) after a motion by the prosecuting attorney because of the  
17 absence of a witness, the defendant admits that the absent witness  
18 would testify to the facts as alleged by the prosecuting attorney in  
19 **his the prosecuting attorney's** official statement in accordance  
20 with subsection (a)(3); or  
21 (2) after a motion by the prosecuting attorney to postpone because  
22 of the absence of written or documentary evidence, the defendant  
23 admits that the written or documentary evidence exists.

24 SECTION 118. IC 35-36-8-3 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A pretrial hearing  
26 and pretrial conference, if one is necessary, may be held on the  
27 omnibus date or any other date that the court designates prior to the  
28 commencement of trial. The purpose of the pretrial hearing is to:

- 29 (1) consolidate hearings on pretrial motions and other requests to  
30 the maximum extent practicable;  
31 (2) rule on the motions and requests and ascertain whether the  
32 case will be disposed of by guilty plea, jury trial, or bench trial;  
33 and  
34 (3) make any other orders appropriate under the circumstances to  
35 expedite the proceedings.

36 (b) At the time of the pretrial hearing as provided under this section,  
37 or at any other time after the filing of the ~~indictment~~ or information and  
38 before the commencement of trial, the court, upon motion of any party  
39 or upon its own motion, may order conferences to consider any matters  
40 that will promote a fair and expeditious trial. The purpose of such a  
41 conference shall be to consider any matters related to the disposition of  
42 the proceedings, including the simplification of the issues to be tried

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1 and the possibility of obtaining admissions of fact and of documents  
2 which will avoid unnecessary proof.

3 (c) At the conclusion of the conference the court shall prepare and  
4 file a memorandum of the matters agreed upon. Any admission made  
5 by the defendant or ~~his~~ **the defendant's** attorney at the conference may  
6 not be used against the defendant unless the admission is reduced to  
7 writing and signed by the defendant and ~~his~~ **the defendant's** attorney.

8 SECTION 119. IC 35-37-1-5 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The following are  
10 good causes for challenge to any person called as a juror in any  
11 criminal trial:

12 (1) That the person was a member of the grand jury that found the  
13 indictment (**before grand juries were abolished**).

14 (2) That the person has formed or expressed an opinion as to the  
15 guilt or innocence of the defendant. However, such an opinion is  
16 subject to subsection (b).

17 (3) If the state is seeking a death sentence, that the person  
18 entertains such conscientious opinions as would preclude the  
19 person from recommending that the death penalty be imposed.

20 (4) That the person is related within the fifth degree to the person  
21 alleged to be the victim of the offense charged, to the person on  
22 whose complaint the prosecution was instituted, or to the  
23 defendant.

24 (5) That the person has served on a trial jury which was sworn in  
25 the same case against the same defendant, and which jury was  
26 discharged after hearing the evidence, or rendered a verdict which  
27 was set aside.

28 (6) That the person served as a juror in a civil case brought  
29 against the defendant for the same act.

30 (7) That the person has been subpoenaed in good faith as a  
31 witness in the case.

32 (8) That the person is a mentally incompetent person.

33 (9) That the person is an alien.

34 (10) That the person has been called to sit on the jury at the  
35 person's own solicitation or that of another.

36 (11) That the person is biased or prejudiced for or against the  
37 defendant.

38 (12) That the person does not have the qualifications for a juror  
39 prescribed by law.

40 (13) That, from defective sight or hearing, ignorance of the  
41 English language, or other cause, the person is unable to  
42 comprehend the evidence and the instructions of the court.

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1 (14) That the person has a personal interest in the result of the  
2 trial.  
3 (15) If the person is not a member of the regular panel, that the  
4 person has served on a jury within twelve (12) months  
5 immediately preceding the trial.  
6 (b) If a person called as a juror states that the person has formed or  
7 expressed an opinion as to the guilt or innocence of the defendant, the  
8 court or the parties shall proceed to examine the juror on oath as to the  
9 grounds of the juror's opinion. If the juror's opinion appears to have  
10 been founded upon reading newspaper statements, communications,  
11 comments, reports, rumors, or hearsay, and if:  
12 (1) the juror's opinion appears not to have been founded upon:  
13 (A) conversation with a witness of the transaction;  
14 (B) reading reports of a ~~witness'~~ **witness's** testimony; or  
15 (C) hearing a witness testify;  
16 (2) the juror states on oath that the juror feels able,  
17 notwithstanding the juror's opinion, to render an impartial verdict  
18 upon the law and evidence; and  
19 (3) the court is satisfied that the juror will render an impartial  
20 verdict;  
21 the court may admit the juror as competent to serve in the case.  
22 SECTION 120. IC 35-37-3-1 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) If a witness, in  
24 any hearing or trial occurring after an ~~indictment~~ or information has  
25 been filed, refuses to answer any question or produce any item, the  
26 court shall remove the jury, if one is present, and immediately conduct  
27 a hearing on the witness's refusal. After such a hearing, the court shall  
28 decide whether the witness is required to answer the question or  
29 produce the item.  
30 (b) If the prosecuting attorney has reason to believe that a witness  
31 will refuse to answer a question or produce an item during any criminal  
32 trial, the prosecuting attorney may submit the question or request to the  
33 trial court. The court shall hold a hearing to determine if the witness  
34 may refuse to answer the question or produce the item.  
35 SECTION 121. IC 35-37-5-1 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. As used in this  
37 chapter:  
38 "State" includes any territory of the United States and the District of  
39 Columbia.  
40 "Subpoena" includes a summons in any state where a summons is  
41 used in lieu of a subpoena.  
42 "Witness" shall include a person whose testimony is desired in ~~any~~

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1 ~~proceeding or investigation by a grand jury or in a criminal action,~~  
 2 ~~prosecution, or proceeding.~~

3 SECTION 122. IC 35-37-5-7 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. When:

5 (1) a criminal action is pending in a court of record of this state by  
 6 reason of an ~~indictment information~~ or affidavit; ~~or by reason of~~  
 7 ~~the commencement of a grand jury proceeding or investigation;~~

8 (2) there is reasonable cause to believe that a person confined in  
 9 a federal prison or other federal custody, either within or outside  
 10 this state, possesses information material to such criminal action;  
 11 and

12 (3) the attendance of such person as a witness in such action is  
 13 desired by a party;

14 the court may issue a certificate, known as a writ of habeas corpus ad  
 15 testificandum, addressed to the attorney general of the United States,  
 16 certifying all such facts and requesting the attorney general of the  
 17 United States to cause the attendance of such person as a witness in  
 18 such court for a specified number of days. Such a certificate may be  
 19 issued upon application of either the state or a defendant demonstrating  
 20 all facts specified in subdivision (1). Upon issuing such a certificate,  
 21 the court may deliver it, or cause or authorize it to be delivered, to the  
 22 attorney general of the United States or to ~~his~~ **the attorney general's**  
 23 representative authorized to entertain the request.

24 SECTION 123. IC 35-38-4-2 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. Appeals to the  
 26 supreme court or to the court of appeals, if the court rules so provide,  
 27 may be taken by the state in the following cases:

28 (1) From an order granting a motion to dismiss an ~~indictment or~~  
 29 ~~information.~~

30 (2) From an order or judgment for the defendant, upon ~~his~~ **the**  
 31 ~~defendant's~~ motion for discharge because of delay of ~~his~~ **the**  
 32 ~~defendant's~~ trial not caused by ~~his~~ **the defendant's** act, or upon  
 33 ~~his~~ **the defendant's** plea of former jeopardy, presented and ruled  
 34 upon prior to trial.

35 (3) From an order granting a motion to correct errors.

36 (4) Upon a question reserved by the state, if the defendant is  
 37 acquitted.

38 (5) From an order granting a motion to suppress evidence, if the  
 39 ultimate effect of the order is to preclude further prosecution.

40 (6) From any interlocutory order if the trial court certifies and the  
 41 court on appeal or a judge thereof finds on petition that:

42 (A) the appellant will suffer substantial expense, damage, or

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1 injury if the order is erroneous and the determination thereof  
 2 is withheld until after judgment;

3 (B) the order involves a substantial question of law, the early  
 4 determination of which will promote a more orderly  
 5 disposition of the case; or

6 (C) the remedy by appeal after judgment is otherwise  
 7 inadequate.

8 SECTION 124. IC 35-40-4-2 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. "Accused" means  
 10 that an indictment or information charging a person with a crime or a  
 11 petition alleging that a child is a delinquent child has been filed.

12 SECTION 125. IC 35-40-4-7 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. "Public court  
 14 proceeding" means a hearing, an argument, or another matter scheduled  
 15 by and held before a trial court. The term does not include:

16 (1) a deposition;

17 (2) a lineup; or

18 ~~(3) a grand jury proceeding; or~~

19 ~~(4)~~ (3) any other procedure not held in the presence of a court  
 20 having jurisdiction.

21 SECTION 126. IC 35-41-4-2, AS AMENDED BY P.L.143-2009,  
 22 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2013]: Sec. 2. (a) Except as otherwise provided in this section,  
 24 a prosecution for an offense is barred unless it is commenced:

25 (1) within five (5) years after the commission of the offense, in  
 26 the case of a Class B, Class C, or Class D felony; or

27 (2) within two (2) years after the commission of the offense, in the  
 28 case of a misdemeanor.

29 (b) A prosecution for a Class B or Class C felony that would  
 30 otherwise be barred under this section may be commenced within one  
 31 (1) year after the earlier of the date on which the state:

32 (1) first discovers evidence sufficient to charge the offender with  
 33 the offense through DNA (deoxyribonucleic acid) analysis; or

34 (2) could have discovered evidence sufficient to charge the  
 35 offender with the offense through DNA (deoxyribonucleic acid)  
 36 analysis by the exercise of due diligence.

37 (c) A prosecution for a Class A felony may be commenced at any  
 38 time.

39 (d) A prosecution for murder may be commenced:

40 (1) at any time; and

41 (2) regardless of the amount of time that passes between:

42 (A) the date a person allegedly commits the elements of

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- 1 murder; and  
 2 (B) the date the alleged victim of the murder dies.
- 3 (e) A prosecution for the following offenses is barred unless  
 4 commenced before the date that the alleged victim of the offense  
 5 reaches thirty-one (31) years of age:
- 6 (1) IC 35-42-4-3(a) (Child molesting).
  - 7 (2) IC 35-42-4-5 (Vicarious sexual gratification).
  - 8 (3) IC 35-42-4-6 (Child solicitation).
  - 9 (4) IC 35-42-4-7 (Child seduction).
  - 10 (5) IC 35-46-1-3 (Incest).
- 11 (f) A prosecution for forgery of an instrument for payment of  
 12 money, or for the uttering of a forged instrument, under IC 35-43-5-2,  
 13 is barred unless it is commenced within five (5) years after the maturity  
 14 of the instrument.
- 15 (g) If a complaint ~~indictment~~, or information is dismissed because  
 16 of an error, defect, insufficiency, or irregularity, a new prosecution may  
 17 be commenced within ninety (90) days after the dismissal even if the  
 18 period of limitation has expired at the time of dismissal, or will expire  
 19 within ninety (90) days after the dismissal.
- 20 (h) The period within which a prosecution must be commenced does  
 21 not include any period in which:
- 22 (1) the accused person is not usually and publicly resident in  
 23 Indiana or so conceals himself or herself that process cannot be  
 24 served;
  - 25 (2) the accused person conceals evidence of the offense, and  
 26 evidence sufficient to charge the person with that offense is  
 27 unknown to the prosecuting authority and could not have been  
 28 discovered by that authority by exercise of due diligence; or
  - 29 (3) the accused person is a person elected or appointed to office  
 30 under statute or constitution, if the offense charged is theft or  
 31 conversion of public funds or bribery while in public office.
- 32 (i) For purposes of tolling the period of limitation only, a  
 33 prosecution is considered commenced on the earliest of ~~these the~~  
 34 **following** dates:
- 35 (1) The date of filing of an ~~indictment~~, information or complaint  
 36 before a court having jurisdiction.
  - 37 (2) The date of issuance of a valid arrest warrant.
  - 38 (3) The date of arrest of the accused person by a law enforcement  
 39 officer without a warrant, if the officer has authority to make the  
 40 arrest.
- 41 (j) A prosecution is considered timely commenced for any offense  
 42 to which the defendant enters a plea of guilty, notwithstanding that the

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1 period of limitation has expired.  
 2 (k) The following apply to the specified offenses:  
 3 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of  
 4 funeral trust funds) is barred unless commenced within five (5)  
 5 years after the date of death of the settlor (as described in  
 6 IC 30-2-9).  
 7 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse  
 8 of funeral trust funds) is barred unless commenced within five (5)  
 9 years after the date of death of the settlor (as described in  
 10 IC 30-2-10).  
 11 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse  
 12 of funeral trust or escrow account funds) is barred unless  
 13 commenced within five (5) years after the date of death of the  
 14 purchaser (as defined in IC 30-2-13-9).  
 15 (l) A prosecution for an offense under IC 23-14-48-9 is barred  
 16 unless commenced within five (5) years after the earlier of the date on  
 17 which the state:  
 18 (1) first discovers evidence sufficient to charge the offender with  
 19 the offense; or  
 20 (2) could have discovered evidence sufficient to charge the  
 21 offender with the offense by the exercise of due diligence.  
 22 SECTION 127. IC 35-44.1-2-1, AS ADDED BY P.L.126-2012,  
 23 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 1. (a) A person who:  
 25 (1) makes a false, material statement under oath or affirmation,  
 26 knowing the statement to be false or not believing it to be true; or  
 27 (2) has knowingly made two (2) or more material statements, in  
 28 a proceeding before a court or grand jury (**before the**  
 29 **abolishment of grand juries**), which are inconsistent to the  
 30 degree that one (1) of them is necessarily false;  
 31 commits perjury, a Class D felony.  
 32 (b) In a prosecution under subsection (a)(2):  
 33 (1) the ~~indictment~~ or information need not specify which  
 34 statement is actually false; and  
 35 (2) the falsity of a statement may be established sufficiently for  
 36 conviction by proof that the defendant made irreconcilably  
 37 contradictory statements which are material to the point in  
 38 question.  
 39 SECTION 128. IC 35-44.1-2-4, AS ADDED BY P.L.126-2012,  
 40 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2013]: Sec. 4. (a) A person who:  
 42 (1) with intent to mislead public servants;

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1 (2) in a five (5) year period; and  
 2 (3) in one (1) or more official proceedings or investigations;  
 3 has knowingly made at least two (2) material statements concerning the  
 4 person's identity that are inconsistent to the degree that one (1) of them  
 5 is necessarily false commits false identity statement, a Class A  
 6 misdemeanor.

7 (b) It is a defense to a prosecution under this section that the  
 8 material statements that are the basis of a prosecution under subsection  
 9 (a) concerning the person's identity are accurate or were accurate in the  
 10 past.

11 (c) In a prosecution under subsection (a):  
 12 (1) the ~~indictment~~ or information need not specify which  
 13 statement is actually false; and  
 14 (2) the falsity of a statement may be established sufficiently for  
 15 conviction by proof that the defendant made irreconcilably  
 16 contradictory statements concerning the person's identity.

17 SECTION 129. IC 35-46-2-2 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. A public servant  
 19 having the duty to select or summon persons for ~~grand jury~~ or trial jury  
 20 service who knowingly or intentionally fails to select or summon a  
 21 person because of color, creed, disability, national origin, race, religion,  
 22 or sex commits discrimination in jury selection, a Class A  
 23 misdemeanor.

24 SECTION 130. IC 35-47-2-24 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 24. (a) In an  
 26 information ~~or indictment~~ brought for the enforcement of any provision  
 27 of this chapter, it is not necessary to negate any exemption specified  
 28 under this chapter, or to allege the absence of a license required under  
 29 this chapter. The burden of proof is on the defendant to prove that ~~he~~  
 30 **the defendant** is exempt under section 2 of this chapter, or that ~~he~~ **the**  
 31 **defendant** has a license as required under this chapter.

32 (b) Whenever a person who has been arrested or charged with a  
 33 violation of section 1 of this chapter presents a valid license to the  
 34 prosecuting attorney or establishes that ~~he~~ **the person** is exempt under  
 35 section 2 of this chapter, any prosecution for a violation of section 1 of  
 36 this chapter shall be dismissed immediately, and all records of an arrest  
 37 or proceedings following arrest shall be destroyed immediately.

38 SECTION 131. IC 36-1-17-3, AS ADDED BY P.L.128-2005,  
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2013]: Sec. 3. (a) An officer or employee of a unit or  
 41 municipal corporation who is charged with:

42 (1) a crime; or

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1 (2) an infraction;  
 2 relating to an act that was within the scope of the official duties of the  
 3 officer or employee may apply to the fiscal body of the unit or  
 4 municipal corporation for reimbursement of reasonable and  
 5 customarily charged expenses incurred in the officer's or employee's  
 6 defense against those charges, if all charges have been dismissed or the  
 7 officer or employee has been found not guilty of all charges. The fiscal  
 8 body of the unit or municipal corporation shall reimburse the officer or  
 9 employee for reasonable and customarily charged expenses, as  
 10 determined by the fiscal body of the unit or municipal corporation,  
 11 incurred in the officer's or employee's defense against those charges, if  
 12 all charges have been dismissed or the officer or employee has been  
 13 found not guilty of all charges.

14 ~~(b) An officer or employee of a unit or municipal corporation who~~  
 15 ~~is the target of a grand jury investigation may apply to the fiscal body~~  
 16 ~~of the unit or municipal corporation for reimbursement of reasonable~~  
 17 ~~and customarily charged expenses incurred by the officer or employee~~  
 18 ~~resulting from the grand jury investigation, if the grand jury fails to~~  
 19 ~~indict the officer or employee and the acts investigated by the grand~~  
 20 ~~jury were within the scope of the official duties of the officer or~~  
 21 ~~employee. The fiscal body of the unit or municipal corporation shall~~  
 22 ~~reimburse the officer or employee for reasonable and customarily~~  
 23 ~~charged expenses, as determined by the fiscal body of the unit or~~  
 24 ~~municipal corporation, incurred by the officer or employee as a result~~  
 25 ~~of the grand jury investigation, if the grand jury fails to indict the~~  
 26 ~~officer or employee.~~

27 ~~(e)~~ (b) An officer or employee of a unit or municipal corporation  
 28 who is the defendant in a civil action described in section 2(1)(B)(i)  
 29 through section 2(1)(B)(viii) of this chapter and brought by a person  
 30 described in section 2(1)(B) of this chapter that involves an action  
 31 within the scope of the official duties of the officer or employee may  
 32 apply to the fiscal body of the unit or municipal corporation for  
 33 reimbursement of reasonable and customarily charged expenses  
 34 incurred in the officer's or employee's defense in the civil action. The  
 35 fiscal body of the unit or municipal corporation shall reimburse the  
 36 officer or employee for reasonable and customarily charged expenses  
 37 incurred in the officer's or employee's defense against the civil action  
 38 if:

- 39 (1) all claims that formed the basis of the civil action have been  
 40 dismissed; or  
 41 (2) a judgment is rendered in favor of the officer or employee on  
 42 all counts in the civil action.

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