1-1-2021

Legislative Update 2021

Indiana Continuing Legal Education Forum (ICLEF)

Legislative Update 2021
June 9, 2021
Index

Legislative Update 2021
June 9, 2021
Index

ICLEF Electronic Publications

Feature Release 4.1
August 2020

To get the most out of your *ICLEF Electronic Publication,* download this material to your PC and use Adobe Acrobat® to open the document. The most current version of the Adobe® software may be found and installed by clicking on one of the following links for either the free Adobe Acrobat Reader® or the full retail version of Adobe Acrobat®.

Feature list:

1. **Searchable** – All ICLEF Electronic Publications are word searchable. To begin your search, click on the "spyglass" icon at the top of the page while using the Adobe® software.
1. **Bookmarks** – Once the publication is opened using the Adobe Acrobat® software a list of bookmarks will be found in a column located on the left side of the page. Click on a bookmark to advance to that place in the document.
2. **Hypertext Links** – All of the hypertext links provided by our authors are active in the document. Simply click on them to navigate to the information.
3. **Book Index** – We are adding an INDEX at the beginning of each of our publications. The INDEX provides "jump links" to the portion of the publication you wish to review. Simply left click on a topic / listing within the INDEX page(s) to go to that topic within the materials. To return to the INDEX page either select the "INDEX" bookmark from the top left column or right-click with the mouse within the publication and select the words "*Previous View*" to return to the spot within the INDEX page where you began your search.

Please feel free to contact ICLEF with additional suggestions on ways we may further improve our electronic publications. Thank you.

Indiana Continuing Legal Education Forum (ICLEF)
230 East Ohio Street, Suite 300
Indianapolis, Indiana 46204
Ph: 317-637-9102 // Fax: 317-633-8780 // email: iclef@iclef.org
URL: https://iclef.org

LEGISLATIVE UPDATE 2021

June 9, 2021

WWW.ICLEF.ORG

DISCLAIMER

The information and procedures set forth in this practice manual are subject to constant change and therefore should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein. Further, the forms contained within this manual are samples only and were designed for use in a particular situation involving parties which had certain needs which these documents met. All information, procedures and forms contained herein should be very carefully reviewed and should serve only as a guide for use in specific situations.

The Indiana Continuing Legal Education Forum and contributing authors hereby disclaim any and all responsibility or liability, which may be asserted or claimed arising from or claimed to have arisen from reliance upon the procedures and information or utilization of the forms set forth in this manual, by the attorney or non-attorney.

Attendance of ICLEF presentations does not qualify a registrant as an expert or specialist in any discipline of the practice of law. The ICLEF logo is a registered trademark and use of the trademark without ICLEF's express written permission is prohibited. ICLEF does not certify its registrants as specialists or expert practitioners of law. ICLEF is an equal opportunity provider of continuing legal education that does not discriminate on the basis of gender, race, age, creed, handicap, color or national origin. ICLEF reserves the right to refuse to admit any person or to eject any person, whose conduct is perceived to be physically or emotionally threatening, disruptive or disrespectful of ICLEF registrants, faculty or staff.

INDIANA CONTINUING LEGAL EDUCATION FORUM

OFFICERS

TERESA L. TODD
President

LYNNETTE GRAY
Vice President

HON. ANDREW R. BLOCH
Secretary

SARAH L. BLAKE
Treasurer

ALAN M. HUX
Appointed Member

LINDA K. MEIER
Appointed Member

DIRECTORS

James H. Austen
Sarah L. Blake
Hon. Andrew R. Bloch
Melanie M. Dunajeski
Mark A. Foster
Lynnette Gray
Alan M. Hux
Dr. Michael J. Jenuwine
Dean Jonna Kane MacDougall
Thomas A. Massey
Linda K. Meier
Richard S. Pitts
Jeffrey P. Smith
Teresa L. Todd
Inge Van der Cruysse

ICLEF

SCOTT E. KING
Executive Director

James R. Whitesell
Senior Program Director

Jeffrey A. Lawson
Program Director

LEGISLATIVE UPDATE 2021

Agenda

8:30 A.M. Registration & Coffee

8:55 A.M. Welcome and Introduction
Senator Eric. A. Koch, Program Chair

9:00 A.M. Session 1
Representative Gregory E. Steuerwald
- HB 1006 – Law Enforcement Officers
- HB 1558 – Indiana Crime Guns Taskforce
- HB 1082 – High Tech Crimes Unit Program
- HB 1127 – Mental Health and Addiction Forensic Treatments
- HB 1120 – Judicial Nominating Commission

9:30 A.M. Session 2
Senator R. Michael Young
- Criminal Law Update
- Driving While Suspended
- SB 368 – Juvenile Justice
- HB 1577 – Abortion Matters
- SB 201 – Driving with THC in System

10:00 A.M. Session 3
Senator Karen R. Tallian
- HB 1001 – State Budget
- SB 271 – Environmental Matters and Coal Ash
- SB 389 – Wetlands
- Labor Matters
- SB 005 – Local Health Departments

10:30 A.M. Coffee Break

10:45 A.M. Session 4
Representative John T. Young
- SB 005 – Local Health Departments SB 188 – Revised Uniform Unclaimed Property Act
- HB 1166 – Assessor Competency
- Prohibition Against Raising Assessment after a Successful Appeal
- Probate Legislation (topic shared with Sen. Freeman)

June 9, 2021

LEGISLATIVE UPDATE 2021

Agenda Continued

11:15 A.M. Session 5

Senator Aaron M. Freeman

- SB 336 – Business Personal Property Tax Exemption
- HB 1123 – Legislative Oversight of Certain Fiscal and Emergency Matters
- SB 001 – Civil Immunity Related to COVID-19
- HB 1002 – Civil Immunity Related to COVID-19
- HB 1056 – Recordable Instruments Fix
- Probate Legislation (topic shared with Rep. Young)

11:45 A.M. Session 6

Rep. Christopher P. Jeter

- Real Property Law
- SB 392 – Marion County Zoning
- SB 017 – Campgrounds
- SB 008 – Traffic Enforcement in Residential Complexes

12:00 P.M. Session 7 – 2022 Look Ahead

Panel Discussion

This will include things such as emerging issues, evolving issues, trends, lessons learned, what should perhaps be re-thought, and unfinished business.

12:15 P.M. Adjourn

LEGISLATIVE UPDATE 2021

Faculty

Senator Eric A. Koch - Chair
Koch & McAuley P.C.
1720 North Kinser Pike
P.O. Box 1030
Bloomington, IN 47402-1030
ph: (812) 337-3120
fax: (812) 330-4305
e-mail: eric@kochmcauley.com

Senator Aaron M. Freeman
The Freeman Law Office, LLC
8925 Southeastern Avenue
Indianapolis, IN 46239
ph: (317) 862-7010
fax: (317) 862-7011
e-mail: aaron@aaronfreemanlaw.com

Representative Christopher P. Jeter
Massillamany Jeter & Carson LLP
11650 Lantern Road, Suite 204
Fishers, IN 46038
ph: (317) 576-8580
e-mail: chris@mjcattorneys.com

Representative Gregory E. Steuerwald
Steuerwald, Witham & Youngs, LLP
106 North Washington Street
P.O. Box 503
Danville, IN 46122-0503
ph: (317) 745-4485
fax: (317) 745-9918
e-mail: gsteuerwald@swylawyers.com

Senator Karen R. Tallian
Attorney At Law
6195 Central Avenue
Portage, IN 46368
ph: (219) 764-0434
(219) 628-5010-Best Number
fax: (219) 762-7525
e-mail: ktallian@juno.com

Representative John T. Young
Young and Young
40 West Court Street, Suite D
Franklin, IN 46131-2373
ph: (317) 736-7117
fax: (317) 736-4056

Senator R. Michael Young
Indiana State Senate - District 35
200 West Washington Street
Indianapolis, IN 46204
ph: (317) 232-9517
fax: (317) 234-9208
e-mail: rmysenator@aol.com

Contact Information

Eric@LawKMB.com

812-337-3120

The firm is led by Eric A. Koch, who brings over 31 years of experience to his clients.

An 8th generation Hoosier, Eric grew up on a grain and livestock farm, where he learned the value of hard work and experienced the risk and rewards of the commodity markets.

He earned a Bachelor's Degree from Georgetown University and worked on President Ronald Reagan's re-election campaign in the Office of Political Affairs at the Reagan-Bush '84 Committee.

While earning his Juris Doctorate at the Indiana University School of Law, he clerked at the Bloomington law firm of McDonald, Barrett & Dakich.

He has been engaged in the private practice of law with offices in Bloomington since 1989 and Bedford since 2003. He is a member of the Monroe and Lawrence County Bar Associations, the Indiana State Bar Association, the Million Dollar Advocates Forum, the Multi-Million Dollar Advocates Forum, and founded and served as the first President of the Indiana Creditors Bar Association.

In 2002, he was elected to the Indiana House of Representatives, where he served until being elected to the Indiana State Senate in 2016. His legislative service has been recognized by, among others, the Indiana Judges Association (Champion of Justice Award), the Indiana Trial Lawyers Association (Legislator of the Year 2008 and 2015), the Indiana Pro Bono Commission (Randall T. Shepard Award), Kentucky Governor Ernie Fletcher (Kentucky Colonel), and Indiana Governor Mike Pence (Sagamore of the Wabash).

He currently serves as Chairman of the Senate Utilities Committee, Ranking Member of the Senate Judiciary and Commerce & Technology Committees, and as a member of the Senate

Education

- Georgetown University (Bachelor of Science, Business Administration, 1987)
- Indiana University School of Law, Bloomington (Doctorate of Jurisprudence, 1989)
- Indiana University School of Law, Indianapolis (Civil Mediation Certificate, 2017)
- University of Idaho, College of Business and Economics (Graduate Certificate in Energy Policy Planning, 2017)
- Southern Methodist University, Cox School of Business, Southwestern Graduate School of Banking (Community Bank Director Certification, 2019)

Admitted to Bar, 1989, Indiana

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals: Sixth, Seventh, and District of Columbia Circuits
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Federal Claims
- U.S. District Court, Northern and Southern Districts of Indiana
- U.S. Bankruptcy Court, Northern and Southern Districts of Indiana
- U.S. Court of International Trade
- U.S. Tax Court

Corrections & Criminal Law, Elections, and Family & Children Committees.

A nationally-recognized leader in energy policy, he serves as co-chairman of the Energy Supply Task Force of the National Conference of State Legislatures, as a member of the Executive Committee of the National Council on Electricity Policy, and holds a graduate certificate in Energy Policy Planning from the University of Idaho. He also serves as a member of the Federal Communication Commission Consumer Advisory Committee. He focuses on energy, telecommunications, and water policy interactions in Indiana and nationally.

He has served as a member of the Indiana Commission on Courts (2007—2011), the Indiana Probate Code Study Commission (2005—2007, 2013—2014, 2019—present), the Indiana Military Base Planning Council (2005—2019), the Board of Trustees of the Indiana Criminal Justice Institute (2006—2011), and the Indiana Public Defender Commission (2017—present). He represents Indiana as a Commissioner on The National Conference of Commissioners on Uniform State Laws (2018—present). As a member of the Indiana Supreme Court's Commercial Courts Committee (2019—present), he provides guidance to Indiana's Commercial Courts. He was appointed by the Indiana Supreme Court to serve on its Innovation Initiative (2019—present) to advise the Supreme Court on opportunities to increase efficiency and accessibility through innovative technology and case management, analysis of court reform, and development and testing of pilot programs related to court reform.

Eric frequently serves as a faculty member teaching continuing legal education courses, including for the Indiana State Bar Association and the Indiana

- U.S. Court of Appeals for the Armed Forces
- U.S. Court of Appeals for Veterans Claims
- Indiana Supreme, Appellate and Tax Courts
- All Indiana State Trial Courts

Registered Mediator

Civil Mediator registered by the Indiana Supreme Court

Insurance License

Real Estate Title Insurance Producer licensed by the Indiana Department of Insurance

Elected Office

- Member, Indiana State Senate, 2016 – present
- Member, Indiana House of Representatives, 2002—2016

Continuing Legal Education Forum. He enjoys teaching lawyers about new developments in the law and sharing his insights into the legislative process.

He is a registered civil mediator, having earned a civil mediation certificate from the Indiana University McKinney School of Law, studying under ADR expert John Krauss. Eric enjoys using the combination of his mediation skills and litigation experience to help parties settle cases and resolve disputes.

Eric is frequently appointed by judges to serve as a court-appointed fiduciary with responsibilities such as a trustee, federal multidistrict litigation plaintiffs' steering committee member, special administrator, and personal representative.

A licensed Indiana title insurance producer, he founded Indiana Title Insurance Company in 2015 and serves as its President. His business experience also includes real estate, as President of White River Properties, Inc.; agriculture, as a partner in Koch Farms; and healthcare, as a former board member and Chairman of the Board of Dunn Memorial Hospital and St. Vincent Dunn Hospital.

He is a member of the Boards of Directors of Mid-Southern Savings Bank, FSB and its holding company Mid-Southern Bancorp, Inc. (NASDAQ: MSVB).

His leadership in the non-profit sector has included service as a member of the Board of Governors of the Society of Indiana Pioneers, as a member of the Executive Board of the Hoosier Trails Council of the Boy Scouts of America, as a member of the Mitchell Urban Enterprise Association Board, and as a member of the Georgetown University Alumni Admissions Committee.

Honors and Awards

- Named a Sagamore of the Wabash by Governor Mike Pence
- Named a Kentucky Colonel by Governor Ernie Fletcher
- Guardian of Small Business Award from the National Federation of Independent Business (2019)

- Champion of Justice Award from the Indiana Judges Association (2016)
- Randall T. Shepard Award from the Indiana Pro Bono Commission (2012)
- Senator of the Year, Aviation Indiana (2020)
- 2019 Legislator of the Year, The Arc of Indiana (2020)
- Legislative Excellence Award, Indiana Prosecuting Attorneys Council (2018)
- Legislator of the Year, Indiana Chapter National Association of Water Companies (2018)
- Legislator of the Year, Mothers Against Drunk Driving (2017)
- Legislative Service Award, Indiana Municipal Power Agency (2017)
- National Active & Retired Federal Employees Association (2016)
- Outstanding Achievement in State Tax Reform Award, Tax Foundation (2015)
- Legislator of the Year, Indiana Volunteer Firefighters Association (2015)
- Champion of Indiana's Electric Cooperatives (2015)
- Legislator of the Year, Indiana Trial Lawyers Association (2008 & 2015)
- Legislator of the Year, Indiana Telecommunications Association (2011)
- Cordry-Sweetwater Conservancy District (2010)
- President's Award, Southern Indiana Center for Independent Living (2006 & 2008)
- Legislative Leadership Award, Indiana Rural Health Association (2006)
- Government Leadership Award, Greater Bloomington Chamber of Commerce (2005)
- Indiana Speech - Language - Hearing Association (2005)
- Corporation for Educational Technology (2004)
- Southern Indiana Drug Task Force (2004)

Public Service:

- Member, Consumer Advisory Committee, Federal Communication Commission (FCC) 2019—present
- Member, Executive Committee of the National Council on Electricity Policy (NCEP) 2019—present
- Commissioner, National Conference of Commissioners on Uniform State Laws, 2018—present
- Member, Indiana Public Defender Commission, 2017—present
- Member, Indiana Supreme Court Innovation Initiative, 2019—present
- Member, Indiana Commercial Courts Committee, 2019—present
- Board Member, Mitchell Urban Enterprise Association, 2017—present
- Member, Indiana Juvenile Detention Alternatives Initiative Statewide Steering Committee
- Member, Indiana Military Base Planning Council, 2005—2019
- Member, Indiana Commission on Courts, 2007—2011
- Member, Indiana Probate Code Study Commission, 2005—2007, 2013—2014, 2019—present)
- Trustee, Indiana Criminal Justice Institute, 2006—2011
- Member, Board of Advisors, Oakland City University - Bedford, 2008—2011

Faculty:

- "Utilities and Energy", 29th Annual Dentons Legislative Conference, 2020
- "Legislative Update", Defense Trial Counsel of Indiana 27th Annual Conference, 2020
- "Building the 21st Century Energy Workforce", National Conference of State Legislatures Teleforum, 2020
- "Water Utility Consolidation", American Water Summit, Houston, Texas, 2019
- "Connecting Rural America: Teleforum on Practical Solutions for Closing the Rural Digital Divide", New York Law School, 2019

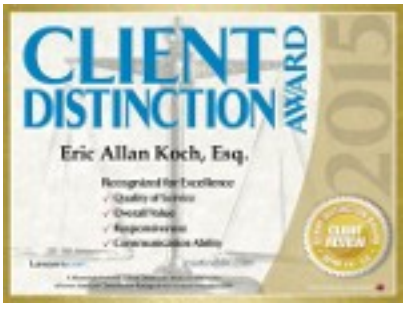
- “Service of Lawyer-Legislators in the Indiana General Assembly”, Indianapolis Bar Association, 2007—2016, 2018—2020
- “Legislative Update”, Indiana Continuing Legal Education Forum, 2012—2020 (Chair, 2017—2020)
- Bench Bar Conference, Monroe County Bar Association, 2013, 2018, 2020
- “Legislative Update,” Indiana State Bar Association, 2013—2017
- Leadership Development Academy, Indiana State Bar Association, 2013, 2014, 2016
- “Patent Trolling”, Indiana State Bar Association Solo & Small Firm Conference, 2016
- “Energy Challenges and Opportunities”, Indiana Industrial Energy Consumers, 2013
- “Law of Bullying in Indiana”, Indiana State Bar Association, 2012
- Advanced Communications Law and Policy Institute Summit, New York Law School, 2012
- “State Law and Energy Policy”, Robert H. McKinney School of Law, Indiana University, 2009
- “Collection Law in Indiana”, Lorman Education Seminars, 1998

Governing Board Service

- Member, Board of Governors, Society of Indiana Pioneers, 2014—2020
- Member, Executive Board, Hoosier Trails Council of the Boy Scouts of America, 2016—2019
- Chairman, Board of Directors, St. Vincent Dunn Hospital, 2010—2014
- Member, Board of Governors, Dunn Memorial Hospital, 1999—2010 (Chairman, 2001—2010)
- Member, Board of Directors, National Legal Center for the Medically Dependent and Disabled, 1993—2013
- Member, Board of Directors, Indiana Heritage Arts, Inc., 1999—2001

Professional Memberships

- Million Dollar Advocates Forum and Multi-Million Dollar Advocates Forum
- Indiana State Bar Association
- Monroe County Bar Association (Secretary, 1991; 2002)
- Lawrence County Bar Association
- Indiana Creditors Bar Association (Founder and President, 1995—1996)
- National Creditors Bar Association



Sen. Aaron M. Freeman, The Freeman Law Office, LLC, Indianapolis

Aaron Freeman loves being a lawyer and is driven to help you achieve the best outcome possible. It is a great honor for him to help others with their problems and assist them through the legal process. Aaron has the best interests of his clients in mind with every decision he makes. Aaron's diverse background and understanding of the legal process is an asset to his clients.

In 2009 Aaron began his private practice career, focusing mostly on family law and criminal law cases. Since then, his practice has grown to include many different types of litigation cases, estate planning, and corporate law.

Aaron handles a broad range of cases. From criminal defense cases to estate planning and family law matters, Aaron is the attorney you need by your side.

Aaron began his legal career working as a Deputy Prosecutor in Marion County for nearly five years. Aaron prosecuted all level of crimes, from misdemeanors to murder. He served in the Grand Jury Division of the Marion County Prosecutor's Office for 3 years, prosecuting white collar crimes and other cases resulting from complex investigations. Aaron also served in the Homicide Unit, prosecuting murder and attempted murder cases. Through these positions, he gained valuable courtroom experience and an understanding of how to effectively navigate the legal process.

While in law school, Aaron clerked for Judge Joe Billy McDade, the Chief Federal District Court Judge in the Central District of Illinois. Aaron also clerked for the United States Attorney's Office in the Central District of Illinois, gaining experience prosecuting crimes at the federal level. Prior to his legal career, Aaron was an Emergency 911 Dispatcher in Franklin County, Indiana and an Emergency Medical Technician.

Rep. Christopher P. Jeter, Massillamany Jeter & Carson LLP, Fishers

Chris Jeter is an equity partner at Massillamany Jeter & Carson LLP. Mr. Jeter is a well-respected litigator and business advisor with over 15 years of experience representing companies and individuals in a multitude of legal issues before state and federal courts nationwide. He current serves as outside counsel to small and medium-sized businesses throughout Indiana and the entire Midwest. Mr. Jeter also has a strong business litigation practice which specializes in complex commercial disputes, consumer financial services litigation, director/officer liability, securities fraud, product liability, and general civil litigation. In addition to his corporate and litigation work, Mr. Jeter represents several government entities. He is particularly passionate about veterans' issues and represents veteran-owned small businesses and helps them grow, expand, and secure contracts. He also maintains a robust and growing estate planning and probate administration practice. Since August 2020, Mr. Jeter has served the people of District 88 in the Indiana House of Representatives, which includes portions of Marion, Hamilton, and Hancock counties.

Rep. Gregory E. Steuerwald, Steuerwald Witham & Youngs, LLP, Danville

Representative Greg Steuerwald serves as the state representative for House District 40, which covers portions of Hendricks County and includes the towns of Plainfield, Brownsburg and Avon. Prior to attending law school, Steuerwald utilized his Masters in Criminal Justice by serving as a probation officer for two years. While attending Indiana University-Indianapolis, he served as an intern in the Hendricks County Prosecutor's Office. Upon graduation from law school, he joined his present law firm and has been there since 1981.

His firm has represented various units of local government including towns, libraries and townships. This includes the Hendricks County Board of Commissioners, the Hendricks County Plan Commission and Board of Zoning Appeals, the Hendricks County Health Department, Hendricks Regional Health and the Hendricks County Solid Waste Management District.

In 1996, Steuerwald received the Hendricks County Outstanding Economic Development Award. He is a certified probation officer with the State of Indiana Department of Corrections. He is also a registered mediator and received a Certificate of Recognition in Family Mediation Training through the Indiana Continuing Legal Education Forum.

Steuerwald has focused on implementing laws to keep Hoosiers safe. He authored the law providing the foundation for a revision of Indiana's criminal code, which had not been revised in over 30 years. The new code provides for certainty in sentencing and keeps the most violent offenders in prison longer. He also worked to tighten loopholes in the the state's sex registry to ensure offenders report any changes in address or appearance to the local authorities.

Steuerwald was born on Sept. 12, 1952, in Terre Haute, Indiana. He resides in Avon with his wife, Christy. He has three grown children: Joshua Garver, D.D.S.; Jordan Gorgievski, and Adam Steuerwald.

Sen. Karen R. Tallian, Attorney At Law, Portage

Senator Tallian is an attorney practicing in Portage. An accomplished public servant from Northwest Indiana, Senator Tallian brings a wealth of experience to the Statehouse. First appointed to the State Senate in December 2005, Tallian was re-elected in 2006 and 2010. Prior to joining the Senate, Tallian served her community in a variety of capacities including serving as counsel to the Porter County Planning Commission, the Board of Zoning Appeals, the Portage Township Trustees and the Portage Fire Department Merit Board. Tallian was an adjunct professor at Valparaiso University Law School and taught insurance law. She has also served as president and board member of the Portage Parks Foundation, president of the Porter County League of Women Voters and the Director of the State Board of the League of Women Voters. She currently practices law from her Portage office. Throughout her law career, Tallian has represented governmental entities and has worked extensively on water and sewer issues, zoning matters, municipal contracts and drafting ordinances. Tallian has experience in both state and federal court and holds law licenses in both Indiana and Illinois. In the State Senate Tallian has taken a leading role on issues important to working families, including labor issues, health care, property tax reform and environmental protection. In 2010 Tallian was awarded the Tommie Blaylock Award for Outstanding Leadership by the United Steelworkers of America (USWA) Local #104. She was also inducted into The Society of Innovators of Northwest Indiana in 2010, having been invited to join the Society after the successful passage of her consumer proection law focused on reducing mortgage foreclosures in Indiana. In 2008 she received the Joan Laskowski Legislator of the Year Award from the American Civil Liberties Union of Indiana. Tallian is appointed as the ranking Democrat on two Senate standing committees: Pensions and Labor; and Energy and Environmental Affairs. She serves on the Senate Appropriations Committee and Commerce and Economic Development Committee. She is also an advisor on the powerful State Budget Committee, which provides continuing legislative oversight of state budget implementation. Additionally, she is a member of the state's Environmental Quality Service Council, which has oversight of much of the state's environmental policy, and the state's Pension Management Oversight Commission. Additionally, Tallian has been appointed to serve on the Labor and Economic Development Committee of the National Conference of State Legislatures, a bipartisan organization that serves the legislators and staffs of the nation's 50 states, its commonwealths and territories. She also serves as a member of the Great Lakes Legislative Caucus, a nonpartisan group of lawmakers from eight U.S. states and two Canadian provinces working to promote the restoration and protection of the Great Lakes. A 1972 graduate of the University of Chicago with a bachelor's degree in philosophy and psychology, the senator's post graduate work includes an associate's degree from Chicago's Harrington Institute of Design. She graduated Magna Cum Laude from the Valparaiso University School of Law in 1990. Senator Tallian resides in Portage where she raised her three children. Mike is a Portage firefighter and Christopher works in Chicago and attends school. Aimee is working in Montana for the National Parks Service.

Rep. John T. Young, Young and Young, Franklin

Representative Young serves portions of Johnson and Morgan counties in the 47th District of the Indiana House of Representatives. He has served in the Indiana House of Representatives since 2016.

Sen. R. Michael Young, Indiana State Senate - District 35, Indianapolis

In 1986, *Sen. R. Michael Young* began his career as a public servant after being elected to the Indiana House of Representatives for District 92. Sen. Young served in the House until his election to the Indiana State Senate in 2000 for District 35, representing Guilford and Liberty Townships in Hendricks County as well as Decatur Township and portions of Wayne Township in Marion County.

During his career in the Indiana General Assembly, Sen. Young has been recognized for his service and expertise in the areas of criminal law, pensions, elections, civil rights and veteran's affairs.

In 2012, Sen. Young was appointed Chairman of the prominent Senate Standing Committee on Corrections and Criminal Law. In this position, he has presided over important legislation affecting the implementation of criminal justice in Indiana.

In addition to his work on the Corrections and Criminal law committee, Sen. Young serves on the Senate committees for Elections, Civil Law, and is the ranking member of the Senate Judiciary committee.

Sen. Young received his Juris Doctorate degree from Indiana University School of Law, Indianapolis in 2009 and is a private practice attorney while the legislature is not in session.

Table of Contents

Section One

Legislative Update 2021……...Representative Gregory E. Steuerwald

HEA No. 1006

HEA No. 1558

HEA No. 1082

HEA No. 1127

HEA No. 1120

Section Two

2021 Legislative Update…….. Senator R. Michael Young

PowerPoint Presentation

HEA No. 1199

SEA No. 368

HEA No. 1577

SEA No. 201

HEA No. 1115

Section Three

Legislative Update 2021 Session…….. Senator Karen R. Tallian

Section Four

Legislative Update 2021……Representative John T. Young

SEA No. 188

HEA No. 1166

SEA No. 79

Section Five

2021 Legislative Session…… Senator Aaron M. Freeman

PowerPoint Presentation

Available and Flexible Methods for Signing, Witnessing or Notarizing Indiana Wills, POAs, and Health Care Advance Directives by Jeffrey S. Dible.

(Thank you to Jeffrey S. Dible, Frost Brown Todd LLC, for sharing his article which was recently presented at the 48th Annual Midwest Estate Tax & Business Planning Institute June 3-4, 2021)

Section Six

Real Property Updates……. Representative Christopher P. Jeter

Real Property Updates Discussion Outline

SEA No. 392

SEA No. 17

SEA No. 8

Section One

Legislative Update 2021

Representative Gregory E. Steuerwald
Steuerwald, Witham & Youngs, LLP
Danville, Indiana

Section One

Legislative Update 2021……...Representative Gregory E. Steuerwald

HEA No. 1006

HEA No. 1558

HEA No. 1082

HEA No. 1127

HEA No. 1120

First Regular Session of the 122nd General Assembly (2021)

HOUSE ENROLLED ACT No. 1006

AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

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

SECTION 1. IC 5-2-1-2, AS AMENDED BY P.L.58-2019, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. For the purposes of this chapter, and unless the context clearly denotes otherwise, the following definitions apply throughout this chapter:

(1) "Law enforcement officer" means an appointed officer or employee hired by and on the payroll of the state, any of the state's political subdivisions, **a hospital police department (as described in IC 16-18-4),** or a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2 who is granted lawful authority to enforce all or some of the penal laws of the state of Indiana and who possesses, with respect to those laws, the power to effect arrests for offenses committed in the officer's or employee's presence. However, **except as otherwise provided in this chapter,** the following are expressly excluded from the term "law enforcement officer" for the purposes of this chapter:

(A) A constable.

(B) A special officer whose powers and duties are described in IC 36-8-3-7 or a special deputy whose powers and duties are

described in IC 36-8-10-10.6.

(C) A county police reserve officer who receives compensation for lake patrol duties under IC 36-8-3-20(f)(3).

(D) A conservation reserve officer who receives compensation for lake patrol duties under IC 14-9-8-27.

(E) An employee of the gaming commission whose powers and duties are described in IC 4-32.3-9.

(F) A correctional police officer described in IC 11-8-9.

(2) "Board" means the law enforcement training board created by this chapter.

(3) "Executive training program" means the police chief executive training program developed by the board under section 9 of this chapter.

(4) "Law enforcement training council" means one (1) of the confederations of law enforcement agencies recognized by the board and organized for the sole purpose of sharing training, instructors, and related resources.

(5) "Training regarding the lawful use of force" includes classroom and skills training in the proper application of hand to hand defensive tactics, use of firearms, and other methods of:

(A) overcoming unlawful resistance; or

(B) countering other action that threatens the safety of the public or a law enforcement officer.

(6) "Hiring or appointing authority" means:

(A) the chief executive officer, board, or other entity of a police department or agency with authority to appoint and hire law enforcement officers; or

(B) the governor, mayor, board, or other entity with the authority to appoint a chief executive officer of a police department or agency.

(7) "Crisis intervention team" refers to a local coalition with a goal of improving the manner in which law enforcement and the community respond to crisis situations in which an individual is experiencing a mental health or addictive disorder crisis.

(8) "Law enforcement agency" means a state agency, a political subdivision, a hospital police department (as described in IC 16-18-4), or a public or private postsecondary educational institution that employs and has on its payroll a law enforcement officer, including individuals described in subdivision (1)(A) through (1)(F).

SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.86-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2021]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness, including training on the U nonimmigrant visa created through the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) that must be required for each person accepted for training at a law enforcement training school or academy. Cultural diversity awareness study must include an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with autism, mental illness, addictive disorders,

intellectual disabilities, and developmental disabilities;

(B) missing endangered adults (as defined in IC 12-7-2-131.3); and

(C) persons with Alzheimer's disease or related senile dementia;

to be provided by persons approved by the secretary of family and social services and the board. The training must include an overview of the crisis intervention teams.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(11) Minimum standards for de-escalation training. De-escalation training shall be taught as a part of existing use-of-force training and not as a separate topic.

(b) A law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (m), (t), and (u), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(k).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, **de-escalation training,** interacting with individuals with autism, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the

pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) Subject to subsection (h), the board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers and police reserve officers (as described in IC 36-8-3-20). After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. **Inservice training must include de-escalation training.** Inservice training must **also** include training in interacting with persons with mental illness, addictive disorders, intellectual disabilities, autism, developmental disabilities, and Alzheimer's disease or related senile dementia, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1). The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either an emergency situation or the unavailability of courses.

(h) This subsection applies only to a mandatory inservice training program under subsection (g). Notwithstanding subsection (g), the board may, without adopting rules under IC 4-22-2, modify the course work of a training subject matter, modify the number of hours of training required within a particular subject matter, or add a new subject matter, if the board satisfies the following requirements:

(1) The board must conduct at least two (2) public meetings on the proposed modification or addition.

(2) After approving the modification or addition at a public meeting, the board must post notice of the modification or addition on the Indiana law enforcement academy's Internet web site at least thirty (30) days before the modification or addition takes effect.

If the board does not satisfy the requirements of this subsection, the modification or addition is void. This subsection does not authorize the board to eliminate any inservice training subject matter required under subsection (g).

(i) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(j) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force **and de-escalation training.**

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(k) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the

executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(l) A police chief who fails to comply with subsection (k) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (k), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(m) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(n) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for:

(A) at least two (2) years; and

(B) less than six (6) years before the officer is hired under subdivision (1); and

(3) completed at any time a basic training course certified or recognized by the board before the officer is hired under subdivision (1).

(p) An officer to whom subsection (o) applies must successfully complete the refresher course described in subsection (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is appointed by an Indiana law enforcement department or agency as a reserve police officer; and

(2) has not worked as a reserve police officer for at least two (2) years after:

(A) completing the pre-basic course; or

(B) leaving the individual's last appointment as a reserve police officer.

An officer to whom this subsection applies must successfully complete the refresher course established by the board in order to work as a reserve police officer.

(r) This subsection applies to an individual who, at the time the individual completes a board certified or recognized basic training course, has not been appointed as a law enforcement officer by an Indiana law enforcement department or agency. If the individual is not employed as a law enforcement officer for at least two (2) years after completing the basic training course, the individual must successfully retake and complete the basic training course as set forth in subsection (d).

(s) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an individual who:

(1) is appointed as a board certified instructor of law enforcement training; and

(2) has not provided law enforcement training instruction for more than one (1) year after the date the individual's instructor certification expired.

An individual to whom this subsection applies must successfully complete the refresher course established by the board in order to renew the individual's instructor certification.

(t) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(u) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police

powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(v) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(w) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

SECTION 3. IC 5-2-1-12.5, AS AMENDED BY P.L.205-2019, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 12.5. (a) The board may revoke, **suspend, modify, or restrict** a diploma, certificate, ~~badge, or other~~ **or** document showing compliance and qualification issued by the board, **or any authority to act as a law enforcement officer in the state,** for any of the following reasons:

(1) The officer has been convicted of:

(A) a felony; or

(B) ~~two (2) or more misdemeanors~~ **a misdemeanor** that would cause a reasonable person to believe that the officer:

(i) is ~~potentially~~ dangerous or violent; or

(ii) has a **demonstrated** propensity to violate the law.

(2) The officer has been found not guilty of a felony by reason of mental disease or defect.

(3) The officer's diploma, certificate, ~~badge, or other~~ **or** document showing compliance and qualification **issued by the board, or by another person,** was issued in error or was issued on the basis of information later determined to be false.

(4) The officer has engaged in conduct that would be a criminal offense described in subdivision (1)(A) through (1)(B), even if the officer was not charged with the criminal offense.

(b) If, after affording the law enforcement officer all due process rights, the chief executive officer or the hiring or appointing authority disciplines a law enforcement officer for a violation described in subsection (a), the chief executive officer or hiring or appointing authority shall report the discipline to the executive director to determine whether proceedings under this section are warranted. The chief executive officer or the hiring or appointing authority shall report the discipline within thirty (30) days of the imposition of the discipline.

(c) If a law enforcement officer resigns or retires from the department or agency before a finding and order has been issued concerning a violation of subsection (a), the chief executive officer or the hiring or appointing authority shall report the resignation to the executive director to determine whether proceedings under this section are warranted. A report under this subsection must be made within thirty (30) days of the resignation or retirement of the law enforcement officer.

~~(b)~~ **(d)** A person who knows of cause for the revocation of an officer's diploma, certificate, ~~badge, or other~~ **or** document showing compliance and qualification shall inform the officer's hiring or appointing authority or the ~~board.~~ **executive director.** A person who makes a good faith report of cause for revocation of an officer's diploma, certificate, ~~badge, or other~~ **or** document showing compliance and qualification is immune from civil liability.

~~(c)~~ **(e)** If the chief executive officer **or hiring or appointing authority** receives a report of cause for revocation concerning an officer within the chief executive officer's agency, the chief executive officer shall:

(1) cause the internal affairs division (or a similar unit) of the agency to investigate the report without unnecessary delay; or

(2) request that the investigation be conducted by a law enforcement agency other than the law enforcement agency to which the subject of the investigation belongs.

The chief executive officer or hiring or appointing authority shall report any finding and order for discipline for a cause described in subsection (a) to the executive director.

~~(d)~~ **(f)** If a hiring or appointing authority receives a report of cause for revocation concerning the chief executive officer, the hiring or appointing authority shall cause an appropriate investigative agency to investigate without unnecessary delay.

~~(e)~~ **(g)** If the ~~board~~ **executive director** receives a report or otherwise learns of cause for revocation concerning a law enforcement officer or chief executive officer, the board shall consider the report and direct ~~the executive director to notify~~ the subject officer's **chief executive officer or** hiring or appointing authority ~~about the report and request~~ **to conduct** an investigation. The **chief executive officer or** hiring or appointing authority shall cause an investigation to be conducted by an appropriate investigative agency without unnecessary delay.

~~(f)~~ **(h)** When a **chief executive officer or** hiring or appointing authority completes an investigation of cause for revocation, the **chief executive officer or** hiring or appointing authority shall forward a complete report of its investigation, findings, and recommendations, if any, to the ~~board.~~ **executive director.** The **chief executive officer or** hiring or appointing authority shall also forward to the ~~board~~ **executive director** a description of any administrative or disciplinary action taken as a result of the investigation not later than sixty (60) days after the **chief executive officer or** hiring or appointing authority takes administrative or disciplinary action.

~~(g) Except as provided in subsection (h), if the board receives the results of an investigation described in subsection (f), the board shall conduct a hearing on the report, considering the report, the recommendations, and any additional information. The board shall provide the officer who is the subject of the report with notice and an opportunity to be heard. The board may appoint the executive director or another qualified person to present the report and the results of the investigation to the board. In determining whether to revoke the subject officer's diploma, certificate, badge, or other document showing compliance and qualification, the board shall consider the opinion and testimony of the hiring or appointing authority. If the board determines that cause for revocation exists, the board may revoke the subject~~

~~officer's diploma, certificate, badge, or other document showing compliance and qualification. The board shall send notice of revocation by certified mail to the subject officer's hiring or appointing authority. The subject officer may pursue judicial review of the board's action under IC 4-21.5-5-13.~~

(i) Upon receipt of a final report of an investigation under this section, the executive director shall review and make recommendations to the board. If the recommendation is to revoke or suspend the law enforcement officer's authority to act as a law enforcement officer, then all of the following apply:

(1) The executive director shall cause written charges to be prepared and served upon the law enforcement officer by personal service, certified mail, or other delivery service for which a receipt for delivery is generated.

(2) The law enforcement officer may:

(A) voluntarily relinquish the officer's diploma, certificate, or document showing compliance and qualification issued by the board, or any authority to act as a law enforcement officer, by completing, before a notary public, a relinquishment form provided by the board; or

(B) demand an evidentiary hearing on the allegations.

(3) The:

(A) law enforcement officer has the right to be represented by an attorney at the sole expense of the law enforcement officer; and

(B) board may be represented by the general counsel for the Indiana law enforcement academy (or a designee), the attorney general, or a private attorney.

All attorneys shall file an appearance with the board.

(4) If the law enforcement officer demands an evidentiary hearing, the board chairperson shall appoint a subcommittee to conduct the evidentiary hearing. The subcommittee shall be composed of three (3) law enforcement officers who are members of the board and two (2) members of the board who are not currently law enforcement officers. The subcommittee shall provide findings of fact and conclusions of law, and the board shall render the final decision and impose the revocation or suspension, if warranted.

(5) Not later than ten (10) days after its appointment, the subcommittee shall conduct a prehearing conference with the parties. The prehearing conference may be conducted electronically if every party may fully participate. The

prehearing conference shall address:

(A) the narrowing of issues and defenses;

(B) discovery matters;

(C) stipulations that may be reached;

(D) names and subject matter of all witnesses;

(E) whether summary judgment may be requested;

(F) the need for legal briefs on any issue;

(G) the date, time, location, and probable length of the evidentiary hearing; and

(H) any other pertinent issues.

The subcommittee shall issue an order summarizing the proceedings and its ruling on the issues.

(6) Each party is entitled to engage in reasonable discovery as approved by the subcommittee and consistent with the Indiana rules of trial procedure.

(7) The evidentiary hearing shall permit opening statements by each party, direct and cross-examination of witnesses, introduction of evidence, and closing arguments.

(8) The evidentiary hearing shall be recorded.

(9) The subcommittee may request each party to submit proposed findings of fact and conclusions of law, and shall render a determination of the issues not later than thirty (30) days from receipt of the last submission of proposed findings of fact and conclusions of law.

~~(h) When the board receives the results of an investigation described in subsection (f), the board may, instead of conducting a hearing under subsection (g):~~

~~(1) before July 1, 2020, direct the executive director or another qualified person to serve as an administrative law judge; or~~

~~(2) after June 30, 2020, request assignment of an administrative law judge assigned by the office of administrative law proceedings established by IC 4-15-10.5-7;~~

~~to conduct the hearing described in subsection (g). If the administrative law judge determines that cause for revocation exists, the administrative law judge shall revoke the subject officer's diploma, certificate, badge, or other document showing compliance and qualification and notify the subject officer by certified mail of the decision, with notice of the subject officer's right to appeal to the board not later than fifteen (15) days after receipt of the notice. An appeal to the board must be in writing and may be decided by the board without a hearing. The board shall notify the subject officer of the board's appellate decision under this subsection by certified mail. The subject~~

~~officer may pursue judicial review of the board's action under IC 4-21.5-5-13.~~

(j) When the subcommittee makes its findings of fact and conclusions of law, it shall serve a copy on the law enforcement officer by personal service, certified mail, or other delivery service for which a receipt for delivery is generated, and shall further notify the law enforcement officer of the date, time, and location of the board meeting. At the meeting the board shall determine whether to accept the recommendation of the subcommittee.

~~(i) An officer whose diploma, certificate, badge, or other document showing compliance and qualification has been revoked may apply to the board for reinstatement. The application for reinstatement:~~

~~(1) must be in writing; and~~

~~(2) must show:~~

~~(A) that the cause for revocation no longer exists legally; or~~

~~(B) that reinstatement is otherwise appropriate and that the applicant poses no danger to the public and can perform as a law enforcement officer according to the board's standards.~~

~~The board may direct the executive director to investigate the application for reinstatement and make a report to the board. The board shall consider the application and notify the applicant by certified mail of the board's decision.~~

(k) A law enforcement officer may seek judicial review of an adverse determination of the board under IC 4-21.5-5.

(l) The fact that the law enforcement officer:

(1) has been disciplined; or

(2) may be disciplined;

by the hiring or appointing authority for the same conduct is not a bar to any action by the board under this section.

(m) The board shall include the name of any law enforcement officer who has been decertified on the Internet web site of the Indiana law enforcement academy, and shall transmit the officer's name for inclusion on the decertification index maintained by the International Association of Directors of Law Enforcement Standards and Training.

(n) A law enforcement officer who has been decertified may apply to the board for reinstatement. The application for reinstatement must:

(1) be in writing and signed by the law enforcement officer subject to the penalties for perjury; and

(2) demonstrate that reinstatement is appropriate, that the applicant poses no danger to the public, and that the applicant

can perform as a law enforcement officer according to the board's standards.

By filing a petition for reinstatement the applicant agrees to submit to any investigation, testing, analysis, or other procedure or protocol determined by the board or the executive director. The board may direct the executive director to investigate the application for reinstatement and make a recommendation to the board. The executive director shall review the application for reinstatement and all supporting evidence, including expunged criminal convictions, and shall make a recommendation to the board. The board shall consider the application and recommendation of the executive director and shall notify the applicant of its determination in person or by certified mail or other delivery service for which a receipt for delivery is generated.

(o) The board shall adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 5-14-3-2.2, AS ADDED BY P.L.217-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2.2. (a) The following records of a private university police department are public records and subject to this chapter:

(1) A record created or received after July 1, 2016, by a private university police department, to the extent the record:

(A) is created solely for a law enforcement purpose; and

(B) relates to arrests or incarcerations for criminal offenses.

(2) A record that is created in compliance with 20 U.S.C. 1092 and 34 CFR 668, to the extent that public access is required under federal law.

(3) The following records concerning a law enforcement officer employed by a private university police department:

(A) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of the law enforcement officer.

(B) Information relating to the status of any formal charges against the law enforcement officer.

(C) The factual basis for a disciplinary action in which final action has been taken and that resulted in the law enforcement officer being suspended, demoted, or discharged.

However, all personnel file information shall be made

available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

The name of a crime victim must be redacted, unless release of the name is authorized by the crime victim.

(b) If a request for a private university police department record is denied under section 3 of this chapter, a civil action may be filed under section 9 of this chapter and the court may assess a civil penalty under section 9.5 of this chapter.

SECTION 5. IC 34-30-2-10.5, AS ADDED BY P.L.52-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10.5. IC 5-2-1-12.5 (Concerning a good faith report of cause for revoking a law enforcement officer's diploma, certificate, ~~badge,~~ or ~~other~~ document showing compliance with training requirements).

SECTION 6. IC 34-30-2-154.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 154.6. IC 36-8-2-2 (Concerning the disclosure of law enforcement employment records).**

SECTION 7. IC 35-41-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. **(a) The following definitions apply throughout this section:**

(1) "Chokehold" means applying pressure to the throat or neck of another person in a manner intended to obstruct the airway of the other person.

(2) "Deadly force" includes a chokehold.

~~(a)~~ **(b)** A person other than a law enforcement officer is justified in using reasonable force against another person to effect an arrest or prevent the other person's escape if:

(1) a felony has been committed; and

(2) there is probable cause to believe the other person committed that felony.

However, such a person is not justified in using deadly force unless that force is justified under section 2 of this chapter.

~~(b)~~ **(c)** A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to **enforce a criminal law or to** effect a lawful arrest. However, an officer is justified in using deadly force only if the officer:

(1) has probable cause to believe that that deadly force is necessary:

(A) to prevent the commission of a forcible felony; or

(B) to effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

(2) has given a warning, if feasible, to the person against whom the deadly force is to be used.

~~(c)~~ **(d)** A law enforcement officer making an arrest under an invalid warrant is justified in using force as if the warrant was valid, unless the officer knows that the warrant is invalid.

~~(d)~~ **(e)** A law enforcement officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person. However, an officer is justified in using deadly force only if the officer:

(1) has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

(2) has given a warning, if feasible, to the person against whom the deadly force is to be used.

~~(e)~~ **(f)** A guard or other official in a penal facility or a law enforcement officer is justified in using reasonable force, including deadly force, if the officer has probable cause to believe that the force is necessary to prevent the escape of a person who is detained in the penal facility.

~~(f)~~ **(g)** Notwithstanding subsection ~~(b), (d), or (e),~~ **(c), (e), or (f),** a **guard, penal facility official, or** law enforcement officer who is a defendant in a criminal prosecution has the same right as a person who is not a **guard, penal facility official, or** law enforcement officer to assert self-defense under IC 35-41-3-2.

SECTION 8. IC 35-44.1-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2.5. A law enforcement officer who, with the intent to commit or conceal the commission of a criminal act, turns off or disables a law enforcement recording device in violation of regulations or a policy adopted by the law enforcement agency that employs the officer commits disabling a law enforcement recording device, a Class A misdemeanor.**

SECTION 9. IC 36-8-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. **(a)** A unit may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities, ~~and~~ equipment, **and**

supplies for that system.

(b) Before hiring a person as a law enforcement officer, the hiring department or agency shall contact every law enforcement department or agency that has employed (or that currently employs) the applicant and request that the employing department or agency provide:

(1) a complete and unredacted copy of all findings and orders related to disciplinary action or internal investigations (whether performed by an internal investigator or an outside agency) involving the officer; and

(2) the hiring department or agency with a copy of the applicant's entire employment file, except for any medical records or information.

(c) An agency or department that receives a request under subsection (b) shall:

(1) comply with the request not later than ten (10) business days from receipt of the request; and

(2) upon request of the applicant, provide the applicant with a copy of the information provided to the hiring department or agency.

No covenant, promise, or agreement to refrain from disclosure of the information described in subsection (b) prevents compliance with the requirements imposed by this section. An agency or department acting in good faith is immune from civil and criminal liability for complying with this subsection.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) There is appropriated to the Indiana law enforcement academy seventy million dollars ($70,000,000) from the state general fund for the purpose of making capital improvements to the Indiana law enforcement academy for the state fiscal year beginning July 1, 2020, and ending June 30, 2021.**

(b) This SECTION expires July 1, 2023.

SECTION 11. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1558

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

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

SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.48-2020, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:
  (A) the prevention, detection, and solution of criminal offenses;
  (B) law enforcement; and
  (C) the administration of criminal and juvenile justice.

(2) Participate in statewide collaborative efforts to improve all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this

state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex or violent offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Administer funds for the support of any sexual offense services.

(13) Administer funds for the support of domestic violence programs.

(14) Administer funds to support assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

(15) Administer the domestic violence prevention and treatment fund under IC 5-2-6.7.

(16) Administer the family violence and victim assistance fund under IC 5-2-6.8.

(17) Monitor and evaluate criminal code reform under IC 5-2-6-24.

(18) Administer the enhanced enforcement drug mitigation area fund and pilot program established under IC 5-2-11.5.

(19) Administer the ignition interlock inspection account established under IC 9-30-8-7.

(20) Identify any federal, state, or local grants that can be used to assist in the funding and operation of regional holding facilities under IC 11-12-6.5.

(21) Coordinate with state and local criminal justice agencies for the collection and transfer of data from sheriffs concerning jail:

(A) populations; and

(B) statistics;

for the purpose of providing jail data to the management performance hub established by IC 4-3-26-8.

(22) Establish and administer the Indiana crime guns task force fund under IC 36-8-25.5-8.

SECTION 2. IC 36-8-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 25.5. Indiana Crime Guns Task Force

Sec. 1. The following definitions apply throughout this chapter:

(1) "Executive board" means the task force executive board

established by section 3 of this chapter.

(2) "Task force" means the Indiana crime guns task force established by section 2 of this chapter.

(3) "Task force area" means one (1) or more of the following counties:

(A) Boone County.

(B) Hamilton County.

(C) Hancock County.

(D) Hendricks County.

(E) Marion County.

(F) Morgan County.

(G) Johnson County.

(H) Shelby County.

Sec. 2. (a) The Indiana crime guns task force is established. The task force shall be hosted by the Indianapolis metropolitan police department, which shall administratively support the task force.

(b) The purpose of the task force is to reduce violent crime and bring violent criminals to justice by delivering, in cooperation with state and federal officials, a uniform strategy to trace firearms used to commit crimes.

(c) The task force consists of:

(1) the executive board;

(2) an executive director;

(3) law enforcement officers assigned to the task force by a law enforcement agency located in the task force area; and

(4) other employees and staff, whether assigned to the task force by a law enforcement agency or employed directly by the task force.

Sec. 3. (a) The task force executive board is established to oversee and direct the operations of the task force.

(b) The executive board consists of:

(1) the chief of police of the Indianapolis metropolitan police department or the chief's designee, who serves as the chairperson of the executive board;

(2) the superintendent of the Indiana state police department or the superintendent's designee, who serves as the vice chairperson of the executive board; and

(3) a sheriff or chief of police from each department in the task force area which has assigned an officer to the task force.

(c) The executive board shall hold meetings at the call of the chairperson. The executive board may establish rules governing meetings.

(d) Five (5) executive board members constitute a quorum for the transaction of business. Each member has one (1) vote, and action by the executive board may be taken only upon the affirmative votes of the majority of attending members. If a vote is a tie, the position for which the chairperson voted prevails, as long as that position has received the affirmative votes of at least three (3) members.

(e) A member of the executive board is not entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); or

(2) reimbursement for traveling and other expenses as provided under IC 4-13-1-4.

Sec. 4. (a) The Indianapolis metropolitan police department shall appoint an executive director to assist the executive board in the efficient administration of its powers and duties. The person appointed as executive director must have at least ten (10) years of experience as a law enforcement officer, with at least five (5) years of command experience.

(b) The executive director:

(1) shall oversee the day to day operations of the task force, including supervision of task force divisions;

(2) is the executive agent of the executive board in the administration of the executive board's policies; and

(3) has the other powers and duties delegated to the executive director by the executive board.

(c) Subject to the approval of the executive board, the executive director shall:

(1) employ; and

(2) determine the qualifications, compensation, and duties of; employees and staff necessary to carry out the operations of the task force. For purposes of this subsection, "employees and staff" does not include law enforcement officers assigned to the task force.

Sec. 5. (a) The chairperson is the presiding officer at the meetings of the executive board. The chairperson, together with the executive director, shall prepare, certify, and authenticate all proceedings, minutes, records, rules, and regulations of the executive board.

(b) The executive board has the general power to organize its work and to enforce and administer this chapter.

Sec. 6. The executive board shall do the following:

(1) Work with the executive director to develop a

memorandum of understanding to be used with participating law enforcement agencies. The memorandum of understanding must include:

(A) staffing and personnel requirements;

(B) standard operating procedures for investigating crimes involving firearms; and

(C) a requirement that all participating law enforcement agencies use the National Integrated Ballistic Information Network (NIBIN).

A memorandum of understanding must comply with section 7 of this chapter.

(2) Provide a quarterly report to the governor and the legislative council concerning the activities of the task force. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 7. Personnel assigned to the task force by a participating law enforcement agency remain employees of the participating agency and not of the task force. The following apply to personnel assigned to the task force by a participating law enforcement agency:

(1) The participating agency is responsible for the conduct of personnel it assigned to the task force.

(2) The participating agency is responsible for:

(A) worker's compensation; and

(B) medical expenses;

of personnel it assigned to the task force.

(3) For purposes of tort liability, including liability under the Indiana tort claims act, personnel from a participating agency remain, while rendering assistance or aid to the task force, or while en route to or from rendering assistance or aid to the task force, employees of the participating law enforcement agency.

(4) Except as otherwise provided in a memorandum of understanding entered into by the participating law enforcement agency under section 6 of this chapter, a participating law enforcement agency is responsible for providing for the payment of compensation and benefits to its participating employee.

(5) The task force is not responsible, in whole or in part, for any loss, damage, expense, or cost the participating law enforcement agency incurs while participating in the task force.

Sec. 8. (a) The Indiana criminal justice institute shall establish the Indiana crime guns task force fund for the purpose of providing support for the operations of the task force.

(b) The fund consists of the following:

(1) Grants and donations made to the task force.

(2) Money from participating agencies in accordance with the memorandum of understanding.

(3) Money appropriated to fund the task force.

(c) The expenses of the task force shall be paid by the fund.

(d) The Indiana criminal justice institute shall administer the fund.

(e) The Indiana criminal justice institute shall process all expenditures and claims for payment made by the executive board. Expenditures from the fund shall not exceed the available balance of the fund.

(f) The Indiana criminal justice institute shall use all money in the fund to support the operations of the task force.

(g) The Indiana criminal justice institute may not transfer, assign, or otherwise remove money from the Indiana crime guns task force fund for any purpose outside of the mission of the task force as determined by the executive board of the task force.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

HOUSE ENROLLED ACT No. 1082

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

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

SECTION 1. IC 33-39-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 7. (a) As used in this section, "high tech crime" refers to a criminal act that is either:**

(1) committed with; or

(2) assisted by;

digital evidence, network, or communications technology.

(b) The high tech crimes unit fund is established. The council shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(c) The council shall establish high tech crimes units to assist prosecuting attorneys in investigating, collecting evidence, and prosecuting high tech crimes. The council shall issue a request for proposals to select up to ten (10) counties that collectively represent the north, south, east, west, and central geographic areas of Indiana to establish high tech crimes units in the prosecuting attorneys' offices in those counties.

(d) The council may use money from the fund to provide assistance to prosecuting attorneys to:

(1) provide personnel costs, training, technical assistance, and

technical support to established high tech crimes units; and

(2) enhance the ability of prosecuting attorneys to investigate, collect evidence, and prosecute high tech crimes.

(e) The council may allocate not more than five percent (5%) of the money available from the fund to reimburse expenses incurred in the administration of the fund.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(g) Money in the fund at the end of the fiscal year does not revert to the state general fund.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

HOUSE ENROLLED ACT No. 1127

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-15-1-20.4, AS AMENDED BY P.L.152-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 20.4. (a) If a Medicaid recipient is:

(1) adjudicated to be a delinquent child and placed in:

(A) a community based correctional facility for children;

(B) a juvenile detention facility; or

(C) a secure facility, not including a facility licensed as a ~~childcaring~~ **child caring** institution under IC 31-27; or

(2) incarcerated in a prison or jail; and

ineligible to participate in the Medicaid program during the placement described in subdivision (1) or (2) because of federal Medicaid law, the division of family resources, upon notice that a child has been adjudicated to be a delinquent child and placed in a facility described in subdivision (1) or upon notice that a person is incarcerated in a prison or jail and placed in a facility described in subdivision (2), shall suspend the person's participation in the Medicaid program. ~~for up to two (2) years before terminating the person's eligibility.~~

(b) If the division of family resources receives:

(1) a dispositional decree under IC 31-37-19-28; or

(2) a modified disposition order under IC 31-37-22-9;

and the department of correction gives the division at least forty (40) days notice that a person will be released from a facility described in

subsection (a)(1)(C) or (a)(2), the division of family resources shall take action necessary to ensure that a person described in subsection (a) is eligible to participate in the Medicaid program upon the person's release, if the person is eligible to participate.

SECTION 2. IC 12-23-19-1, AS AMENDED BY P.L.65-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) As used in this chapter, "mental health and addiction forensic treatment services" means evidence based treatment and recovery wraparound support services that may be provided to individuals in the criminal justice system who are charged with a felony offense, or have a prior felony conviction, and have been placed or are eligible to be placed in a pretrial services program, community corrections program, prosecuting attorney's diversion program, or jail as an alternative to commitment to the department of correction. The term includes the following:

(1) Mental health and substance abuse treatment, including:
(A) addiction counseling;
(B) inpatient detoxification;
(C) case management;
(D) daily living skills; and
(E) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.
(2) Vocational services.
(3) Housing assistance.
(4) Community support services.
(5) Care coordination.
(6) Transportation assistance.
(7) Mental health and substance abuse assessments.
(8) Competency restoration services.

(b) The term applies to services provided under a pilot program under section 2 of this chapter to individuals who are charged with a misdemeanor.

SECTION 3. IC 12-23-19-2, AS AMENDED BY P.L.65-2018, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) An individual is eligible for mental health and addiction forensic treatment services if:

(1) subject to subsection (d), the individual:
(A) is a member of a household with an annual income that does not exceed two hundred percent (200%) of the federal income poverty level;
(B) is a resident of Indiana;

(C) is:

(i) at least eighteen (18) years of age; or

(ii) subject to the approval of the Indiana commission to combat drug abuse, less than eighteen (18) years of age and the individual is a defendant whose case is either waived from juvenile court to adult court or directly filed in adult court; and

(D) has entered the criminal justice system as a felon or with a prior felony conviction **or is ordered to be committed for competency restoration services as described in IC 35-36-3-1(b);** and

(2) subject to subsection (b), reimbursement for the service is not available to the individual through any of the following:

(A) A policy of accident and sickness insurance (IC 27-8-5).

(B) A health maintenance organization contract (IC 27-13).

(C) The Medicaid program (IC 12-15), excluding the Medicaid rehabilitation program and the Behavioral and Primary Health Coordination Program under Section 1915(i) of the Social Security Act.

(D) The federal Medicare program or any other federal assistance program.

(b) If an individual is not entitled to reimbursement from the sources described in subsection (a)(2) of the full amount of the cost of the mental health and addiction forensic treatment services, grants and vouchers under this chapter may be used to provide those services to the extent that the costs of those services exceed the reimbursement the individual is entitled to receive from the sources described in subsection (a)(2), excluding any copayment or deductible that the individual is required to pay.

(c) The division shall determine the extent to which an individual who is provided mental health and addiction forensic treatment services under this chapter is entitled to receive reimbursement from the sources described in subsection (a)(2).

(d) Notwithstanding subsection (a)(1)(D), subject to available funding and on the recommendation of the justice reinvestment advisory council (established by IC 33-38-9.5-2), the division may operate a pilot program applying the eligibility criteria in this section to individuals who are charged with a misdemeanor. If the division operates a pilot program under this subsection, the division shall issue annual reports to the justice reinvestment advisory council.

SECTION 4. IC 12-23-19-4, AS AMENDED BY P.L.114-2018, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2021]: Sec. 4. (a) As used in this section, "account" refers to the mental health and addiction forensic treatment services account established by subsection (b).

(b) The mental health and addiction forensic treatment services account is established for the purpose of providing grants and vouchers and for leveraging federal funds for the provision of mental health and addiction forensic treatment services. The account shall be administered by the division. The division may use money in the account only to fund grants and vouchers under this chapter that are provided to the following:

(1) Community corrections programs.

(2) Court administered programs.

(3) Probation and diversion programs.

(4) Community mental health centers.

(5) Certified or licensed mental health or addiction providers.

(6) Recovery community organizations certified by the division or its designee.

(7) Recovery residences certified by the division or its designee.

(c) The account consists of:

(1) appropriations made by the general assembly;

(2) grants; and

(3) gifts and bequests.

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(f) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(g) Money deposited in the account may be used as the required state match under the Medicaid program.

SECTION 5. IC 12-23-19-7, AS AMENDED BY P.L.243-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. (a) The division shall survey individuals receiving mental health and addiction forensic treatment services under this chapter. The division shall survey and develop demographic research on such an individual one (1) year after the individual begins receiving the services. The survey must request information concerning:

(1) the employment status of the individual since the individual

began receiving the services; ~~and~~

(2) whether the individual has been arrested, convicted of a crime, alleged to have violated probation, or placed in a community corrections program as an alternative to commitment to the department of correction since the individual began receiving the services; **and**

(3) the racial and ethnic demographics of the individuals referred.

(b) The division shall report to the justice reinvestment advisory council established by IC 33-38-9.5-2 any findings from the survey under subsection (a) concerning providing mental health and addiction forensic treatment services to individuals charged with a misdemeanor offense.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

HOUSE ENROLLED ACT No. 1120

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

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

SECTION 1. IC 33-27-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days before the date of an election, send a notice ~~by mail~~ to the **electronic mail** address for each qualified elector shown on the records of the clerk informing the electors that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days before the election.

(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed, by mail or otherwise, by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, in the office of the clerk of the supreme court at least sixty (60) days before the election.

(3) The clerk of the supreme court shall prepare ~~and print~~ separate ballots for each court of appeals district. These ballots must contain the names and ~~residence~~ **business** addresses of all nominees residing within the district for which the ballots are

prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(4) The **electronic** ballot must read, **in all material respects,** as follows:

Indiana Judicial Nominating Commission

ELECTRONIC BALLOT FOR DISTRICT ( )

To be cast by individuals residing in District ( ) and registered with the Clerk of the Supreme Court as an attorney in good standing under the requirements of the Supreme Court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing _____.

District ( )

(Name) (Address)

(Name) (Address)

(Name) (Address)

To be counted, this ballot must be completed, ~~the accompanying certificate completed and~~ signed, and ~~both together mailed or delivered~~ **electronically submitted** to the Clerk of the Supreme Court of Indiana, Indianapolis, Indiana, not later than _____.

~~DESTROY BALLOT IF NOT USED~~

(5) In each district, the nominee receiving the most votes from the district shall be elected.

(6) The clerk shall ~~also supply with each ballot distributed a certificate, to be completed and signed and returned by the elector voting the ballot, certifying~~ **require that the voter certify** that the voter is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that the voter ~~voted~~ **submitted** the **electronic** ballot. ~~returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.~~ **The clerk of the supreme court shall not process an electronic ballot without the voter making the certification.**

~~(7) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot may be placed. This envelope shall not be opened until the counting of the ballots.~~

~~(8)~~ **(7)** The clerk of the supreme court shall ~~mail a~~ **make the electronic** ballot and the accompanying material **available** to all electors at least two (2) weeks before the date of the election.

~~(9)~~ **(8)** The ballot and the accompanying certificate must be **completed and** received by the clerk of the supreme court by 4

p.m. on the last day of the election period.

~~(10) Upon receiving the completed ballots and the accompanying certificate the clerk of the supreme court shall insure that the certificates have been completed in compliance with this article. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.~~

~~(11)~~ **(9)** The clerk of the supreme court ~~with the assistance of the secretary of state and the attorney general, shall open and canvass all ballots after 4 p.m. on the last day of the election period in the office of the clerk of the supreme court.~~ **shall electronically tabulate the ballots after 4 p.m. on the last day of the election period.** A ballot received after 4 p.m. may not be counted unless the chief justice orders an extension of time because of unusual circumstances. ~~Upon canvassing the ballots, the clerk of the supreme court shall place all ballots back in their packages. These, along with the certificates,~~ **The electronic ballots** shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the supreme court.

~~(12)~~ **(10)** Not later than ten (10) days after the election, the clerk shall certify the results to the secretary of state.

~~(13)~~ **(11)** In an election held for selection of attorney commissioners of the judicial nominating commission, if two (2) or more nominees are tied, the ~~canvassers~~ **clerk of the supreme court, the secretary of state, and the attorney general** shall resolve the tie by lot in a manner that they shall determine, and the winner of the lot is considered elected.

SECTION 2. IC 33-27-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) The staff of the judicial nominating commission shall make the findings of fact concerning individuals eligible to fill a vacancy in a judicial office as the commission directs.

(b) The staff shall compile biographical sketches of each nominee running for election to the judicial nominating commission. The information compiled shall be submitted to the clerk of the supreme court for ~~mailing,~~ **distribution,** along with the ballots, to qualified electors. The biographical sketches prepared under this subsection must include the following information for each nominee:

(1) Name and address.

(2) Legal background, including:

(A) type of practice;

(B) law firm; and

(C) law school year of graduation, honors, other pertinent information.

(3) General educational background.

(4) A short statement by the nominee stating the nominee's efforts and achievements in bringing about improvement and betterment of the administration of justice.

(5) Public offices or positions, including:

(A) all public salaried positions; and

(B) all services contributed to a public or charitable organization.

(6) Business and civic affairs.

(7) Any other pertinent information that the commission considers important.

(c) The staff shall carry out any other duties assigned to it by the general assembly and by the judicial nominating commission when acting in that capacity and in its capacity as the commission on judicial qualifications.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

Section Two

2021 Legislative Update

Senator R. Michael Young
Indiana State Senate - District 35
Indianapolis, Indiana

Section Two

2021 Legislative Update…….. Senator R. Michael Young

PowerPoint Presentation

HEA No. 1199

SEA No. 368

HEA No. 1577

SEA No. 201

HEA No. 1115

2021 Legislative Update CLE

Senator R. Michael Young

ICLEF

June 9, 2021

Senate Enrolled Act 201 – Operating a Motor Vehicle with a Controlled Substance

Currently, under Indiana State law, it's a Class C misdemeanor for a person to operate a motor vehicle with a controlled substance listed n schedule I or II or its metabolite in the person blood. (Indiana Code 9-30-5-1)

The Indiana General Assembly added a defense to that crime. I.C. 9-30-5-1 (d) adds the defense that: (2) the:

Senate Enrolled Act 201: Operating a Motor Vehicle with a Controlled Substance

(A) Controlled substance is marijuana or a metabolite of marijuana;

(B) Person was not intoxicated;

(C) Person did not cause a traffic accident; and

(D) Substance was identified by means of a chemical test taken pursuant to I.C. 9-30-7.

House Enrolled Act 1577: Abortion Matters

House Enrolled Act 1577's main focus is to inform a woman that in certain circumstances that an abortion inducing drug may be reversed.

I. Parental consent now requires that written consent of a parent or legal guardian must be notariized, not only for an abortion but also includes the final disposition of the fetus by interment or cremation. (I.C. 16-18-2-267)

House Enrolled Act 1577: Abortion Matters

III. Conscious clause now includes a mental health provider. (I.C. 16-34-1-4)

IV. (a) Administration of an abortion inducing drug cannot be administered after 8 weeks, down from 9 weeks.

(b) A woman must consume an abortion inducing drug in the presence of a physician.

House Enrolled Act 1577: Abortion Matters

(c) A physician shall also provide, orally and in writing the following: "Some evidence suggests the effects of Mifepristone may be avoided, ceased, or reversed if the second pill, Misoprostol, has not been taken."

(d) Telehealth and telemedicine may not be used to provide an abortion or a prescription that would result in an abortion.

(I.C. 16-34-2-1)

House Enrolled Act 1577: Abortion Matters

V. Informed Consent:

(a) "Some evidence suggests that effects of Mifespristone may be avoided, ceased, or reversed if the second pill, Misoprostol, has not been taken."

(b) A pregnant woman must be advised, prior to the pregnant woman's decision concerning fetal ultrasound imaging, that an ultrasound image of the fetus will be provided to the pregnant woman to keep at no charge.

House Enrolled Act 1577: Abortion Matters

(c) The person performing an abortion must be provided a copy of a pregnant woman's ultrasound report in the patient file.

(I.C. 16-34-2-1.1)

VI. Reporting of an abortion: A person performing a abortion must include in the report:

House Enrolled Act 1577: Abortion Matters

. . . the facility name and city or town, where the:

(A) pregnant woman:

(i) provided consent; and

(ii) received all information;

Required under section 1.l of this chapter . . . .

(I.C. 16-34-2-4)

SENATE ENROLLED ACT 368: Juvenile Justice Reform

JUVENILE PLACEMENT:

(a) A juvenile arrestee who is housed in a secure facility may not be held in:

(1) an adult facility, except as provide in I.C. 31-37-7-2; or

(2) a facility that permits sight or sound contact with adult inmates;

Unless a court finds, after a hearing, that it is in the best interests of justice for the juvenile

SENATE ENROLLED ACT 368: Juvenile Justice Reform

arrestee to be housed in an adult facility or a facility permitting sight or sound contact with adult inmates.

If a court does decide to place a juvenile in an adult facility it must issue it's decision in writing with the following in mind:

SENATE ENROLLED ACT 368: Juvenile Justice Reform

(1) age and maturity of juvenile;

(2) mental state of juvenile and whether the juvenile is likely to cause harm to others;

(3) the nature of the offense:

(4) the history of criminal acts;

(5) the availability of juvenile and adult facilities; and

(6) other relevant factors.

SENATE ENROLLED ACT 368: Juvenile Justice Reform

(b) If a court finds that it is in the best interest of a juvenile to be held in adult facility, the juvenile may not be held for more than 180 days.

(c) The court may extend for additional 60 days periods for good cause.

(d) The court must have at least one hearing every 30 days for the extended stays.

(I.C. 31-30-3-12)

SENATE ENROLLED ACT 368: Juvenile Justice Reform

COMPETENCY:

1. Competency means the "present ability of a child to:

(A) understand the nature and objectives of a proceeding against the child; and

(B) assist in the child's defense.

2. If the court believes a child is not competant

SENATE ENROLLED ACT 368: Juvenile Justice Reform

the court shall order the child to undergo a competency evaluation, unless waived.

3. An appointed person may be either a psychiatrist or psychologist who has expertise in juvenile competency.

4. Juvenile probation has 7 days after a court order to select person conducting the evaluation.

SENATE ENROLLED ACT 368: Juvenile Justice Reform

5. Not later than 14 days of the examination a written report shall be provided to the court and attorneys.
6. As soon as possible after the receiving the report the court shall determine the competency of the child, or upon motion hold a hearing.
7. If the court finds the child competent the court shall proceed with the proceedings.
8. If the juvenile is not competent the court shall determine whether the juvenile may be competent within 180 days, if the crime would be a felony if committed by an adult, or 90 days for a lesser act.

SENATE ENROLLED ACT 368: Juvenile Justice Reform

9. If the child is not competent the court shall dismiss the allegations for not more than 90 days and;

(A) refer the child to the department to determine whether the child is in need of services; or

(B) order a probation officer to:

(i) refer the child mental health facility; or

(ii) secure to reduce other criminal acts.

(I.C. 31-37-26)

SENATE ENROLLED ACT 368: Juvenile Justice Reform

EXPUNGEMENT:

When a child reaches 19 years of age, or one year after a the date on which the juvenile court discharges the child, the court shall, on its own motion and without holding a hearing, expunge the records relating to a child's delinquency adjudication that are not excluded (felony if committed by an adult, violation of I.C. 35-47-2 or 10) within 60 days.

I.C. 31-39-8-3.5

House Enrolled Act 1199 – Driver's License Suspensions

These suspensions account for over 600,000 of active suspensions in Indiana. Prosecutors deal approximately 54,000 cases every year.

Changes to the current Failure to Appear and Failure to Pay Suspensions:

- Removes the ability for courts to issue arrest warrants on traffic infractions. This is already a rarely utilized tool and in its current form has created delays in suspension and confusion for the court.

House Enrolled Act 1199 – Driver's License Suspensions

- Remove the ability for a court to suspend a driver’s license for their failure to appear on a traffic infraction.
- Specifies that Failure to Pay suspensions may only be entered for moving violations.
- Creates a 30 day notice period for a person about to be suspended for a failure to pay to allow people time to avoid the suspension.

House Enrolled Act 1199 – Driver's License Suspensions

- Creates a 30 day notice period for a person about to be suspended for a failure to pay to allow people time to avoid the suspension.
- Allows a person to have a Failure to Pay suspension stayed upon a showing of proof of SR 22 insurance to the BMV with a valid license. If a person can avoid any additional FTP suspensions for a period of 3 years, the suspension is terminated and any related reinstatement fee is waived.
- These changes do not change the procedure for out of state drivers.

House Enrolled Act 1199 – Driver's License Suspensions

There are no changes to the reinstatement fee schedules:

- Currently the major issues with reinstatement fees is how they stack up across multiple convictions, resulting in insurmountable fees that people are unable to pay, and thus never break the cycle of suspension.
- With the other changes detailed in this document, people should be facing far fewer DWS charges that lead to repeat reinstatement fees.
- People retain the ability to seek a waiver of reinstatement fees through IC 9-25-6-15.1
- People who hold SR22 insurance for a period of three years will also automatically be eligible for a waiver of reinstatement fees related to their FTP suspensions.

House Enrolled Act 1199 – Driver's License Suspensions

License Suspensions due to non-payment of Child Support:

- Over 30,000 child support suspensions remain in effect throughout the state.

To address this issue, the bill allows for:

  - Provides an automatic method by which a person can get their license by paying two months of support. Once proof is provided (by sending in a receipt of payment, for example) to the office, the license shall be automatically reinstated without a need for any hearings or filings.

  - Other changes in the DWS reforms should provide suspended drivers with a path to a valid license, avoiding the financial pitfalls that make them unable to get a valid license and pay their child support.

House Enrolled Act 1199 – Driver's License Suspensions

Changes to the Financial Responsibility parts of the code:

Currently, over 200,000 individuals are suspended due to a failure to provide financial responsibility.

The bill changes:

- Eliminate the structured/tier system of insurance penalties.
- Provide that a person who is found to have been driving uninsured is immediately suspended
- That suspension lasts until the person is able to provide proof of future financial responsibility for 180 days.
- Upon proof of future financial responsibility, any financial responsibility suspensions are immediately lifted.

House Enrolled Act 1199 – Driver's License Suspensions

Two additional requirements for state agencies:

The bill instructs the DOC to work with offenders and the BMV to address license issues prior to release.

Workforce development shall also implement a program that allows someone who works with the program for a designated period of time to receive a waiver of all reinstatement fees, not just administrative ones.

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

House Enrolled Act 1115 contains several provisions updating the criminal code either by elimination or reduction of certain crimes, recodification of the fraud and deception statutes, and false reporting and synthetic identity deception, as well as responding to current court decisions.

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

- Elimination or reduction of certain misdemeanors:

- I.C. 6-2.5-9-7(a): Removing, altering, defacing or covering a sign indicating the no retail sales can be made has been reduced from a Class B misdemeanor to a Class C infraction.

- I.C. 6-2.5-9-7(c): The crime of a retail merchant for not providing notice within 2 business days of certain violations has been reduced from a Class B misdemeanor to a Class B infraction.

- I.C. 16-20-1-25: A person who provides false information upon which a health officer relies in issuing an order relating to the maintain or permitting of conditions that may transmit, generate or promote disease is no longer a crime.

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

- I.C. 16-37-3-3: It is no longer a Class B misdemeanor for a medical person not to transmit death information via the Indiana death registration system.

- I.C. 20-27-7-19: Reduces certain violations of school bus inspections from a Class C misdemeanor to a Class C infraction.

- I.C. 20-33-2-44: It is no longer a Class B misdemeanor for a parent to provide a school without providing a certificate of illness or incapacity of the child.

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

- I.C. 24-5-14.5-11: Decriminalizes the use of misleading or inaccurate caller ID information. The Attorney General has the authority to levy civil penalties.
- I.C. 35-47-7-1 Reduces a Class A misdemeanor to Class C infraction for failing to report a gun or knife wound.
- I.C. 35-45-14-2: Eliminates the Class A misdemeanor for a person who is not an attorney but acts as an attorney.
- I.C. 35-45-21-2: Reduces from a Class A misdemeanor to a Class C infraction for a person who sells or distribute HIV testing equipment.

HOUSE ENROLLED ACT 1115 MAJOR CRIME BILL

The Indiana Code currently contains approximately 25 different fraud and 17 different deception statutes. Effective July 1, 2021 there will be one main definition for fraud and deception:

Indiana Code 35-43-5-4:

(a) A person who:

(1) with the intent to obtain property or data,

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

Or an educational, governmental, or employment benefit to which the person is not entitled, knowingly or intentionally:

(A) makes a false or misleading statement; or

(B) creates a false impression in another person:

(2) with the intent to cause another person to obtain property, knowingly or intentionally;

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

(A) makes a false or misleading statement:

(B) creates a false impression in a third person; or

(C) causes to be presented a claim that:

(i) contains a false or misleading statement; or (ii) creates a false or misleading impression in a third person;

(3) possesses, manufactures, uses, or alters a document, instrument, computer program, or devise with the intent to obtain:

(A) property;

(B) data; or

(C) an educational, governmental, or employment benefit; to which the person is not entitled; or

HOUSE ENROLLED ACT 1115
MAJOR CRIME BILL

(4) knowingly or intentionally engages in a scheme or artifice to commit an offense described in subdivisions (1) through (3);

commits fraud a Class A misdemeanor except as otherwise provided in this section.

- Big section 4 clarifies the taking of blood samples relating to a traffic accident.
- Big section 47 of House Bill 1115 repeals synthetic identity deception.
- Big section 75 clarifies false informing or reporting.
- Big section 76 raises to a level 5 felony for a person who blocks an emergency vehicle and the act results in a catastrophic injury or death.
- Big section 77 adds firefighter to the list of public safety officials who can mark off a crime scene.

2021 Legislative Update CLE

- THANK YOU.

First Regular Session of the 122nd General Assembly (2021)

HOUSE ENROLLED ACT No. 1199

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-66.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 66.6. "Forbearance", for purposes of IC 9-25-6-15.5, has the meaning set forth in IC 9-25-6-15.5(a)(1).**

SECTION 2. IC 9-13-2-87.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 87.5. "Job training", for purposes of IC 9-25-6-15.5, has the meaning set forth in IC 9-25-6-15.5(a)(2).**

SECTION 3. IC 9-13-2-113.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 113.3. "Nonviolent offender", for purposes of IC 9-25-6-15.5, has the meaning set forth in IC 9-25-6-15.5(a)(3).**

SECTION 4. IC 9-25-4-3, AS AMENDED BY P.L.59-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 3. (a) Financial responsibility in one (1) of the forms required under this chapter must be continuously maintained as long as a motor vehicle is operated on a public highway in Indiana.

(b) The bureau may, at any time, verify that a person has financial responsibility in effect as required under this article.

(c) The bureau shall suspend the driving privileges, ~~or~~ motor vehicle

registration, or both, of a person who fails to maintain financial responsibility as required under this article.

(d) In order to comply with this section, the bureau may contract with a third party to request proof of financial responsibility from a person as required under this article. The third party must comply with the requirements of this article and any rules adopted by the bureau.

(e) As to any suspension described in this section:

(1) the bureau shall stay the suspension for one hundred and eighty (180) days upon a showing of proof of future financial responsibility by the person who has had the person's driving privileges, motor vehicle registration, or both, suspended; and

(2) if the bureau does not receive proof that financial responsibility has lapsed after the period of one hundred and eighty (180) days, the bureau shall terminate the suspension.

(f) If the bureau receives notice that financial responsibility has lapsed during the period of one hundred and eighty (180) days under subsection (e), the bureau shall lift the stay of suspension and again suspend the person's driving privileges, motor vehicle registration, or both.

SECTION 5. IC 9-25-5-1, AS AMENDED BY P.L.59-2013, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 1. (a) If a person is convicted of a traffic offense that requires a court appearance, the court shall require the person to show proof that financial responsibility was in force on the date of the violation in one (1) of the forms described in IC 9-25-4-4 or in the form of a certificate of self-insurance issued under IC 9-25-4-11.

(b) If a person fails to provide proof of financial responsibility as required by this section, the court shall ~~suspend~~ **recommend suspension of** the person's current driving privileges, ~~or~~ motor vehicle registration, or both, **until proof of future financial responsibility is filed by the person with the bureau under subsection (d).** ~~If the court fails to recommend a fixed term of suspension, or recommends a fixed term that is less than the minimum term of suspension required under this article, the bureau shall impose the applicable minimum term of suspension required under this article.~~

(c) A suspension under this section is subject to the same provisions concerning procedure for suspension, duration of suspension, and reinstatement applicable to other suspensions under this article.

(d) As to any suspension described in this section:

(1) the bureau shall stay the suspension for one hundred and eighty (180) days upon a showing of proof of future financial responsibility by the person who has had the person's driving

privileges, motor vehicle registration, or both, suspended; and (2) if the bureau does not receive proof that financial responsibility has lapsed after the period of one hundred and eighty (180) days, the bureau shall terminate the suspension.

(e) If the bureau receives notice that financial responsibility has lapsed during the period of one hundred and eighty (180) days under subsection (d), the bureau shall lift the stay of suspension and again suspend the person's driving privileges, motor vehicle registration, or both.

SECTION 6. IC 9-25-6-3, AS AMENDED BY P.L.253-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 3. (a) If the bureau:

(1) does not receive a certificate of compliance during the applicable compliance response period for a person identified under IC 9-25-5-2; or

(2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle operated by the person or operation of the motor vehicle by the person on the date of the accident referred to in IC 9-25-5-2;

the bureau shall take action under subsection (d).

(b) If the bureau:

(1) does not receive a certificate of compliance during the applicable compliance response period for a person presented with a request for evidence of financial responsibility under IC 9-25-9-1; or

(2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle or operation of the motor vehicle that the person was operating when the person committed the violation described in the judgment or abstract received by the bureau under IC 9-25-9-1;

the bureau shall take action under subsection (d).

(c) If the bureau:

(1) does not receive a certificate of compliance during the applicable compliance response period for a person presented with a request under IC 9-25-10 (before its repeal); or

(2) receives a certificate that does not indicate that financial responsibility was in effect on the date requested;

the bureau shall take action under subsection (d).

(d) Under the conditions set forth in subsection (a), (b), or (c), the bureau shall immediately suspend the person's driving privileges, ~~or~~ motor vehicle registration, or both, ~~as determined by the bureau, for at least ninety (90) days and not more than one (1) year. The suspension~~

~~of a person's driving privileges or motor vehicle registration, or both, may be imposed only one (1) time under this subsection or IC 9-25-8-2 for the same incident.~~ **until proof of future financial responsibility is filed by the person with the bureau under subsection (g).**

(e) Except as provided in subsection (f), if subsection (a), (b), or (c) applies to a person, the bureau shall suspend the driving privileges of the person irrespective of the following:

(1) The sale or other disposition of the motor vehicle by the owner.

(2) The cancellation or expiration of the registration of the motor vehicle.

(3) An assertion by the person that the person did not own the motor vehicle and therefore had no control over whether financial responsibility was in effect with respect to the motor vehicle.

(f) The bureau shall not suspend the driving privileges of a person to which subsection (a), (b), or (c) applies if the person, through a certificate of compliance or another communication with the bureau, establishes to the satisfaction of the bureau that the motor vehicle that the person was operating when the accident referred to in subsection (a) took place or when the violation referred to in subsection (b) or (c) was committed was:

(1) rented from a rental company;

(2) shared through a peer to peer vehicle sharing program (as defined in IC 24-4-9.2-4); or

(3) owned by the person's employer and operated by the person in the normal course of the person's employment.

(g) As to any suspension described in this section:

(1) the bureau shall stay the suspension for one hundred and eighty (180) days upon a showing of proof of future financial responsibility by the person who has had the person's driving privileges, motor vehicle registration, or both, suspended; and

(2) if the bureau does not receive proof that financial responsibility has lapsed after the period of one hundred and eighty (180) days, the bureau shall terminate the suspension.

(h) If the bureau receives notice that financial responsibility has lapsed during the period of one hundred and eighty (180) days under subsection (g), the bureau shall lift the stay of suspension and again suspend the person's driving privileges, motor vehicle registration, or both.

SECTION 7. IC 9-25-6-3.5 IS REPEALED [EFFECTIVE DECEMBER 31, 2021]. ~~Sec. 3.5. If a person violates:~~

~~(1) IC 9-25-4;~~

~~(2) IC 9-25-5;~~

~~(3) section 2 or 3 of this chapter; or~~

~~(4) IC 9-25-10 (before its repeal);~~

~~more than one (1) time within a three (3) year period, the person's driving privileges shall be suspended for one (1) year.~~

SECTION 8. IC 9-25-6-14, AS AMENDED BY P.L.59-2013, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 14. (a) The bureau shall reinstate the driving privileges, ~~or~~ motor vehicle registration, or both:

(1) ~~subject to section 15 of this chapter,~~ after **the** expiration of the imposed period of suspension if the person has furnished the bureau with proof of future financial responsibility; or

(2) if financial responsibility was in effect with respect to a motor vehicle on the date requested but the bureau does not receive a certificate of compliance indicating this fact until after the person's driving privileges are suspended under this article, the person's driving privileges shall be reinstated when the bureau receives the certificate of compliance.

(b) Upon receipt of a certificate of compliance under this section, the bureau shall remove from the person's driving record the administrative suspension caused by the failure to notify the bureau that the person had financial responsibility in effect on the date of the violation.

SECTION 9. IC 9-25-6-15, AS AMENDED BY P.L.178-2019, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15. (a) **Except as provided in subsection (e),** an individual:

(1) whose driving privileges are suspended under this article; and

(2) who seeks the reinstatement of the driving privileges;

must pay a reinstatement fee to the bureau as provided in subsection (b).

(b) The reinstatement fee under subsection (a) is as follows:

(1) For a first suspension, two hundred fifty dollars ($250).

(2) For a second suspension, five hundred dollars ($500).

(3) For a third or subsequent suspension, one thousand dollars ($1,000).

(c) Each fee paid under this section or section 15.1 of this chapter shall be deposited in the financial responsibility compliance verification fund established by IC 9-25-9-7 as follows:

(1) Forty-eight percent (48%) of a fee paid after a first suspension.

(2) Thirty-nine percent (39%) of a fee paid after a second suspension.

(3) Twenty-seven percent (27%) of a fee paid after a third or subsequent suspension.

The remaining amount of each fee paid under this section or section 15.1 of this chapter must be deposited in the motor vehicle highway account.

(d) If:

(1) a person's driving privileges are suspended for registering or operating a vehicle in violation of IC 9-25-4-1;

(2) the person is required to pay a fee for the reinstatement of the person's license under this section; and

(3) the person later establishes that the person did not register or operate a vehicle in violation of IC 9-25-4-1;

the fee paid by the person under this section shall be refunded.

(e) An individual who has had a suspension imposed under this article terminated by submitting proof of future financial responsibility under IC 9-25-4-3, IC 9-25-5-1, or section 3(d) of this chapter for the required time period is not required to pay a reinstatement fee under this section in order to have his or her driving privileges reinstated.

SECTION 10. IC 9-25-6-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 15.5. (a) The following definitions apply throughout this section:**

(1) "Forbearance" means a stay of enforcing payment on reinstatement fees owed by a nonviolent offender.

(2) "Job training" means any type of instruction that enables an individual who:

(A) is an ex-offender who has completed the individual's criminal sentence; or

(B) is serving a term of probation or parole;

to acquire vocational skills so the individual is employable or able to seek a higher grade of employment.

(3) "Nonviolent offender" means a person who is not convicted of an offense under IC 11-8-8-5.

(b) An individual who is liable for reinstatement fees imposed under section 15 of this chapter may have all of the reinstatement fees placed in forbearance if the individual:

(1) is a nonviolent offender;

(2) has completed the individual's criminal sentence or is serving a term of probation or parole; and

(3) is enrolled in job training or maintains consistent employment for at least three (3) years.

(c) If an individual:

(1) is eligible to have reinstatement fees placed in forbearance; and

(2) maintains consistent employment for at least three (3) years;

the bureau shall waive the individual's reinstatement fees.

(d) The bureau shall adopt rules under IC 4-22-2 to implement this section.

SECTION 11. IC 9-25-8-2, AS AMENDED BY P.L.253-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 2. (a) A person that knowingly:

(1) operates; or

(2) permits the operation of;

a motor vehicle on a public highway in Indiana without financial responsibility in effect as set forth in IC 9-25-4-4 commits a Class A infraction. However, the offense is a Class C misdemeanor if the person knowingly or intentionally violates this section and has a prior unrelated conviction or judgment under this section.

(b) Subsection (a)(2) applies to:

(1) the owner of a rental company under IC 9-25-6-3(f)(1);

(2) the owner of a peer to peer sharing program under IC 9-25-6-3(f)(2); and

(3) an employer under IC 9-25-6-3(f)(3).

~~(c) In addition to any other penalty imposed on a person for violating this section, the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than one (1) year. However, if, within the five (5) years preceding the conviction under this section, the person had a prior unrelated conviction under this section, the court shall recommend the suspension of the person's driving privileges and motor vehicle registration for one (1) year.~~

~~(d) Upon receiving the recommendation of the court under subsection (c), the bureau shall suspend the person's driving privileges and motor vehicle registration, as applicable, for the period recommended by the court. If no suspension is recommended by the court, or if the court recommends a fixed term that is less than the minimum term required by statute, the bureau shall impose the minimum period of suspension required under this article. The suspension of a person's driving privileges or motor vehicle registration, or both, may be imposed only one (1) time under this subsection or IC 9-25-6 for the same incident.~~

SECTION 12. IC 9-25-8-6 IS REPEALED [EFFECTIVE

DECEMBER 31, 2021]. ~~Sec. 6. (a) This section applies to a person:~~

~~(1) who is convicted of;~~

~~(2) against whom a judgment is entered for;~~

~~(3) against whom the bureau has taken administrative action for;~~ ~~or~~

~~(4) who the bureau otherwise determines was;~~

~~operating a motor vehicle without financial responsibility in violation of this article.~~

~~(b) A person described in subsection (a) must provide proof of future financial responsibility:~~

~~(1) for a first or second offense, for a period of three (3) years; or~~

~~(2) for a third or subsequent offense, for a period of five (5) years;~~ ~~beginning on the date on which the suspension of the person's driving privileges terminates.~~

SECTION 13. IC 9-30-3-8, AS AMENDED BY P.L.161-2018, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 8. (a) The court may issue a warrant for the arrest of a defendant who is an Indiana resident ~~and~~ who:

(1) fails to appear or answer a traffic information and summons **for a misdemeanor or felony;** or

(2) fails to appear or answer a complaint and summons **for a misdemeanor or felony** served upon the defendant.

If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the traffic information and summons or complaint and summons to the bureau indicating that the defendant failed to appear in court as ordered. The court shall then mark the case as failure to appear on the court's records.

(b) If a defendant who is not an Indiana resident fails to appear or answer a traffic summons served upon the defendant and upon which the information or complaint has been filed thirty (30) days after the return date of the information and summons or complaint and summons, the court shall promptly forward the court copy of the traffic information and summons or complaint and summons to the bureau. The bureau shall notify the motor vehicle commission of the state of the nonresident defendant of the defendant's failure to appear and also of any action taken by the bureau relative to the Indiana driving privileges of the defendant. If the defendant fails to appear or otherwise answer within thirty (30) days, the court shall mark the case as failure to appear on the court's records.

(c) The court may suspend the driving privileges of a defendant who fails to satisfy a judgment entered against the defendant for:

(1) ~~violation of a traffic ordinance;~~ **commission of a moving**

traffic offense as defined by IC 9-13-2-110; or

(2) commission of a traffic infraction **listed in 140 IAC 1-4.5-10;** ~~by a~~ **for a period of three (3) years from the** date set by the court under IC 34-28-5-6. The court shall forward notice to the bureau indicating that the defendant failed to pay as ordered.

(d) If the bureau receives a copy of the traffic information and summons or complaint ~~and summons for failure to appear in court~~ under subsection (a) ~~or (b)~~ or a notice of failure to pay under subsection (c), either on a form prescribed by the bureau or in an electronic format prescribed by the office of judicial administration, the bureau shall suspend the driving privileges of the defendant until:

(1) the defendant appears in court; ~~and~~

(2) the case has been disposed of; ~~or until the date~~

(3) payment is received by the court; **or**

(4) three (3) years from a date set by the court under subsection (c).

The order of suspension may be served upon the defendant by mailing the order by first class mail to the defendant at the last address shown for the defendant in the records of the bureau. **A suspension under this section begins thirty (30) days after the date the notice of suspension is mailed by the bureau to the defendant.**

(e) For nonresidents of Indiana, the order of suspension shall be mailed to the defendant at the address given to the arresting officer or the clerk of court by the defendant as shown by the traffic information or complaint. A copy of the order shall also be sent to the motor vehicle bureau of the state of the nonresident defendant. If:

(1) the defendant's failure to appear in court has been certified to the bureau under this chapter; and

(2) the defendant subsequently appears in court to answer the charges against the defendant;

the court shall proceed to hear and determine the case in the same manner as other cases pending in the court. Upon final determination of the case, the court shall notify the bureau of the determination either in an electronic format or upon forms prescribed by the bureau. The notification shall be made by the court within ten (10) days after the final determination of the case, and information from the original copy of the traffic information and summons or complaint and summons must accompany the notification.

(f) If the bureau receives notice that a defendant failed to appear under subsection (b), the bureau shall suspend the defendant's Indiana driving privileges until either:

(1) the defendant appears in court to answer for the charges

against the defendant; or

(2) the case is disposed of.

(g) This section does not preclude preliminary proceedings under IC 35-33.

SECTION 14. IC 9-30-3-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: **Sec. 8.5. (a) Upon receipt by the bureau of a notice of suspension for failure to satisfy a judgment under section 8 of this chapter, the bureau shall send a request for proof of future financial responsibility to the person.**

(b) During the three (3) years following a suspension under section 8 of this chapter, the person's driving privileges remain suspended unless the person:

(1) satisfies the judgment; or

(2) provides proof of future financial responsibility under IC 9-25.

(c) Upon receipt of proof of future financial responsibility, the bureau shall stay a suspension under section 8 of this chapter.

(d) If at any time during the three (3) years following a suspension under section 8 of this chapter, a person:

(1) has provided proof of future financial responsibility under IC 9-25; and

(2) fails to maintain proof of future financial responsibility;

the bureau shall suspend the person's driving privileges until the person provides proof of future financial responsibility under IC 9-25 or the suspension is terminated by the bureau.

(e) The bureau shall waive reinstatement fees for a suspension under section 8 of this chapter if the person:

(1) satisfies the judgment; or

(2) maintains proof of financial responsibility for three (3) years.

SECTION 15. IC 9-30-16-4.5, AS ADDED BY P.L.188-2015, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 4.5. (a) This section applies to a person:

(1) whose driving privileges were suspended under IC 9-25-6-3(d); ~~IC 9-25-6-3.5, or IC 9-25-8-2,~~ and

(2) to whom a court grants specialized driving privileges under section 3 or 4 of this chapter with respect to the suspended driving privileges.

(b) The court may, as a condition of the specialized driving privileges, lift the suspension of the person's motor vehicle registration

that was imposed in conjunction with the suspension of the person's driving privileges.

SECTION 16. IC 9-33-4-2, AS ADDED BY P.L.202-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. This chapter applies to the following:

(1) An unpaid judgment for an infraction described in this title that relates to the operation of a motor vehicle, if the infraction was committed before ~~January 1, 2019.~~ **January 1, 2020.**

(2) A driving privileges reinstatement fee (as described in IC 9-25-6-15), which a person with a suspended driver's license is or would be required to pay to reinstate the person's driver's license, if the person's driver's license was suspended before ~~January 1, 2019.~~ **January 1, 2020.**

(3) Any court costs, administrative fees, late fees, or other fees imposed on a person in connection with an unpaid judgment or fee described in subdivision (1) or (2).

SECTION 17. IC 9-33-4-4, AS ADDED BY P.L.202-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) A qualified person may seek a reduction in the person's unpaid fees by filing a verified petition for traffic amnesty in a circuit or superior court in the county in which the violation giving rise to the unpaid fees was committed. A petition filed under this section must be filed after December 31, 2019, and before ~~January 1, 2021.~~ **July 1, 2022.** The petition must include the following:

(1) The person's full name and all other legal names or aliases by which the person is or has been known.

(2) The person's date of birth.

(3) The case number or court cause number of the relevant violations.

(4) An affirmation that the person:

(A) does not owe a child support arrearage or, if the person owes a child support arrearage, has been making the person's required child support payments for at least the preceding six (6) months;

(B) does not have an outstanding arrest warrant; and

(C) was not sentenced to pay restitution to the victim of a crime or, if the person was sentenced to pay restitution, is current with the person's required payments.

(5) The person's:

(A) Social Security number; and

(B) driver's license number.

(6) The date of the violation.

(b) The person may include in a petition filed under this section any other information that the person believes may assist the court.

(c) A person who files a petition under this section shall file the petition under the court cause number of the infraction. The person is not required to pay the filing fee required in civil cases.

(d) The person shall serve a copy of the petition upon the prosecuting attorney in accordance with the Indiana Rules of Trial Procedure.

(e) The prosecuting attorney may reply to the petition not later than thirty (30) days after receipt of the petition. If the prosecuting attorney fails to timely reply to the petition, the prosecuting attorney has waived any objection to the petition.

(f) If a person wishes to receive traffic amnesty for infractions committed in different counties, the person must file a separate petition in each county in which a violation was committed.

(g) A petition filed under this section is not an admission of guilt or liability.

SECTION 18. IC 9-33-4-6, AS ADDED BY P.L.202-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) The court shall grant a petition for traffic amnesty if the petitioner proves by a preponderance of evidence that the:

(1) person is a qualified person; and

(2) violation giving rise to the unpaid fees was committed before ~~January 1, 2019.~~ **January 1, 2020.**

(b) If the court grants a petition for traffic amnesty, the court shall issue an order reducing the amount of unpaid fees owed by the person by fifty percent (50%). To the extent some or all of the unpaid fees consist of a driving privileges reinstatement fee, the court shall specify in its order that the petitioner is entitled to driving privileges reinstatement after:

(1) paying fifty percent (50%) of the otherwise required driving privileges reinstatement fee to the bureau;

(2) providing proof of financial responsibility to the court; and

(3) the person is determined not to be otherwise ineligible to have the person's driving privileges reinstated.

(c) The court shall transmit a copy of its order to the bureau in a form and manner prescribed by the bureau. The court shall include in its order a statement that the order is not a conviction, finding of guilt, or finding of liability and that the order is being issued under IC 9-33-4.

(d) The grant or denial of a petition under this chapter is an appealable final order.

SECTION 19. IC 9-33-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 5. Reinstatement of Driving Privileges for Convicted Offenders

Sec. 1. The purpose of this chapter is to:

(1) Develop and implement educational programs to inform individuals described in section 2 of this chapter of any legal, administrative, or financial requirements that need to be satisfied before the reinstatement of driving privileges.

(2) Identify and coordinate procedures within and between agencies to facilitate the reinstatement of driving privileges to individuals described in section 2 of this chapter.

(3) Collaborate within and between agencies to provide access to driver records, practice exams, required forms, safety classes, or any other materials deemed necessary by an agency for the purposes of fulfilling this chapter.

(4) Make recommendations regarding best practices for driver's license suspensions due to nonmoving violations.

Sec. 2. This chapter applies to the following:

(1) A person who is currently an inmate in the custody of the department of correction.

(2) A person who has been released from the custody of the department of correction within the past twelve (12) months.

(3) A person who is currently under parole supervision or a community corrections program (as defined under IC 35-38-2.6-2).

Sec. 3. Not later than July 1, 2021, the bureau shall do the following:

(1) Carry out the administration of programs and activities concerning the reinstatement of driving privileges for individuals described in this chapter.

(2) Advise and collaborate with the department of correction regarding the provision of appropriate programs and services for the reinstatement of driving privileges for individuals described in section 2 of this chapter.

(3) Designate a liaison between the bureau and the department of correction for purposes of fulfilling section 1 of this chapter.

SECTION 20. IC 27-7-5.1-4, AS ADDED BY P.L.136-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 4. As used in this chapter, "uninsured

motorist with a previous violation" means an individual who:

(1) owns a motor vehicle:

(A) that is involved in an accident; and

(B) for which financial responsibility is not in effect as required by IC 9-25-4; and

(2) during the immediately preceding five (5) years, has been required to provide proof of future financial responsibility for any period; ~~under IC 9-25-8-6(b);~~

regardless of whether the individual is operating the motor vehicle at the time of the accident.

SECTION 21. IC 31-25-4-33.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: **Sec. 33.5. (a) If the Title IV-D agency finds that an obligor is delinquent and issues an order to the bureau of motor vehicles stating that the obligor is delinquent under sections 32(b) or 33(d) of this chapter, the obligor may have the obligor's driving privileges reinstated by making a single payment of either:**

(1) if the obligor is required by court order to pay a child support obligation, the equivalent of eight (8) weeks of the child support order to the clerk of the court or the state central collection unit; or

(2) if the obligor is no longer required to pay a child support obligation but has a child support arrearage, the equivalent of eight (8) weeks of the most recent child support order or the full amount of the child support arrearage, whichever is less, to the clerk of the court or the state central collection unit.

(b) If the court ordered support obligation cannot be determined for an obligor, the obligor shall contact the Title IV-D agency enforcing the child support order to reach an agreement for a payment amount that must be paid for the obligor to have the obligor's driving privileges reinstated.

(c) Once the obligor pays the required amount under subsection (a) or (b), the obligor shall provide proof of payment to the Title IV-D agency enforcing the child support order. Within seven (7) days of confirming the obligor's payment, the Title IV-D agency shall issue an order to the bureau of motor vehicles to reinstate the obligor's driving privileges.

(d) If multiple orders have been issued by the Title IV-D agency to the bureau of motor vehicles to suspend the obligor's driving privileges, the obligor must make a required payment under subsection (a) in each case where an order to suspend the obligor's

driving privileges is issued to have those suspensions of the obligor's driving privileges lifted.

(e) The Title IV-D agency shall monitor compliance with the court ordered child support obligation for a period of sixty (60) days after the obligor's driving privileges are reinstated. After the period of sixty (60) days, if the obligor has failed to comply with the child support order and is again delinquent, as defined by section 2 of this chapter, the Title IV-D agency may again initiate the process to suspend the obligor's driving privileges under section 32 of this chapter.

(f) This section does not prevent the:

(1) Title IV-D agency from entering into and enforcing a child support payment agreement with the obligor, including suspension of the child support obligor's operator's license; or

(2) obligor from filing a petition for specialized driving privileges under IC 9-30-16.

SECTION 22. IC 34-28-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2021]: Sec. 6. If a defendant fails to satisfy a judgment entered against the defendant for the violation of a traffic ordinance or for a traffic infraction by a date fixed by the court, the court may suspend the defendant's drivers license. When a court suspends a person's drivers license under this section, the court shall forward notice of the suspension to the bureau of motor vehicles. **A suspension under this section begins thirty (30) days after the date the notice of suspension is mailed by the bureau of motor vehicles to the defendant.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 368

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

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

SECTION 1. IC 31-30-3-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 12. (a) The following definitions apply throughout this section:**

(1) "Juvenile arrestee" means a child who:

(A) is less than eighteen (18) years of age;

(B) has been charged as an adult; and

(C) is awaiting trial, sentencing, or other legal process.

(2) "Sight or sound contact with adult inmates" means any:

(A) physical;

(B) clear visual; or

(C) verbal;

contact between a juvenile arrestee and an adult inmate that is not brief and inadvertent.

(b) A juvenile arrestee who is housed in a secure facility may not be held in:

(1) an adult facility, except as provided in IC 31-37-7-2; or

(2) a facility that permits sight or sound contact with adult inmates;

unless a court finds, after a hearing, that it is in the best interests of justice for the juvenile arrestee to be housed in an adult facility

or a facility permitting sight or sound contact with adult inmates. If a court orders a juvenile arrestee to be housed in an adult facility or a facility permitting sight or sound contact with adult inmates, the court shall issue its decision in writing.

(c) In making a determination under subsection (b), the court shall consider:

(1) the age of the juvenile arrestee;

(2) the physical and mental maturity of the juvenile arrestee;

(3) the present mental state of the juvenile arrestee, including whether the juvenile arrestee presents an imminent risk of harm to the arrestee or others;

(4) the nature and circumstances of the alleged offense;

(5) any prior history of delinquent or criminal acts of the juvenile arrestee;

(6) the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as the safety of other detained youth; and

(7) any other relevant factors.

(d) If a court determines it is in the best interests of justice for the juvenile arrestee to be housed in an adult facility or a facility permitting sight or sound contact with adult inmates, the court may order that the juvenile arrestee be held in an adult facility or a facility permitting sight or sound contact with adult inmates for not more than one hundred eighty (180) days.

(e) The court may extend the one hundred eighty (180) day period described in subsection (d) for one (1) or more additional sixty (60) day periods, if the court finds, in writing, that there is good cause to extend the juvenile arrestee's placement in an adult facility or a facility permitting sight or sound contact with adult inmates. However, the juvenile arrestee may waive the good cause requirement if the juvenile arrestee prefers to keep the same placement.

(f) If the court orders a juvenile arrestee to be held under subsection (d) or (e), the court shall hold a hearing at least one (1) time every thirty (30) days to review whether it is still in the interests of justice to house the arrestee in the adult facility or the facility permitting sight or sound contact with adult inmates.

SECTION 2. IC 31-37-11-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2022]: **Sec. 11. If a child is found to be competent after a competency evaluation is ordered, the**

factfinding hearing must be commenced within the period specified by section 2 of this chapter. The date the petition is considered to be filed is the date when the child is found to be competent.

SECTION 3. IC 31-37-26 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2022]:

Chapter 26. Competency

Sec. 1. (a) This chapter applies to a delinquency proceeding brought pursuant to IC 31-37-1 through IC 31-37-3.

(b) In computing time under this chapter, Saturdays, Sundays, and legal holidays are not included in the computation if the time prescribed is less than fifteen (15) days.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Competent" and "competency" mean the present ability of a child to:

(A) understand the nature and objectives of a proceeding against the child; and

(B) assist in the child's defense.

(2) "State institution" has the meaning set forth in IC 12-7-2-184.

Sec. 3. If, at any time before disposition, a court has reasonable grounds to believe that a child is not competent, the court shall order the child to undergo a competency evaluation as described in section 4 of this chapter, unless the child is represented by counsel and waives the competency evaluation.

Sec. 4. (a) If the court orders a competency evaluation under section 3 of this chapter, the court shall appoint one (1) disinterested person to evaluate the child's competency. However, if a party requests the appointment of an additional person to conduct an evaluation, the court shall appoint a second disinterested person to evaluate the child's competency.

(b) A person appointed under subsection (a) may be a:

(1) psychiatrist; or

(2) psychologist endorsed by the Indiana state board of examiners in psychology as health service providers in psychology;

who has expertise in determining competency in juveniles.

(c) The court shall order the competency evaluation to be performed in a location or facility that, consistent with the nature of the case and the best interests and needs of the child:

(1) imposes the fewest restrictions on the freedom of the child and the child's parent, guardian, or custodian;

(2) interferes the least with family autonomy and family life; and

(3) is as close as practicable to the home of the parents, guardian, or custodian, consistent with the best interests and special needs of the child.

The department shall not be responsible for the payment of a competency evaluation.

(d) Not later than seven (7) days from the date the court appoints a person to conduct a competency evaluation, the juvenile probation department shall provide the person appointed to conduct the competency evaluation with all relevant files in the possession of the probation department, including any preliminary investigatory records and a copy of the delinquency allegations.

(e) A person appointed to conduct a competency evaluation may consider any relevant information.

(f) Not later than fourteen (14) days upon completion of the competency evaluation, the person who conducted the evaluation shall provide a written report to the court and to all attorneys of record. The competency report shall include the following:

(1) The opinion of the person who conducted the competency evaluation as to the child's ability to understand the nature and objectives of the proceeding against the child.

(2) The opinion of the person who conducted the competency evaluation as to the child's ability to assist in the child's defense.

(3) If a person who conducted the competency evaluation determined that the child is not competent, a:

(A) description of the child's need for services; and

(B) recommendation concerning the least restrictive setting and treatment that would assist in restoring the child's competency.

The competency report may not contain any statement from the child relating to the alleged delinquent act.

Sec. 5. As soon as practicable after receiving the written competency evaluation, the court shall determine whether the child is competent for adjudication or disposition. Upon a motion by any party, the court shall conduct a hearing to determine competency. The child has:

(1) the right to notice;

(2) the opportunity to participate personally at the hearing;

(3) the right to present evidence; and

(4) the right to be represented by counsel. If the child is

indigent, the court shall appoint counsel for the child.

The party alleging that the child is not competent has the burden of proving that the child is not competent by a preponderance of the evidence.

Sec. 6. (a) If the court determines that the juvenile is competent, the court shall proceed with the delinquency proceedings as provided by law. No statement that a child makes during an evaluation or hearing conducted under this chapter may be used against the child in any juvenile or adult proceeding.

(b) If the court determines that the juvenile is not competent, the court shall determine whether the child may attain competency within:

(1) one hundred eighty (180) days, if the child is alleged to have committed an act that would be a felony if committed by an adult; or

(2) ninety (90) days, if the child is alleged to have committed an act that would not be a felony if committed by an adult.

(c) If the court determines that the juvenile is not competent and will not attain competency within the relevant time periods as described in subsection (b), the court shall:

(1) dismiss the allegations without prejudice; or

(2) delay dismissing the allegations for not more than ninety (90) days and:

(A) refer the matter to the department and request that the department determine whether the child may be a child in need of services; or

(B) order a probation officer to:

(i) refer the child or the child's family to an entity certified or licensed by the division of mental health and addiction, or the bureau of developmental disabilities services; or

(ii) otherwise secure services to reduce the potential that the child will engage in behavior that could result in delinquent child or other criminal charges.

If the court determines that the options described in subdivisions (1) and (2) are not in the best interests of the child, the court may, if it appears to the court that a child is mentally ill, refer the matter to the court having probate jurisdiction for civil commitment proceedings under IC 12-26 or initiate a civil commitment proceeding under IC 12-26.

(d) If the court determines that the juvenile is not competent but is reasonably likely to attain competency within the relevant time

periods as described in subsection (b), the court may order the child to participate in services, other than a state institution, specifically designed to help the child attain competency, to be paid by the department subject to the requirements described in IC 31-37. If the court orders the child to receive competency attainment services, the court shall:

(1) identify a qualified provider to deliver the competency attainment services; and

(2) order a probation officer to contact that provider by a specified date to arrange for services.

(e) Not later than ten (10) days after the court identifies the qualified competency attainment services provider as described in subsection (d), the court shall transmit to the provider a copy of each competency assessment report it has received for review. The provider shall return the copies of the reports to the court upon the termination of the services.

(f) Not later than thirty (30) days after the probation officer contacts the competency attainment services provider under subsection (d), the provider shall submit to the court a competency attainment plan for the court's approval. If the court approves the plan, the court shall provide copies of the plan to the prosecuting attorney, the child's attorney, the child's guardian ad litem, if any, and the child's parents, guardian, or custodian.

(g) Competency attainment services provided to a child are subject to the following conditions and time periods measured from the date the court approves the plan:

(1) Services shall be provided in the least restrictive setting that is consistent with the child's ability to attain competency, and the safety of both the child and the community. If the child has been released on a temporary or interim order and refuses or fails to cooperate with the provider, the court may reassess the order and amend it to require a more appropriate setting.

(2) No child may be required to participate in competency attainment services for longer than is required for the child to attain competency. In addition, if a child is:

(A) in a nonresidential setting, the child may not be required to participate for more than:

(i) ninety (90) days if the child is charged with an act that would not be a felony if committed by an adult; or

(ii) one hundred eighty (180) days if the child is charged with an act that would be a felony or murder if

committed by an adult;

(B) in a residential setting that is operated solely or in part for the purpose of providing competency attainment services, the child may not be ordered to participate for more than:

(i) forty-five (45) days if the child is charged with an act that would not be a felony if committed by an adult;

(ii) ninety (90) days if the child is charged with an act that would be a Level 4, Level 5, or Level 6 felony if committed by an adult; or

(iii) one hundred eighty (180) days if the child is charged with an act that would be murder or a Level 1, Level 2, or Level 3 felony if committed by an adult; and

(C) in a residential, detention, or other secured setting where the child has been placed for reasons other than to participate in competency attainment services, but where the child is also ordered to participate in competency attainment services, the child may not be required to participate for more than:

(i) ninety (90) days if the child is charged with an act that would not be a felony if committed by an adult; or

(ii) one hundred eighty (180) days if the child is charged with an act that would be a felony or murder if committed by an adult.

(h) The provider that provides the child's competency attainment services shall submit reports to the court as follows:

(1) The provider shall report on the child's progress every thirty (30) days, and upon the termination of services. The report may not include any details of the alleged offense as reported by the child.

(2) If the provider determines that the current setting is no longer the least restrictive setting that is consistent with the child's ability to attain competency and the safety of both the child and the community, the provider shall report this to the court within three (3) days of the determination.

(3) If the provider determines that the child has achieved the goals of the plan and is able to understand the nature and objectives of the proceeding against the child and to assist in the child's defense, with or without reasonable accommodations, the provider shall issue a report informing the court of that determination within three (3) days of the determination. If the provider believes that accommodations

are necessary or desirable, the report shall include recommendations for accommodations.

(4) If the provider determines that the child will not achieve the goals of the plan within the applicable period of time under this section, the provider shall issue a report informing the court of the determination within three (3) days of the determination. The report shall include recommendations for services for the child that would support the safety of the child or the community.

(i) The court shall provide a copy of any report received under subsection (h) to the following:

(1) The prosecuting attorney.

(2) The attorney representing the child.

(3) The child's guardian ad litem, if any.

(4) The child's parent, guardian, or custodian, unless the court finds that providing a copy of the report is not in the best interests of the child.

(j) Not later than fifteen (15) days after receiving a report under subsection (h), the court may hold a hearing to determine if it should issue a new order. The court may order a new competency evaluation if the court believes that it may assist the court in making its determination. The child shall continue to participate in competency attainment services until a new order is issued or the required period of participation ends.

(k) If, following a hearing held under subsection (j), the court determines that the child has not or will not attain competency within the relevant period of time under subsection (g), the court shall:

(1) dismiss the allegations without prejudice; or

(2) delay dismissing the allegations for not more than ninety (90) days and:

(A) refer the matter to the department and request that the department determine whether the child may be a child in need of services; or

(B) order a probation officer to:

(i) refer the child or the child's family to an entity certified or licensed by the division of mental health and addiction, or the bureau of developmental disabilities services; or

(ii) otherwise secure services to reduce the potential that the child will engage in behavior that could result in delinquent child or other criminal charges.

If the court determines that the options described in subdivision (1) or (2) are not in the best interests of the child, the court may, if it appears to the court that a child is mentally ill, refer the matter to the court having probate jurisdiction for civil commitment proceedings under IC 12-26 or initiate a civil commitment proceeding under IC 12-26.

(l) If, following a hearing held under subsection (j), the court determines that the child is competent, the court shall proceed with the delinquency proceedings as described in subsection (a).

(m) Allegations dismissed under subsections (c) and (k) do not preclude:

(1) a future proceeding against the child if the child eventually attains competency; or

(2) a civil action against the child based on the conduct that formed the basis of the allegations against the child.

(n) A referral made under subsection (c) or (k) does not establish an obligation on the division of mental health and addiction, a state institution, or the bureau of developmental disabilities services to provide services to a referred child.

(o) Proceedings under this chapter do not toll the time limits under IC 31-37-11-5.

SECTION 4. IC 31-39-8-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. (a) This section does not apply to the records of a child adjudicated a delinquent child for committing an act that would be:**

(1) a felony if committed by an adult;

(2) a violation of IC 35-47-2; or

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

(b) This section applies to the records of a child adjudicated a delinquent child after June 30, 2021.

(c) When a child reaches nineteen (19) years of age, or one (1) year after the date on which the juvenile court discharges the child under IC 31-37-20-7, whichever is later, the court shall, on its own motion and without holding a hearing, order expungement of the records relating to the child's delinquency adjudication that are not excluded under subsection (a) within sixty (60) days, unless the court finds, based on the nature of the delinquent act and the needs of the child, that automatic expungement under this section would not serve the interests of justice.

(d) The expungement provisions in this section supplement and are in addition to expungement provisions located elsewhere in this

chapter. A person entitled to expungement of delinquency records under this section may also seek expungement under any other applicable section of this chapter.

SECTION 5. IC 31-39-8-6, AS AMENDED BY P.L.86-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) Subject to subsections (b) and (c), the records shall be destroyed upon a grant of an expungement petition by the court, **including an expungement order issued under section 3.5 of this chapter.**

(b) Data from the records in subsection (a) shall be maintained by the court on a secure data base that does not enable identification of the offender to the public or another person not having legal or statutory authority to access the records.

(c) The records maintained in the data base under subsection (b) may be used only for statistical analysis, research, and financial auditing purposes.

SECTION 6. IC 31-41-2-1, AS ADDED BY P.L.66-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. After a juvenile court has determined that a child is a dual status child, the juvenile court ~~shall~~ **may** refer the child to be assessed by a dual status assessment team **after:**

(1) considering the reports provided pursuant to IC 31-34-7-2 or IC 31-37-8-5; or

(2) making a determination pursuant to IC 31-34-10-2(e) or IC 31-37-12-2(e).

However, all children identified as a dual status child under IC 31-41-1-2(1) through IC 31-41-1-2(3), or IC 31-41-1-2(6), shall be referred to the dual status assessment team.

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 368 — Concur

First Regular Session of the 122nd General Assembly (2021)

HOUSE ENROLLED ACT No. 1577

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-225.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 225.8. "Mental health provider", for purposes of IC 16-36-1.5 and **IC 16-34-1-4,** has the meaning set forth in IC 16-36-1.5-2.

SECTION 2. IC 16-18-2-267 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 267. "Parental consent", for purposes of IC 16-34, means the **notarized** written consent of the parent or legal guardian of an unemancipated pregnant woman less than eighteen (18) years of age to the performance of an abortion on the minor pregnant woman **or for the final disposition of the aborted fetus by interment in compliance with IC 23-14-54 or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31.**

SECTION 3. IC 16-34-1-4, AS AMENDED BY P.L.72-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. No:

(1) physician;

(2) nurse;

(3) physician assistant;

(4) pharmacist; ~~or~~

(5) employee or member of the staff of a hospital or other facility in which an abortion may be performed; **or**

(6) mental health provider;

shall be required to perform an abortion, to prescribe, administer, or dispense an abortion inducing drug, **to provide advice or counsel to a pregnant woman concerning medical procedures resulting in, or intended to result in, an abortion,** ~~or~~ to assist or participate in ~~the~~ medical procedures resulting in, or intended to result in an abortion, **or to handle or dispose of aborted remains,** if that individual objects to such procedures on ethical, moral, or religious grounds.

SECTION 4. IC 16-34-2-1, AS AMENDED BY P.L.93-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

(1) Except as prohibited in IC 16-34-4, during the first trimester of pregnancy for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) the abortion is performed by the physician;

(B) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required; and

(C) the woman submitting to the abortion has filed with her physician the written consent of her parent or legal guardian if required under section 4 of this chapter.

However, an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman after ~~nine (9) weeks~~ **eight (8) weeks** of postfertilization age. ~~unless the Food and Drug Administration has approved the abortion inducing drug to be used for abortions later than nine (9) weeks of postfertilization age.~~ **A physician must dispense the abortion inducing drug in person and have the pregnant woman consume the drug in the presence of the physician.** A physician shall examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. ~~In accordance with FDA guidelines,~~ The physician shall provide the pregnant woman with a copy of the manufacturer's instruction sheets and require that the pregnant woman sign the manufacturer's patient agreement form. **A physician shall also provide, orally and in writing, along with other discharge information, the following statement: "Some evidence suggests that the effects of Mifepristone may be avoided,**

ceased, or reversed if the second pill, Misoprostol, has not been taken. Immediately contact the following for more information at (insert applicable abortion inducing drug reversal Internet web site and corresponding hotline number)." The physician shall retain a copy of the signed patient agreement form, and the signed physician's agreement form required by the manufacturer, in the patient's file. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

(2) Except as prohibited by IC 16-34-4, after the first trimester of pregnancy and before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion during the first trimester are present and adhered to; and

(B) the abortion is performed in a hospital or ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(3) Except as provided in subsection (b) or as prohibited by IC 16-34-4, at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age are present and adhered to;

(B) the abortion is performed in compliance with section 3 of this chapter; and

(C) before the abortion the attending physician shall certify in writing to the hospital in which the abortion is to be performed, that in the attending physician's professional, medical judgment, after proper examination and review of the woman's history, the abortion is necessary to prevent a substantial permanent impairment of the life or physical health of the pregnant woman. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

(b) A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that:

(1) performing the partial birth abortion is necessary to save the mother's life; and

(2) no other medical procedure is sufficient to save the mother's life.

(c) A person may not knowingly or intentionally perform a dismemberment abortion unless reasonable medical judgment dictates that performing the dismemberment abortion is necessary:

(1) to prevent any serious health risk to the mother; or

(2) to save the mother's life.

(d) Telehealth and telemedicine may not be used to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.

SECTION 5. IC 16-34-2-1.1, AS AMENDED BY P.L.77-2020, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the private, not group, presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has informed the pregnant woman orally and in writing of the following:

(A) The name of the physician performing the abortion, the physician's medical license number, and an emergency telephone number where the physician or the physician's designee may be contacted on a twenty-four (24) hour a day, seven (7) day a week basis.

(B) That follow-up care by the physician or the physician's designee (if the designee is licensed under IC 25-22.5) is available on an appropriate and timely basis when clinically necessary.

(C) The nature of the proposed procedure or information concerning the abortion inducing drug **that includes the following statement: "Some evidence suggests that effects of Mifespristone may be avoided, ceased, or reversed if the second pill, Misoprostol, has not been taken. Immediately contact the following for more information at (insert applicable abortion inducing drug reversal Internet web**

site and corresponding hotline number)."

(D) Objective scientific information of the risks of and alternatives to the procedure or the use of an abortion inducing drug, including:

(i) the risk of infection and hemorrhage;

(ii) the potential danger to a subsequent pregnancy; and

(iii) the potential danger of infertility.

(E) That human physical life begins when a human ovum is fertilized by a human sperm.

(F) The probable gestational age of the fetus at the time the abortion is to be performed, including:

(i) a picture of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(G) That objective scientific information shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age.

(H) The medical risks associated with carrying the fetus to term.

(I) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult and must be reported to the department of child services or the local law enforcement agency under IC 31-33-5.

(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be informed orally and in writing of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(D) That there are physical risks to the pregnant woman in having an abortion, both during the abortion procedure and after.

(E) That Indiana has enacted the safe haven law under IC 31-34-2.5.

(F) The:

(i) Internet web site address of the state department of health's web site; and

(ii) description of the information that will be provided on the web site and that are;

described in section 1.5 of this chapter.

(G) For the facility in which the abortion is to be performed, an emergency telephone number that is available and answered on a twenty-four (24) hour a day, seven (7) day a week basis.

(H) On a form developed by the state department and as described in IC 16-34-3, that the pregnant woman has a right to determine the final disposition of the remains of the aborted fetus.

(I) On a form developed by the state department, that the pregnant woman has a right, after a surgical abortion, to:

(i) dispose of the remains of the aborted fetus by interment in compliance with IC 23-14-54, or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31; or

(ii) have the health care facility or abortion clinic dispose of the remains of the aborted fetus by interment in compliance with IC 23-14-54, or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31, and ask which method of disposition will be used by the health care facility or abortion clinic.

(J) On a form developed by the state department:

(i) that a pregnant woman, after an abortion induced by an abortion inducing drug, will expel an aborted fetus; and

(ii) the disposition policy of the health care facility or the abortion clinic concerning the disposition of the aborted fetus. The disposition policy must allow the pregnant woman to return the aborted fetus to the health care facility or abortion clinic for disposition by interment in compliance

with IC 23-14-54, or cremation through a licensee (as defined in IC 25-15-2-19) and in compliance with IC 23-14-31.

(K) On a form developed by the state department, information concerning any counseling that is available to a pregnant woman after having an abortion.

The state department shall develop and distribute the forms required by clauses (H) through (K).

(3) The pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that:

(A) the information required by subdivisions (1) and (2) has been provided to the pregnant woman;

(B) the pregnant woman has been offered by the provider the opportunity to view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible and that the woman has:

(i) viewed or refused to view the offered fetal ultrasound imaging; and

(ii) listened to or refused to listen to the offered auscultation of the fetal heart tone if the fetal heart tone is audible; and

(C) the pregnant woman has been given a written copy of the printed materials described in section 1.5 of this chapter.

(4) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has provided the pregnant woman with a color copy of the informed consent brochure described in section 1.5 of this chapter by printing the informed consent brochure from the state department's Internet web site and including the following information on the back cover of the brochure:

(A) The name of the physician performing the abortion and the physician's medical license number.

(B) An emergency telephone number where the physician or the physician's designee may be contacted twenty-four (24) hours a day, seven (7) days a week.

(C) A statement that follow-up care by the physician or the physician's designee who is licensed under IC 25-22.5 is available on an appropriate and timely basis when clinically

necessary.

(5) At least eighteen (18) hours before an abortion is performed and at the same time that the pregnant woman receives the information required by subdivision (1), the provider shall perform, and the pregnant woman shall view, the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that the pregnant woman:

(A) does not want to view the fetal ultrasound imaging; and

(B) does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.

A pregnant woman must be advised, prior to the pregnant woman's decision concerning fetal ultrasound imaging, that an ultrasound image of the fetus will be provided to the pregnant woman to keep at no charge to the pregnant woman if the fetal ultrasound is performed.

(b) This subsection applies to a pregnant woman whose unborn child has been diagnosed with a lethal fetal anomaly. The requirements of this subsection are in addition to the other requirements of this section. At least eighteen (18) hours before an abortion is performed on the pregnant woman, the physician who will perform the abortion shall:

(1) orally and in person, inform the pregnant woman of the availability of perinatal hospice services; and

(2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.

(c) If a pregnant woman described in subsection (b) chooses to have an abortion rather than continuing the pregnancy in perinatal hospice care, the pregnant woman shall certify in writing, on a form developed by the state department under IC 16-25-4.5-6, at least eighteen (18) hours before the abortion is performed, that the pregnant woman has been provided the information described in subsection (b) in the manner required by subsection (b).

(d) For any abortion performed under this article, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice registered nurse (as defined in IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the

responsibility has been delegated by the physician who is to perform the abortion or the referring physician shall include, or ensure the inclusion of, a copy of a pregnant woman's ultrasound report in the pregnant woman's patient file.

SECTION 6. IC 16-34-2-4, AS AMENDED BY P.L.173-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) No physician shall perform an abortion on an unemancipated pregnant minor less than eighteen (18) years of age without first having obtained from one (1) of the parents, a legal guardian, or a custodian accompanying the unemancipated pregnant minor:

(1) the **notarized** written consent of the parent, legal guardian, or custodian of the unemancipated pregnant minor;

(2) government issued proof of identification of the parent or the legal guardian or custodian of the unemancipated pregnant minor; and

(3) some evidence, which may include identification or other written documentation that provides an articulable basis for a reasonably prudent person to believe that the person is the parent or legal guardian or custodian of the unemancipated pregnant minor.

The physician shall keep records of the documents required under this subsection in the unemancipated pregnant minor's medical file for at least seven (7) years.

(b) A minor:

(1) who objects to having to obtain the written consent of her parent or legal guardian or custodian under this section; or

(2) whose parent or legal guardian or custodian refuses to consent to an abortion;

may petition, on her own behalf or by next friend, the juvenile court in the county in which the pregnant minor resides or in which the abortion is to be performed, for a waiver of the parental consent requirement under subsection (a) and the parental notification requirement under subsection (d). A next friend may not be a physician or provider of abortion services, representative of the physician or provider, or other person that may receive a direct financial benefit from the performance of an abortion.

(c) A physician who feels that compliance with the parental consent requirement in subsection (a) would have an adverse effect on the welfare of the pregnant minor or on her pregnancy may petition the juvenile court within twenty-four (24) hours of the abortion request for a waiver of the parental consent requirement under subsection (a) and

the parental notification requirement under subsection (d).

(d) Unless the juvenile court finds that it is in the best interests of an unemancipated pregnant minor to obtain an abortion without parental notification following a hearing on a petition filed under subsection (b) or (c), a parent, legal guardian, or custodian of a pregnant unemancipated minor is entitled to receive notice of the emancipated minor's intent to obtain an abortion before the abortion is performed on the unemancipated pregnant minor. The attorney representing the unemancipated pregnant minor shall serve the notice required by this subsection by certified mail or by personal service and provide the court with documentation of the attorney's good faith effort to serve the notice, including any return receipt for a certified mailing. The court shall retain the documentation provided in the confidential records of the waiver proceedings held under this section.

(e) The juvenile court must rule on a petition filed by a pregnant minor under subsection (b) or by her physician under subsection (c) within forty-eight (48) hours of the filing of the petition. Before ruling on the petition, the court shall consider the concerns expressed by the pregnant minor and her physician. The requirement of parental consent under this section shall be waived by the juvenile court if the court finds that the minor is mature enough to make the abortion decision independently or that an abortion would be in the minor's best interests. The juvenile court shall waive the requirement of parental notification under subsection (d) if the court finds that obtaining an abortion without parental notification is in the best interests of the unemancipated pregnant minor. If the juvenile court does not find that obtaining an abortion without parental notification is in the best interests of the unemancipated pregnant minor, the court shall, subject to an appeal under subsection (g), order the attorney representing the unemancipated pregnant minor to serve the notice required under subsection (d).

(f) Unless the juvenile court finds that the pregnant minor is already represented by an attorney, the juvenile court shall appoint an attorney to represent the pregnant minor in a waiver proceeding brought by the minor under subsection (b) and on any appeals. The cost of legal representation appointed for the minor under this section shall be paid by the county.

(g) A minor or the minor's physician who desires to appeal an adverse judgment of the juvenile court in a waiver proceeding under subsection (b) or (c) is entitled to an expedited appeal, under rules to be adopted by the supreme court.

(h) All records of the juvenile court and of the supreme court or the

court of appeals that are made as a result of proceedings conducted under this section are confidential.

(i) A minor who initiates legal proceedings under this section is exempt from the payment of filing fees.

(j) This section does not apply where there is an emergency need for a medical procedure to be performed to avert the pregnant minor's death or a substantial and irreversible impairment of a major bodily function of the pregnant minor, and the attending physician certifies this in writing.

(k) A physician receiving parental consent under subsection (a) shall execute an affidavit for inclusion in the unemancipated pregnant minor's medical record. The affidavit must contain the following information:

(1) The physician's name.

(2) Certification that, to the physician's best information and belief, a reasonable person under similar circumstances would rely on the information provided by the unemancipated pregnant minor and the unemancipated pregnant minor's parent or legal guardian or custodian as sufficient evidence of identity and relationship.

(3) The physician's signature.

(l) A person who, with intent to avoid the parental notification requirements described in subsection (a), falsely claims to be the parent or legal guardian or custodian of an unemancipated pregnant minor by:

(1) making a material misstatement while purportedly providing the written consent described in subsection (a)(1); or

(2) providing false or fraudulent identification to meet the requirement described in subsection (a)(2);

commits a Level 6 felony.

SECTION 7. IC 16-34-2-5, AS AMENDED BY P.L.205-2018, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. (a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion

inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

(1) The age of the patient.

(2) Whether a waiver of consent under section 4 of this chapter was obtained.

(3) Whether a waiver of notification under section 4 of this chapter was obtained.

(4) The date and location, **including the facility name and city or town, where the:**

(A) pregnant woman:

(i) provided consent; and

(ii) received all information;

required under section 1.1 of this chapter; and

(B) ~~the~~ abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.

(5) The health care provider's full name and address, including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.

(6) The city and county where the pregnancy termination occurred.

(7) The age of the father, or the approximate age of the father if the father's age is unknown.

(8) The patient's county and state of residence.

(9) The marital status of the patient.

(10) The educational level of the patient.

(11) The race of the patient.

(12) The ethnicity of the patient.

(13) The number of the patient's previous live births.

(14) The number of the patient's deceased children.

(15) The number of the patient's spontaneous pregnancy terminations.

(16) The number of the patient's previous induced terminations.

(17) The date of the patient's last menses.

(18) The physician's determination of the gestation of the fetus in weeks.

(19) Whether the patient indicated that the patient was seeking an abortion as a result of being:

(A) abused;

(B) coerced;

(C) harassed; or

(D) trafficked.

(20) The following information concerning the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug:

(A) The postfertilization age of the fetus (in weeks).

(B) The manner in which the postfertilization age was determined.

(C) The gender of the fetus, if detectable.

(D) Whether the fetus has been diagnosed with or has a potential diagnosis of having Down syndrome or any other disability.

(E) If after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the medical reason for the performance of the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug.

(21) For a surgical abortion, the medical procedure used for the abortion and, if the fetus was viable or had a postfertilization age of at least twenty (20) weeks:

(A) whether the procedure, in the reasonable judgment of the health care provider, gave the fetus the best opportunity to survive;

(B) the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman; and

(C) the name of the second doctor present, as required under IC 16-34-2-3(a)(3).

(22) For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.

(23) For a nonsurgical abortion, that the manufacturer's instructions were provided to the patient and that the patient signed the patient agreement.

(24) For an early pre-viability termination, the medical indication by diagnosis code for the fetus and the mother.

(25) The mother's obstetrical history, including dates of other abortions, if any.

(26) Any preexisting medical conditions of the patient that may complicate the abortion.

(27) The results of pathological examinations if performed.

(28) For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.

(29) Records of all maternal deaths occurring at the location where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.

(30) The date the form was transmitted to the state department and, if applicable, separately to the department of child services.

(b) The health care provider shall complete the form provided for in subsection (a) and shall transmit the completed form to the state department, in the manner specified on the form, within thirty (30) days after the date of each abortion. However, if an abortion is for a female who is less than sixteen (16) years of age, the health care provider shall transmit the form to the state department of health and separately to the department of child services within three (3) days after the abortion is performed.

(c) The dates supplied on the form may not be redacted for any reason before the form is transmitted as provided in this section.

(d) Each failure to complete or timely transmit a form, as required under this section, for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed, is a Class B misdemeanor.

(e) Not later than June 30 of each year, the state department shall compile a public report providing the following:

(1) Statistics for the previous calendar year from the information submitted under this section.

(2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar year that was submitted to the state department after the compilation of the statistics.

The state department shall ensure that no identifying information of a pregnant woman is contained in the report.

(f) The state department shall:

(1) summarize aggregate data from all data submitted under this section; and

(2) submit the data, before July 1 of each year, to the United States Centers for Disease Control and Prevention for its inclusion in the annual Vital Statistics Report.

SECTION 8. IC 16-34-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 5. Miscellaneous Provisions

Sec. 1. (a) The state department shall consider the results of an abortion clinic inspection when making a determination concerning the renewal of an abortion clinic license.

(b) The state department may not renew the license of an abortion clinic until any noncompliance discovered during the course of an inspection is remedied in a manner prescribed by the state department under 410 IAC 26-2-8.

Sec. 2. (a) During the course of an abortion clinic's annual inspection, the state department shall randomly select and review patient files to ensure compliance with inspection form requirements and IC 16-34-2-1.1(d). The number of files selected and reviewed under this subsection shall be consistent with applicable administrative state department provisions concerning patient file inspections.

(b) An abortion clinic's failure to comply with IC 16-34-2-1.1(d) shall constitute an inspection violation for purposes of section 1(b) of this chapter.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

SENATE ENROLLED ACT No. 201

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-30-5-1, AS AMENDED BY P.L.142-2020, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) A person who operates a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol per:

(1) one hundred (100) milliliters of the person's blood; or

(2) two hundred ten (210) liters of the person's breath;

commits a Class C misdemeanor.

(b) A person who operates a vehicle with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(1) one hundred (100) milliliters of the person's blood; or

(2) two hundred ten (210) liters of the person's breath;

commits a Class A misdemeanor.

(c) A person who operates a vehicle with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood commits a Class C misdemeanor.

(d) It is a defense to subsection (c) that:

(1) the accused person consumed the controlled substance in accordance with a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice; **or**

(2) the:

(A) controlled substance is marijuana or a metabolite of marijuana;

(B) person was not intoxicated;

(C) person did not cause a traffic accident; and

(D) substance was identified by means of a chemical test taken pursuant to IC 9-30-7.

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1115

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

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

SECTION 1. IC 1-1-5.5-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 23. (a) A section of IC 35-43-5, as amended and enacted during the 2021 regular session of the Indiana general assembly, does not affect:**

(1) penalties incurred;

(2) crimes committed; or

(3) proceedings begun;

before the effective date of that section of IC 35-43-5. Those penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if that section of IC 35-43-5 had not been amended or enacted.

(b) The general assembly does not intend the doctrine of amelioration (see Vicory v. State, 400 N.E.2d 1380 (Ind. 1980)) to apply to any section of IC 35-43-5, as amended or enacted during the 2021 regular session of the Indiana general assembly.

(c) The general assembly does not intend any section of IC 35-43-5, as amended or enacted during the 2021 regular session of the Indiana general assembly, to affect the:

(1) statutory or common law as it relates to insurance coverage or the construction of an insurance policy; or

(2) holding of Colonial Penn Ins. Co. v. Guzorek, 690 N.E.2d 664 (Ind. 1997).

SECTION 2. IC 5-2-1-9, AS AMENDED BY SEA 81-2021, SECTION 1, AND AS AMENDED BY HEA 1006-2021, SECTION 2, AND AS AMENDED BY HEA 1270-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness, including training on the U nonimmigrant visa created through the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) that must be required for each person accepted for training at a law enforcement training school or academy. Cultural diversity awareness study must include an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement

officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with autism, mental illness, addictive disorders, intellectual disabilities, and developmental disabilities;

(B) missing endangered adults (as defined in IC 12-7-2-131.3); and

(C) persons with Alzheimer's disease or related senile dementia;

to be provided by persons approved by the secretary of family and social services and the board. The training must include an overview of the crisis intervention teams.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(11) Minimum standards for ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims. This training must include instruction on:

(A) the neurobiology of trauma;

(B) trauma informed interviewing; and

(C) investigative techniques.

~~(11)~~ **(12)** Minimum standards for de-escalation training. De-escalation training shall be taught as a part of existing use-of-force training and not as a separate topic.

(b) A law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (m), (t), and (u), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(k).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in

subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, de-escalation training, interacting with individuals with autism, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) Subject to subsection (h), the board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers and police reserve officers (as described in IC 36-8-3-20). After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include de-escalation training. Inservice training must also include training in interacting with persons with mental illness, addictive disorders, intellectual disabilities, autism, developmental disabilities, and Alzheimer's disease or related senile dementia, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1). The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either an emergency situation or the unavailability of courses.

(h) This subsection applies only to a mandatory inservice training program under subsection (g). Notwithstanding subsection (g), the board may, without adopting rules under IC 4-22-2, modify the course work of a training subject matter, modify the number of hours of training required within a particular subject matter, or add a new subject matter, if the board satisfies the following requirements:

(1) The board must conduct at least two (2) public meetings on the proposed modification or addition.

(2) After approving the modification or addition at a public meeting, the board must post notice of the modification or addition on the Indiana law enforcement academy's Internet web site at least thirty (30) days before the modification or addition takes effect.

If the board does not satisfy the requirements of this subsection, the modification or addition is void. This subsection does not authorize the board to eliminate any inservice training subject matter required under subsection (g).

(i) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(j) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.
(4) Discipline.
(5) Department policy making.
(6) Lawful use of force and de-escalation training.
(7) Department programs.
(8) Emergency vehicle operation.
(9) Cultural diversity.

(k) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(l) A police chief who fails to comply with subsection (k) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (k), "police chief" refers to:

(1) the police chief of any city;
(2) the police chief of any town having a metropolitan police department; and
(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(m) A fire investigator in the department of homeland security appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(n) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;
(2) has not been employed as a law enforcement officer for:

(A) at least two (2) years; and

(B) less than six (6) years before the officer is hired under subdivision (1); and

(3) completed at any time a basic training course certified or recognized by the board before the officer is hired under subdivision (1).

(p) An officer to whom subsection (o) applies must successfully complete the refresher course described in subsection (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is appointed by an Indiana law enforcement department or agency as a reserve police officer; and

(2) has not worked as a reserve police officer for at least two (2) years after:

(A) completing the pre-basic course; or

(B) leaving the individual's last appointment as a reserve police officer.

An officer to whom this subsection applies must successfully complete the refresher course established by the board in order to work as a reserve police officer.

(r) This subsection applies to an individual who, at the time the individual completes a board certified or recognized basic training course, has not been appointed as a law enforcement officer by an Indiana law enforcement department or agency. If the individual is not employed as a law enforcement officer for at least two (2) years after completing the basic training course, the individual must successfully retake and complete the basic training course as set forth in subsection (d).

(s) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an individual who:

(1) is appointed as a board certified instructor of law enforcement training; and

(2) has not provided law enforcement training instruction for more than one (1) year after the date the individual's instructor certification expired.

An individual to whom this subsection applies must successfully complete the refresher course established by the board in order to

renew the individual's instructor certification.

(t) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(u) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(v) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(w) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course

described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

(x) This subsection applies only to the sexual assault training described in subsection (a)(11). The board shall:

(1) consult with experts on the neurobiology of trauma, trauma informed interviewing, and investigative techniques in developing the sexual assault training; and

(2) develop the sexual assault training and begin offering the training not later than July 1, 2022.

(y) After July 1, 2023, a law enforcement officer who regularly investigates sexual assaults involving adult victims must complete the training requirements described in subsection (a)(11) within one (1) year of being assigned to regularly investigate sexual assaults involving adult victims.

(z) A law enforcement officer who regularly investigates sexual assaults involving adult victims may complete the training requirements described in subsection (a)(11) by attending a:

(1) statewide or national training; or

(2) department hosted local training.

(aa) Notwithstanding any other provisions of this section, the board is authorized to establish certain required standards of training and procedure.

SECTION 3. IC 6-2.5-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. (a) Any person who:

(1) removes;

(2) alters;

(3) defaces; or

(4) covers;

a sign posted by the department that states that no retail transactions or sales can be made at a retail merchant's location commits a ~~Class B misdemeanor.~~ **Class C infraction.**

(b) A retail merchant shall notify the department of any violation of subsection (a) that occurs on the retail merchant's premises.

(c) A retail merchant who fails to give the notice required by subsection (b) within two (2) business days after the violation of subsection (a) occurs commits a ~~Class B misdemeanor.~~ **Class B infraction.**

SECTION 4. IC 9-30-6-6, AS AMENDED BY P.L.224-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) A physician, a person trained in retrieving

contraband or obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, or a licensed health care professional acting within the professional's scope of practice and under the direction of or under a protocol prepared by a physician, who:

(1) obtains a blood, urine, or other bodily substance sample from a person, regardless of whether the sample is taken for diagnostic purposes or at the request of a law enforcement officer under this section;

(2) performs a chemical test on blood, urine, or other bodily substance obtained from a person; or

(3) searches for or retrieves contraband from the body cavity of an individual;

shall deliver the sample or contraband or disclose the results of the test to a law enforcement officer who requests the sample, contraband, or results as a part of a criminal investigation. Samples, contraband, and test results shall be provided to a law enforcement officer even if the person has not consented to or otherwise authorized their release.

(b) A physician, a licensed health care professional, a hospital, or an agent of a physician or hospital is not civilly or criminally liable for any of the following:

(1) Disclosing test results in accordance with this section.

(2) Delivering contraband, or a blood, urine, or other bodily substance sample in accordance with this section.

(3) Searching for or retrieving contraband or obtaining a blood, urine, or other bodily substance sample in accordance with this section.

(4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of the person as to facts observed or opinions formed.

(5) Failing to treat a person from whom contraband is retrieved or a blood, urine, or other bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.

(6) Injury to a person arising from the performance of duties in good faith under this section. However, immunity does not apply if the physician, licensed health care professional, hospital, or agent of a physician or hospital acts with gross negligence or willful or wanton misconduct.

(c) For the purposes of a criminal proceeding:

(1) the privileges arising from a patient-physician relationship do not apply to the contraband, samples, test results, or testimony

described in this section; and

(2) contraband, samples, test results, and testimony may be admitted in a proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding that is not a criminal proceeding.

(e) The contraband, test results, and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test or to retrieve contraband.

(g) If the person:

(1) from whom the contraband is to be retrieved or the bodily substance sample is to be obtained under this section does not consent; and

(2) resists the retrieval of the contraband or the taking of a sample;

the law enforcement officer may use reasonable force to assist an individual, who must be authorized under this section to retrieve contraband or obtain a sample, in the retrieval of the contraband or the taking of the sample.

(h) The person authorized under this section to retrieve contraband or obtain a bodily substance sample shall take the sample or retrieve the contraband in a medically accepted manner.

(i) This subsection does not apply to contraband retrieved or a bodily substance sample taken at a licensed hospital (as defined in IC 16-18-2-179(a) and IC 16-18-2-179(b)). A law enforcement officer may transport the person to a place where the contraband may be retrieved or the sample may be obtained by any of the following persons who are trained in retrieving contraband or obtaining bodily substance samples and who have been engaged to retrieve contraband or obtain samples under this section:

(1) A physician holding an unlimited license to practice medicine or osteopathy.

(2) A registered nurse.

(3) A licensed practical nurse.

(4) An advanced emergency medical technician (as defined in IC 16-18-2-6.5).

(5) A paramedic (as defined in IC 16-18-2-266).

(6) Except as provided in subsections (j) through (k), any other person qualified through training, experience, or education to retrieve contraband or obtain a bodily substance sample.

(j) A law enforcement officer may not retrieve contraband or obtain a bodily substance sample under this section if the contraband is to be retrieved or the sample is to be obtained from another law enforcement officer as a result of the other law enforcement officer's involvement in an accident or alleged crime.

(k) A law enforcement officer who is otherwise qualified to obtain a bodily substance sample under this section may obtain a bodily substance sample from a person involved in an accident or alleged crime who is not a law enforcement officer only if:

(1) ~~before January 1, 2013,~~ the officer obtained a bodily substance sample from an individual as part of the officer's official duties as a law enforcement officer; and

(2) the:

(A) person consents to the officer obtaining a bodily substance sample; or

(B) obtaining of the bodily substance sample is authorized by a search warrant.

(l) A physician or a person trained in obtaining bodily samples who is acting under the direction of or under a protocol prepared by a physician shall obtain a blood sample if the following conditions are satisfied:

(1) A law enforcement officer requests that the sample be obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5-4, IC 9-30-5-5, IC 35-46-9-6(b)(2), or IC 35-46-9-6(c).

(B) That the offense resulting in a criminal investigation described in subsection (a) occurred not more than three (3) hours before the time the sample is requested.

(C) That exigent circumstances exist that create pressing health, safety, or law enforcement needs that would take priority over a warrant application.

(3) Not more than the use of reasonable force is necessary to obtain the sample.

SECTION 5. IC 11-8-5-2, AS AMENDED BY P.L.10-2019, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2021]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

(1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.

(2) Information relating to a pending investigation of alleged criminal activity or other misconduct.

(3) Information which, if disclosed, might result in physical harm to that person or other persons.

(4) Sources of information obtained only upon a promise of confidentiality.

(5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

(1) upon the order of a court;

(2) to employees of the department who need the information in the performance of their lawful duties;

(3) to other agencies in accord with IC 4-1-6-2(13) and IC 4-1-6-8.5;

(4) to the governor or the governor's designee;

(5) for research purposes in accord with IC 4-1-6-8.6(a);

(6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5;

(7) to a person who is or may be the victim of ~~inmate fraud (IC 35-43-5-20)~~ **fraud under IC 35-43-5-4(b)(6)** if the commissioner determines that the interest in disclosure overrides the interest to be served by nondisclosure; or

(8) if the commissioner determines there exists a compelling public interest for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

(1) A provider of sex offender management, treatment, or programming.

(2) A provider of mental health services.

(3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 6. IC 11-11-2-1, AS AMENDED BY P.L.81-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. As used in this chapter:

"Contraband" means property the possession of which is in violation of an Indiana or federal statute.

"Prohibited property" means property other than contraband that the department does not permit a confined person to possess. The term includes money in a confined person's account that was derived from ~~inmate fraud (IC 35-43-5-20).~~ **fraud under IC 35-43-5-4(b)(6).**

SECTION 7. IC 11-11-2-6, AS ADDED BY P.L.81-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) This section applies if the department has reasonable suspicion that money in a confined person's account was derived from the commission of ~~inmate fraud (IC 35-43-5-20).~~ **fraud under IC 35-43-5-4(b)(6).**

(b) If the department has reasonable suspicion that money in a confined person's account was derived from the commission of ~~inmate~~ fraud, the department may freeze all or a part of the confined person's account for not more than one hundred eighty (180) days while the department conducts an investigation to determine whether money in the confined person's account derives from ~~inmate~~ fraud. If the department freezes the account of a confined person under this subsection, the department shall notify the confined person in writing.

(c) If the department's investigation reveals that no money in the confined person's account was derived from ~~inmate~~ fraud, the department shall unfreeze the account at the conclusion of the investigation.

(d) If the department's investigation reveals that money in the confined person's account may have been derived from the commission of ~~inmate~~ fraud, the department shall notify the prosecuting attorney of the results of the department's investigation.

(e) If the prosecuting attorney charges the confined person with ~~inmate~~ fraud, the department shall freeze the confined person's account until the case reaches final judgment.

(f) If the prosecuting attorney does not charge the confined person

with ~~inmate~~ fraud, or if the confined person is acquitted of the charge of ~~inmate~~ fraud, the department shall unfreeze the confined person's account.

(g) If the confined person is convicted of ~~inmate~~ fraud, the department, in consultation with the prosecuting attorney, shall locate the money or property derived from ~~inmate~~ fraud and return it to the rightful owner.

(h) If, ninety (90) days after the date of a confined person's conviction for ~~inmate~~ fraud, the department has located the money or property derived from the commission of ~~inmate~~ fraud but is unable to return the money to the rightful owner, the department shall deposit the money in the violent crime victims compensation fund established by IC 5-2-6.1-40.

SECTION 8. IC 12-14-1-1, AS AMENDED BY P.L.161-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) Assistance under TANF shall be given to a dependent child who otherwise qualifies for assistance if the child is living in a family home of a person who is:

(1) at least eighteen (18) years of age; and

(2) the child's relative, including:

(A) the child's mother, father, stepmother, stepfather, grandmother, or grandfather; or

(B) a relative not listed in clause (A) who has custody of the child.

(b) A parent or relative and a dependent child of the parent or relative are not eligible for TANF assistance when the physical custody of the dependent child was obtained for the purpose of establishing TANF eligibility.

(c) Except as provided in IC 12-14-28-3.3, a person convicted of a felony under ~~IC 35-43-5-7~~ **IC 35-43-5 relating to public relief or assistance fraud** or IC 35-48-4 is not eligible to receive assistance under TANF for ten (10) years after the conviction.

(d) The assistance paid to a dependent child under this section may not be affected by the conviction of a parent or an essential person of the dependent child under subsection (c).

SECTION 9. IC 12-14-2-21, AS AMENDED BY P.L.160-2012, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 21. (a) A TANF recipient or the parent or essential person of a TANF recipient, if the TANF recipient is less than eighteen (18) years of age, must sign a personal responsibility agreement to do the following:

(1) Develop an individual self-sufficiency plan with other family

members and a caseworker.

(2) Accept any reasonable employment as soon as it becomes available.

(3) Agree to a loss of assistance, including TANF assistance under this article, if convicted of a felony under ~~IC 35-43-5-7 or IC 35-43-5-7.1~~ **IC 35-43-5 for fraud relating to Medicaid or public relief or assistance** for ten (10) years after the conviction.

(4) Subject to section 5.3 of this chapter, understand that additional TANF assistance under this article will not be available for a child born more than ten (10) months after the person qualifies for assistance.

(5) Accept responsibility for ensuring that each child of the person receives all appropriate vaccinations against disease at an appropriate age.

(6) If the person is less than eighteen (18) years of age and is a parent, live with the person's parents, legal guardian, or an adult relative other than a parent or legal guardian in order to receive public assistance.

(7) Subject to IC 12-8-1.5-11 and section 5.1 of this chapter, agree to accept assistance for not more than twenty-four (24) months under the TANF program (IC 12-14).

(8) Be available for and actively seek and maintain employment.

(9) Participate in any training program required by the division.

(10) Accept responsibility for ensuring that the person and each child of the person attend school until the person and each child of the person graduate from high school or attain a high school equivalency certificate (as defined in IC 12-14-5-2).

(11) Raise the person's children in a safe, secure home.

(12) Agree not to abuse illegal drugs or other substances that would interfere with the person's ability to attain self-sufficiency.

(b) Except as provided in subsection (c), assistance under the TANF program shall be withheld or denied to a person who does not fulfill the requirements of the personal responsibility agreement under subsection (a).

(c) A person who is granted an exemption under section 23 of this chapter may be excused from specific provisions of the personal responsibility agreement as determined by the director.

SECTION 10. IC 12-15-22-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1.5. In addition to any sanction imposed on a provider under section 1 of this chapter, a provider convicted of an offense under ~~IC 35-43-5-7.1~~ **IC 35-43-5 for fraud relating to Medicaid** is ineligible to participate in the Medicaid

program for ten (10) years after the conviction.

SECTION 11. IC 12-17.6-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. In addition to any sanction imposed on a provider under section 2 of this chapter, a provider convicted of an offense under ~~IC 35-43-5-7.2~~ **IC 35-43-5 relating to the program** is ineligible to participate in the program for ten (10) years after the conviction.

SECTION 12. IC 12-20-6-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 0.5. (a) As used in this section, "member of the applicant's household" includes any person who lives in the same residence as the applicant.

(b) The township trustee shall determine whether an applicant or a member of the applicant's household has been denied assistance under IC 12-14-1-1, IC 12-14-1-1.5, IC 12-14-2-5.1, IC 12-14-2-5.3, IC 12-14-2-18, IC 12-14-2-20, IC 12-14-2-21, IC 12-14-2-24, IC 12-14-2-26, IC 12-14-2.5, or IC 12-14-5.5.

(c) A township trustee has no obligation to extend aid to an applicant or to a member of an applicant's household who has been denied assistance as described in subsection (b).

(d) A township trustee shall not extend aid to an applicant or to a member of an applicant's household if the applicant or the member of the applicant's household has been convicted of an offense under ~~IC 35-43-5-7 or IC 35-43-5-7.1~~ **IC 35-43-5 concerning fraud relating to Medicaid or public relief or assistance** as follows:

(1) If the conviction is a misdemeanor, a township trustee shall not extend aid to the applicant or the member of the applicant's household for one (1) year after the conviction.

(2) If the conviction is a felony, a township trustee shall not extend aid to the applicant or the member of the applicant's household for ten (10) years after the conviction.

SECTION 13. IC 12-20-6-6.5, AS AMENDED BY P.L.73-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6.5. (a) If an individual has been convicted of an offense under ~~IC 35-43-5-7,~~ **IC 35-43-5 concerning fraud relating to public relief or assistance,** a township trustee may not extend aid to or for the benefit of that individual for the following periods:

(1) If the conviction is for a misdemeanor, for one (1) year after the conviction.

(2) If the conviction is for a felony, for ten (10) years after the conviction.

(b) If a township trustee finds that an individual has obtained township assistance from any township by means of conduct described

in ~~IC 35-43-5-7,~~ **IC 35-43-5,** the township trustee may refuse to extend aid to or for the benefit of that individual for sixty (60) days after the later of the:

(1) date of the improper conduct; or

(2) date aid was last extended to the individual based on the improper conduct.

SECTION 14. IC 13-25-2-10, AS AMENDED BY P.L.85-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) On or after January 1 and before March 1 of each year, a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act shall submit the following to the commission:

(1) A tier II emergency and hazardous chemical inventory form containing the information required by section 9 of this chapter.

(2) A fee in the amount established by section 10.4 of this chapter. This fee shall be deposited in the local emergency planning and right to know fund established in section 10.5 of this chapter.

The tier II inventory form must contain data with respect to the preceding calendar year, and the inventory form and the fee shall be submitted in the form and manner established by the commission.

(b) The commission shall make the tier II emergency and hazardous chemical inventory form information provided to the commission by a facility under subsection (a)(1) available to the following:

(1) The appropriate local emergency planning committee.

(2) The fire department that has jurisdiction over the facility.

(c) Upon the request of:

(1) a local emergency planning committee; or

(2) a fire department with jurisdiction over a facility;

the owner or operator of a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act shall provide the tier II emergency and hazardous chemical inventory form information to the person making the request. A request must be made with respect to a specific facility.

(d) A state or local official acting in the official's capacity may have access to information on the tier II emergency and hazardous chemical inventory forms by submitting a request to the commission or a local emergency planning committee. If the commission or the emergency

planning committee does not already possess the requested information, upon receipt of a request for tier II emergency and hazardous chemical inventory form information, the commission or committee shall request the facility owner or operator to provide the tier II emergency and hazardous chemical inventory form information. The commission or the local emergency planning committee shall make the information available to the official.

(e) A person may make a request to the commission or a local emergency planning committee for tier II emergency and hazardous chemical inventory form information relating to the preceding year with respect to a facility. The request must be in writing and must be made with respect to a specific facility.

(f) Any tier II emergency and hazardous chemical inventory form information that the commission or a local emergency planning committee possesses shall be made available to a person making a request under this section in accordance with section 14 of this chapter. If the commission or local emergency planning committee does not possess the tier II emergency and hazardous chemical inventory form information requested, the commission or local emergency planning committee shall request the facility owner or operator to:

(1) provide the tier II emergency and hazardous chemical inventory form information with respect to a hazardous chemical that a facility has stored in an amount of at least ten thousand (10,000) pounds present at the facility at any time during the preceding year; and

(2) make the information available in accordance with section 14 of this chapter;

to the person making the request.

(g) For tier II emergency and hazardous chemical inventory form information that is not in the possession of the commission or a local emergency planning committee with respect to a hazardous chemical that a facility has stored in an amount that is less than ten thousand (10,000) pounds at the facility at any time during the preceding year, a request from a person must include a statement specifying the general need for the information. The commission or local emergency planning committee may request the facility owner or operator for the tier II emergency and hazardous chemical inventory form information on behalf of the person making the request. Upon receipt of any information requested on behalf of the person, the commission or local emergency planning committee shall make the information available in accordance with section 14 of this chapter to the person.

(h) The commission or a local emergency planning committee shall

respond to a request for tier II emergency and hazardous chemical inventory form information under this section not later than seven (7) days after the date the request is received.

(i) The following provisions apply to the fee required by subsection (a)(2):

(1) A facility that is subject to the fee required by subsection (a)(2) that fails to pay the entire fee by March 1 of each year shall pay to the commission a late fee of twenty dollars ($20) in addition to the fee payable under subsection (a)(2). This late fee shall increase by twenty dollars ($20) for each month that the required fee is not paid. This late fee shall never exceed one hundred percent (100%) of the fee required by subsection (a)(2).

(2) If a payment is made by bank draft, check, cashier's check, electronic check, or money order, the liability is not finally discharged and the person has not paid the fee until the draft, check, or money order has been honored by the institution on which it is drawn. If the payment is made by credit card, debit card, charge card, or similar method, the liability is not finally discharged and the person has not paid the fee until the commission receives payment or credit from the institution responsible for making the payment or credit.

(3) If a financial institution reports that it dishonors or rejects a person's check, credit card payment, electronic funds transfer, or other form of payment, the commission shall assess and collect the fees and charges authorized in ~~IC 35-43-5-5(c),~~ **IC 35-43-5, if applicable,** in addition to the applicable late fee assessed under subdivision (1). If the person subject to the penalty under this subsection can show that there is reasonable cause for the payment not being honored, the commission may waive the fees and charges imposed under this subsection.

SECTION 15. IC 16-20-1-25, AS AMENDED BY P.L.292-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 25. (a) A person shall not institute, permit, or maintain any conditions that may transmit, generate, or promote disease.

(b) A health officer, upon receiving a complaint asserting the existence of unlawful conditions described in subsection (a) within the officer's jurisdiction, shall document the complaint as provided in subsection (d). Upon verifying the information contained in the complaint, the health officer shall order the abatement of those conditions. The order must:

(1) be in writing;

(2) specify the conditions that may transmit disease; and

(3) name the shortest reasonable time for abatement.

(c) If a person refuses or neglects to obey an order issued under this section, the attorney representing the county of the health jurisdiction where the offense occurs shall, upon receiving the information from the health officer, institute proceedings in the courts for enforcement. An order may be enforced by injunction. If the action concerning public health is a criminal offense, a law enforcement authority with jurisdiction over the place where the offense occurred shall be notified.

(d) A complaint made under subsection (b) must include adequate details to allow the health officer to verify the existence of the unlawful conditions that are the subject of the complaint. A health officer shall provide a copy of a complaint upon request to the person who is the subject of the complaint.

~~(c) A person who provides false information upon which a health officer relies in issuing an order under this section commits a Class C misdemeanor.~~

SECTION 16. IC 16-37-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) **This section does not apply to section 3 of this chapter.**

(b) Except as provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

~~(b)~~ **(c)** Each day a violation continues constitutes a separate offense.

SECTION 17. IC 16-42-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 9. (a) This section does not apply to an advertisement that:

(1) is disseminated only to members of the medical, dental, pharmaceutical, and other legally recognized professions dealing with the healing arts;

(2) appears only in the scientific periodicals of those professions; or

(3) is disseminated only for the purpose of public health education by persons not commercially interested in the sale of such drugs or devices.

(b) The advertisement of a drug or device that represents that the drug or device has any effect in:

albuminuria
appendicitis
arteriosclerosis
blood poison
bone disease
Bright's disease

carbuncles
cancer
cholecystitis
diabetes
diphtheria
dropsy
erysipelas
gallstones
heart and vascular diseases
high blood pressure
mastoiditis
measles
mumps
nephritis
otitis media
paralysis
pneumonia
poliomyelitis (infantile paralysis)
prostate gland disorders
pyelitis
scarlet fever
sexual impotence
sinus infection
smallpox
tuberculosis
tumors
typhoid
uremia
venereal disease
meningitis
is considered false for purposes of ~~IC 35-43-5-3.~~ **IC 35-43-5-4.**

(c) Whenever the state department determines that an advance in medical science has made a type of self medication safe as to any of the diseases listed in this section, the state department shall adopt rules to authorize the advertisement of drugs having curative or therapeutic effect for the disease, subject to conditions and restrictions the state department considers necessary in the interests of public health.

SECTION 18. IC 20-27-7-19, AS AMENDED BY P.L.231-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 19. A person who knowingly, intentionally, or recklessly violates this chapter commits a Class C ~~misdemeanor.~~ **infraction.**

SECTION 19. IC 20-28-5-8, AS AMENDED BY HEA 1564-2021, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

(1) The secretary of education.

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

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

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

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

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

(2) Criminal confinement (IC 35-42-3-3).

(3) Rape (IC 35-42-4-1).

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

(5) Child molesting (IC 35-42-4-3).

(6) ~~Child exploitation~~ **An offense under** IC 35-42-4-4(b) or IC 35-42-4-4(c).

(7) Vicarious sexual gratification (IC 35-42-4-5).

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

(9) Child seduction (IC 35-42-4-7).

(10) Sexual misconduct with a minor (IC 35-42-4-9).

(11) Incest (IC 35-46-1-3).

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

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

(14) Manufacturing methamphetamine (IC 35-48-4-1.2).

(15) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
(16) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
(17) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(18) Dealing in a counterfeit substance (IC 35-48-4-5).
(19) Dealing in marijuana, hash oil, hashish, or salvia as a felony (IC 35-48-4-10).
(20) An offense under IC 35-48-4 involving the manufacture or sale of a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).
(21) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
(22) Homicide (IC 35-42-1).
(23) Voluntary manslaughter (IC 35-42-1-3).
(24) Reckless homicide (IC 35-42-1-5).
(25) Battery as any of the following:
(A) A Class A felony (for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014).
(B) A Class B felony (for a crime committed before July 1, 2014) or a Level 3 felony (for a crime committed after June 30, 2014).
(C) A Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014).
(26) Aggravated battery (IC 35-42-2-1.5).
(27) Robbery (IC 35-42-5-1).
(28) Carjacking (IC 35-42-5-2) (before its repeal).
(29) Arson as a Class A felony or Class B felony (for a crime committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-43-1-1(a)).
(30) Burglary as a Class A felony or Class B felony (for a crime committed before July 1, 2014) or as a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-43-2-1).

(31) Human trafficking (IC 35-42-3.5).

(32) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).

(33) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(34) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(d) The department shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony listed in subsection (c).

(e) A license may be suspended by the secretary of education as specified in IC 20-28-7.5.

(f) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

(g) Upon receipt of information from the office of judicial administration in accordance with IC 33-24-6-3 concerning persons convicted of an offense listed in subsection (c), the department shall:

(1) cross check the information received from the office of judicial administration with information concerning licensed teachers (as defined in IC 20-18-2-22(b)) maintained by the department; and

(2) if a licensed teacher (as defined in IC 20-18-2-22(b)) has been convicted of an offense described in subsection (c), revoke the licensed teacher's license.

SECTION 20. IC 20-33-2-44, AS AMENDED BY P.L.32-2019, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 44. (a) This section does not apply to section **18 or** 47 of this chapter.

(b) Except as otherwise provided, a person who knowingly violates this chapter commits a Class B misdemeanor.

SECTION 21. IC 24-5-14.5-11 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 11. A person who knowingly violates this chapter commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous unrelated conviction under this chapter.~~

SECTION 22. IC 24-5-26-1, AS AMENDED BY P.L.142-2020, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. As used in this chapter, "identity theft" means:

(1) identity deception (IC 35-43-5-3.5); or

(2) synthetic identity deception (IC 35-43-5-3.8) **(before its**

repeal).

SECTION 23. IC 24-5-26-2, AS ADDED BY P.L.137-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. A person shall not do any of the following in the conduct of trade or commerce:

(1) Deny credit or public utility service to or reduce the credit limit of a consumer solely because the consumer was a victim of identity theft, if the person had prior knowledge that the consumer was a victim of identity deception or synthetic identity deception **(before its repeal).** A consumer is presumed to be a victim of identity theft for purposes of this subdivision if the consumer provides to the person:

(A) a copy of a police report evidencing the claim of the victim of identity theft; and

(B) either:

(i) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission under 15 U.S.C. 1681g; or

(ii) an affidavit of fact that is acceptable to the person for that purpose.

This subdivision does not prohibit denial of credit or public utility service if a consumer has placed a security freeze on the consumer's consumer report and does not wish to temporarily lift the freeze for purposes of the credit or public utility service request or application.

(2) Solicit to extend credit to a consumer who does not have an existing line of credit, or has not had or applied for a line of credit within the preceding year, through the use of an unsolicited check that includes personal identifying information other than the recipient's name, address, and a partial, encoded, or truncated personal identifying number. In addition to any other penalty or remedy under this chapter or under IC 24-5-0.5, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for the amount of the instrument if the instrument is used by an unauthorized user and for any fees assessed to the consumer if the instrument is dishonored.

(3) Solicit to extend credit to a consumer who does not have a current credit card, or has not had or applied for a credit card within the preceding year, through the use of an unsolicited credit card sent to the consumer. In addition to any other penalty or remedy under this chapter or under IC 24-5-0.5, a credit card

issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for any charges if the credit card is used by an unauthorized user and for any interest or finance charges assessed to the consumer.

(4) Extend credit to a consumer without exercising reasonable procedures to verify the identity of that consumer. Compliance with regulations issued for depository institutions, and to be issued for other financial institutions, by the United States Department of Treasury under Section 326 of the USA PATRIOT Act, 31 U.S.C. 5318, is considered compliance with this subdivision. This subdivision does not apply to a purchase of a credit obligation in an acquisition, a merger, a purchase of assets, or an assumption of liabilities or any change to or review of an existing credit account.

SECTION 24. IC 27-2-16-3, AS AMENDED BY P.L.181-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) All preprinted claim forms provided by an insurer to a claimant that are required as a condition of payment of a claim must contain a statement that clearly states in substance the following:

"A person who knowingly and with intent to defraud an insurer files a statement of claim containing any false, incomplete, or misleading information commits a felony.".

(b) The lack of a statement required under subsection (a) does not constitute a defense against a prosecution under ~~IC 35-43-5-4.5.~~ **IC 35-43-5.**

SECTION 25. IC 27-8-17-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. A provider of record, an enrollee, or the agent of a provider of record or an enrollee who provides fraudulent or misleading information is subject to appropriate administrative, civil, and criminal penalties, including ~~the penalty for deception under IC 35-43-5-3.~~ **criminal penalties under IC 35-43-5.**

SECTION 26. IC 32-37-1-1, AS AMENDED BY P.L.181-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. This article does not apply to the following:

(1) A contract between a performing rights society and:

(A) a broadcaster licensed by the Federal Communications Commission;

(B) a cable television operator or programmer; or

(C) another transmission service.

(2) An investigation by a law enforcement agency.

(3) An investigation by a law enforcement agency or other person concerning a suspected violation of IC 24-4-10-4, IC 35-43-4-2, or ~~IC 35-43-5-4(10).~~ **IC 35-43-5-4 relating to a recording that does not conspicuously display the true name and manufacturer of the recording.**

SECTION 27. IC 33-23-8-4, AS AMENDED BY P.L.142-2020, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. If a practitioner: ~~is convicted under IC 35-43-5-4.5 of insurance fraud,~~

(1) violates IC 35-43-5-4.7 (insurance fraud); or

(2) is convicted under IC 35-43-5-4 of an offense that relates to insurance (including an attempt or a conspiracy);

the sentencing court shall provide notice of the conviction to each governmental body that has issued a license to the practitioner.

SECTION 28. IC 34-24-1-1, AS AMENDED BY P.L.142-2020, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

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

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

(iii) Manufacturing methamphetamine (IC 35-48-4-1.2).

(iv) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(v) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(vi) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vii) Dealing in a counterfeit substance (IC 35-48-4-5).

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

(ix) Possession of methamphetamine (IC 35-48-4-6.1).

(x) Dealing in paraphernalia (IC 35-48-4-8.5).

(xi) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(xii) An offense under IC 35-48-4 involving a synthetic drug

(as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

(D) A bomb (as defined in IC 35-31.5-2-31) or weapon of mass destruction (as defined in IC 35-31.5-2-354) used to commit, used in an attempt to commit, or used in a conspiracy to commit a felony terrorist offense (as defined in IC 35-50-2-18) or an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-31.5-2-329).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit a felony terrorist offense (as defined in IC 35-50-2-18) or an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), dealing in a controlled substance resulting in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of

the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:

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

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

(C) Manufacturing methamphetamine (IC 35-48-4-1.2).

(D) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(E) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(F) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(G) Dealing in a synthetic drug (as defined in IC 35-31.5-2-321) or synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019).

(H) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).

(6) Equipment and recordings used by a person to commit fraud under ~~IC 35-43-5-4(10).~~ **IC 35-43-5.**

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an

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

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

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

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

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(B) on a highway while the person's driving privileges are suspended in violation of IC 9-24-19-2 through IC 9-24-19-3, if in the previous five (5) years the person has two (2) or more prior unrelated convictions for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5.

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

(16) The following real or personal property:

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

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

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

~~(18)~~ **(17)** Real or personal property, including a vehicle, that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking) or IC 35-45-4-4 (promoting prostitution).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in death).

(2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(3) IC 35-48-4-1.1 (dealing in methamphetamine).

(4) IC 35-48-4-1.2 (manufacturing methamphetamine).

(5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(7) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.

(8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.

(9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.

(10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.

(11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

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

(1) an owner of the vehicle; or

(2) the spouse of the person who owns the vehicle;

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

SECTION 29. IC 34-30-2-150.2 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 150.2. IC 35-43-5-5 (Concerning the payee or holder of a check, draft, or order that gives notice that the check, draft, or order was not paid by the credit institution).~~

SECTION 30. IC 35-31.5-2-34 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 34. "Card skimming device", for purposes of IC 35-43-5-4.3, has the meaning set forth in IC 35-43-5-4.3(a).~~

SECTION 31. IC 35-31.5-2-132.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 132.5. "Financial institution":**

(1) has the meaning set forth in IC 28-1-1-3(1); and

(2) includes any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the laws of this state, any other state, or the United States.

SECTION 32. IC 35-31.5-2-135, AS AMENDED BY P.L.158-2013, SECTION 371, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 135. "Firefighter", for purposes of **IC 35-44.1-3 and** IC 35-44.1-4, has the meaning set forth in IC 35-44.1-4-3.

SECTION 33. IC 35-31.5-2-170 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 170. "Inmate", for purposes of IC 35-43-5-20, has the meaning set forth in IC 35-43-5-20(a).~~

SECTION 34. IC 35-31.5-2-312 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 312. "State or federally chartered or federally insured financial institution", for purposes of IC 35-43-5-8, has the meaning set forth in IC 35-43-5-8(b).~~

SECTION 35. IC 35-31.5-2-322 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 322. "Synthetic identifying information", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(r).~~

SECTION 36. IC 35-31.5-2-344, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 344. "Utility", for purposes of IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(s).~~ **IC 35-43-5-1.**

SECTION 37. IC 35-31.5-2-356, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 356. "Written instrument", for purposes of IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(t).~~ **IC 35-43-5-1.**

SECTION 38. IC 35-32-2-6, AS AMENDED BY P.L.137-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) Subject to subsection (b), a person who commits the offense of identity deception or synthetic identity deception **(before its repeal)** may be tried in a county in which:

(1) the victim resides; or

(2) the person:

(A) obtains;

(B) possesses;

(C) transfers; or

(D) uses;

the information used to commit the offense.

(b) If:

(1) a person is charged with more than one (1) offense of identity deception or synthetic identity deception **(before its repeal),** or if a person is charged with both identity deception and synthetic identity deception **(before its repeal);** and

(2) either:

(A) the victims of the crimes reside in more than one (1) county; or

(B) the person performs an act described in subsection (a)(2) in more than one (1) county;

the person may be tried in any county described in subdivision (2).

SECTION 39. IC 35-33-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. The court may detain, for a maximum period of fifteen (15) calendar days, a person charged with any offense who comes before it for a bail determination, if the person is on probation, ~~or~~ parole, **or other community supervision.** During the fifteen (15) day period, the prosecuting attorney shall notify the appropriate parole, ~~or~~ probation, **or other community supervision** authority. If that authority fails to initiate probation or parole revocation proceedings during the fifteen (15) day period, the person shall be treated in accordance with the other sections of this chapter.

SECTION 40. IC 35-37-4-6, AS AMENDED BY P.L.142-2020, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person

under subsection (c)(1) or (c)(2):

(1) Sex crimes (IC 35-42-4).

(2) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.

(3) Kidnapping and confinement (IC 35-42-3).

(4) Incest (IC 35-46-1-3).

(5) Neglect of a dependent (IC 35-46-1-4).

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

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).

(2) A sex crime (IC 35-42-4).

(3) A battery offense included in IC 35-42-2.

(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).

(5) Home improvement fraud (IC 35-43-6).

(6) Fraud (IC 35-43-5).

(7) Identity deception (IC 35-43-5-3.5).

(8) Synthetic identity deception (IC 35-43-5-3.8) **(before its repeal).**

(9) Theft (IC 35-43-4-2).

(10) Conversion (IC 35-43-4-3).

(11) Neglect of a dependent (IC 35-46-1-4).

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

(c) As used in this section, "protected person" means:

(1) a child who is less than fourteen (14) years of age;

(2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(A) is manifested before the individual is eighteen (18) years of age;

(B) is likely to continue indefinitely;

(C) constitutes a substantial impairment of the individual's ability to function normally in society; and

(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or

(3) an individual who is:

(A) at least eighteen (18) years of age; and

(B) incapable by reason of mental illness, intellectual

disability, dementia, or other physical or mental incapacity of:

(i) managing or directing the management of the individual's property; or

(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:

(1) is made by a person who at the time of trial is a protected person;

(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and

(3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:

(A) conducted outside the presence of the jury; and

(B) attended by the protected person in person or by using closed circuit television testimony as described in section 8(f) and 8(g) of this chapter;

that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was

available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 41. IC 35-40-14-1, AS AMENDED BY P.L.142-2020, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. As used in this chapter, "identity theft" means:

(1) identity deception (IC 35-43-5-3.5); or

(2) synthetic identity deception (IC 35-43-5-3.8) **(before its repeal).**

SECTION 42. IC 35-41-1-1, AS AMENDED BY P.L.137-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) As used in this section, "Indiana" includes:

(1) the area within the boundaries of the state of Indiana, as set forth in Article 14, Section 1 of the Constitution of the State of Indiana;

(2) the portion of the Ohio River on which Indiana possesses concurrent jurisdiction with the state of Kentucky under Article 14, Section 2 of the Constitution of the State of Indiana; and

(3) the portion of the Wabash River on which Indiana possesses

concurrent jurisdiction with the state of Illinois under Article 14, Section 2 of the Constitution of the State of Indiana.

(b) A person may be convicted under Indiana law of an offense if:

(1) either the conduct that is an element of the offense, the result that is an element, or both, occur in Indiana;

(2) conduct occurring outside Indiana is sufficient under Indiana law to constitute an attempt to commit an offense in Indiana;

(3) conduct occurring outside Indiana is sufficient under Indiana law to constitute a conspiracy to commit an offense in Indiana, and an overt act in furtherance of the conspiracy occurs in Indiana;

(4) conduct occurring in Indiana establishes complicity in the commission of, or an attempt or conspiracy to commit, an offense in another jurisdiction that also is an offense under Indiana law;

(5) the offense consists of the omission to perform a duty imposed by Indiana law with respect to domicile, residence, or a relationship to a person, thing, or transaction in Indiana;

(6) conduct that is an element of the offense or the result of conduct that is an element of the offense, or both, involve the use of the Internet or another computer network (as defined in IC 35-43-2-3) and access to the Internet or other computer network occurs in Indiana; or

(7) conduct:

(A) involves the use of:

(i) the Internet or another computer network (as defined in IC 35-43-2-3); or

(ii) another form of electronic communication;

(B) occurs outside Indiana and the victim of the offense resides in Indiana at the time of the offense; and

(C) is sufficient under Indiana law to constitute an offense in Indiana.

(c) When the offense is homicide, either the death of the victim or bodily impact causing death constitutes a result under subsection (b)(1). If the body of a homicide victim is found in Indiana, it is presumed that the result occurred in Indiana.

(d) If the offense is identity deception or synthetic identity deception **(before its repeal),** the lack of the victim's consent constitutes conduct that is an element of the offense under subsection (b)(1). If a victim of identity deception or synthetic identity deception **(before its repeal)** resides in Indiana when a person knowingly or intentionally obtains, possesses, transfers, or uses the victim's identifying information, it is presumed that the conduct that is the lack of the victim's consent

occurred in Indiana.

SECTION 43. IC 35-43-5-1, AS AMENDED BY P.L.43-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or electronically, including the following:

(1) An account.
(2) A bill for services.
(3) A bill of lading.
(4) A claim.
(5) A diagnosis.
(6) An estimate of property damages.
(7) A hospital record.
(8) An invoice.
(9) A notice.
(10) A proof of loss.
(11) A receipt for payment.
(12) A physician's records.
(13) A prescription.
(14) A statement.
(15) A test result.
(16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

(1) to receive a coin, bill, or token made for that purpose; and
(2) in return for the insertion or deposit of a coin, bill, or token automatically:
    (A) to offer, provide, or assist in providing; or
    (B) to permit the acquisition of;

some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Drug or alcohol screening test" means a test that:

(1) is used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance; and

(2) is:

(A) administered in the course of monitoring a person who is:

(i) incarcerated in a prison or jail;

(ii) placed in a community corrections program;

(iii) on probation or parole;

(iv) participating in a court ordered alcohol or drug treatment program; or

(v) on court ordered pretrial release; or

(B) ordered by a court as part of a civil action.

(h) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(i) "Identifying information" means information, **genuine or fabricated,** that identifies **or purports to identify** a person, including: ~~a person's:~~

(1) **a** name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including ~~the person's~~ **a** fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(j) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-1-27).

(3) A written agreement entered into under IC 27-1-25.

(k) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term also includes the following:

(1) A reinsurer.

(2) A purported insurer or reinsurer.

(3) A broker.

(4) An agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker.

(5) A health maintenance organization.

(6) A limited service health maintenance organization.

(l) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(m) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(n) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(o) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes township assistance, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(p) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(q) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(r) ~~"Synthetic identifying information" means identifying information that identifies:~~

~~(1) a false or fictitious person;~~

~~(2) a person other than the person who is using the information; or~~

~~(3) a combination of persons described under subdivisions (1) and (2).~~

~~(s)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

~~(t)~~ **(s)** "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 44. IC 35-43-5-2, AS AMENDED BY P.L.197-2015, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A person who knowingly or intentionally:

(1) makes or utters a written instrument in such a manner that it purports to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority;

commits counterfeiting, a Level 6 felony.

~~(b) A person who, with intent to defraud:~~

~~(1) makes or delivers to another person:~~

~~(A) a false sales receipt;~~

~~(B) a duplicate of a sales receipt; or~~

~~(C) a label or other item with a false universal product code (UPC) or other product identification code; or~~

~~(2) places a false universal product code (UPC) or another product identification code on property displayed or offered for sale;~~

~~commits making or delivering a false sales document, a Level 6 felony.~~

~~(c) A person who, with intent to defraud, possesses:~~

~~(1) a retail sales receipt;~~

~~(2) a label or other item with a universal product code (UPC); or~~

~~(3) a label or other item that contains a product identification code that applies to an item other than the item to which the label or other item applies;~~

~~commits possession of a fraudulent sales document, a Class A misdemeanor. However, the offense is a Level 6 felony if the person possesses at least fifteen (15) retail sales receipts, at least fifteen (15) labels containing a universal product code (UPC), at least fifteen (15) labels containing another product identification code, or at least fifteen (15) of any combination of the items described in subdivisions (1) through (3).~~

~~(d)~~ **(b)** A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made:

(1) by another person;

(2) at another time;

(3) with different provisions; or

(4) by authority of one who did not give authority;

commits forgery, a Level 6 felony.

~~(e) This subsection applies to a person who applies for a driver's license (as defined in IC 9-13-2-48), a state identification card (as described in IC 9-24-16), or a photo exempt identification card (as described in IC 9-24-16.5). A person who:~~

~~(1) knowingly or intentionally uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license, a state identification card, or a photo exempt identification card or for a renewal or a duplicate of a driver's license, a state identification card, or a photo exempt identification card; or~~

~~(2) knowingly or intentionally makes a false statement or conceals a material fact in an application for a driver's license, a state identification card, or a photo exempt identification card;~~

~~commits application fraud, a Level 6 felony.~~

SECTION 45. IC 35-43-5-3 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 3. (a) A person who:~~

~~(1) being an officer, manager, or other person participating in the direction of a credit institution, knowingly or intentionally receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent;~~

~~(2) knowingly or intentionally makes a false or misleading written statement with intent to obtain property, employment, or an educational opportunity;~~

~~(3) misapplies entrusted property, property of a governmental~~

~~entity, or property of a credit institution in a manner that the person knows is unlawful or that the person knows involves substantial risk of loss or detriment to either the owner of the property or to a person for whose benefit the property was entrusted;~~

~~(4) knowingly or intentionally, in the regular course of business, either:~~

~~(A) uses or possesses for use a false weight or measure or other device for falsely determining or recording the quality or quantity of any commodity; or~~

~~(B) sells, offers, or displays for sale or delivers less than the represented quality or quantity of any commodity;~~

~~(5) with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service, avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service;~~

~~(6) with intent to defraud, misrepresents the identity of the person or another person or the identity or quality of property;~~

~~(7) with intent to defraud an owner of a coin machine, deposits a slug in that machine;~~

~~(8) with intent to enable the person or another person to deposit a slug in a coin machine, makes, possesses, or disposes of a slug;~~

~~(9) disseminates to the public an advertisement that the person knows is false, misleading, or deceptive, with intent to promote the purchase or sale of property or the acceptance of employment;~~

~~(10) with intent to defraud, misrepresents a person as being a physician licensed under IC 25-22.5;~~

~~(11) knowingly and intentionally defrauds another person furnishing cable TV service by avoiding paying compensation for that service by any scheme or device or by tampering with facilities or equipment of the person furnishing the service; or~~

~~(12) knowingly or intentionally provides false information to a governmental entity to obtain a contract from the governmental entity;~~

~~commits deception, a Class A misdemeanor, except as provided in subsection (b).~~

~~(b) An offense under:~~

~~(1) subsection (a)(12) is a Level 6 felony if the provision of false information results in financial loss to the governmental entity; and~~

~~(2) subsection (a)(6) is a Level 6 felony if the misrepresentation~~

relates to:

(A) a medical procedure, medical device, or drug; and

(B) human reproductive material (as defined in IC 34-24-5-1).

(c) In determining whether an advertisement is false, misleading, or deceptive under subsection (a)(9), there shall be considered, among other things, not only representations contained or suggested in the advertisement, by whatever means, including device or sound, but also the extent to which the advertisement fails to reveal material facts in the light of the representations.

(d) A person who knowingly or intentionally falsely represents:

(1) any entity as:

(A) a disadvantaged business enterprise (as defined in IC 5-16-6.5-1); or

(B) a women-owned business enterprise (as defined in IC 5-16-6.5-3);

in order to qualify for certification as such an enterprise under a program conducted by a public agency (as defined in IC 5-16-6.5-2) designed to assist disadvantaged business enterprises or women-owned business enterprises in obtaining contracts with public agencies for the provision of goods and services; or

(2) an entity with which the person will subcontract all or part of a contract with a public agency (as defined in IC 5-16-6.5-2) as:

(A) a disadvantaged business enterprise (as defined in IC 5-16-6.5-1); or

(B) a women-owned business enterprise (as defined in IC 5-16-6.5-3);

in order to qualify for certification as an eligible bidder under a program that is conducted by a public agency designed to assist disadvantaged business enterprises or women-owned business enterprises in obtaining contracts with public agencies for the provision of goods and services;

commits a Level 6 felony.

SECTION 46. IC 35-43-5-3.5, AS AMENDED BY P.L.158-2013, SECTION 471, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3.5. (a) Except as provided in subsection (c), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person, including the identifying information of a person who is deceased:

(1) without the other person's consent; and

(2) with intent to:

~~(A) harm or defraud another person;~~

~~(B) assume another person's identity; or~~

~~(C) profess to be another person;~~

a person who, with intent to harm or defraud another person, knowingly or intentionally obtains, possesses, transfers, or uses identifying information to profess to be another person, commits identity deception, a Level 6 felony.

(b) However, the offense defined in subsection (a) is a Level 5 felony if:

(1) a person obtains, possesses, transfers, or uses the identifying information of more than one hundred (100) persons;

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars ($50,000); or

(3) a person obtains, possesses, transfers, or uses the identifying information of a person who is less than eighteen (18) years of age and is:

(A) the person's son or daughter;

(B) a dependent of the person;

(C) a ward of the person; or

(D) an individual for whom the person is a guardian.

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses ~~the~~ identifying information ~~of another person~~ to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);

(2) a minor (as defined in IC 35-49-1-4) who uses ~~the~~ identifying information ~~of another person~~ to acquire:

(A) a cigarette, an electronic cigarette (as defined in IC 35-46-1-1.5), or a tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor; or

(3) any person who uses ~~the~~ identifying information for a lawful purpose.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

SECTION 47. IC 35-43-5-3.8 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 3.8. (a) A person who knowingly or intentionally obtains,~~

possesses, transfers, or uses the synthetic identifying information:

(1) with intent to harm or defraud another person;

(2) with intent to assume another person's identity; or

(3) with intent to profess to be another person;

commits synthetic identity deception, a Level 6 felony.

(b) The offense under subsection (a) is a Level 5 felony if:

(1) a person obtains, possesses, transfers, or uses the synthetic identifying information of more than one hundred (100) persons; or

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars ($50,000).

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the synthetic identifying information of another person to acquire:

(A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or

(B) a cigarette, e-liquid, or tobacco product (as defined in IC 6-7-2-5); or

(2) a minor (as defined in IC 35-49-1-4) who uses the synthetic identifying information of another person to acquire:

(A) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(B) admittance to a performance (live or on film) that prohibits the attendance of the minor based on age; or

(C) an item that is prohibited by law for use or consumption by a minor.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

SECTION 48. IC 35-43-5-4, AS AMENDED BY P.L.158-2013, SECTION 474, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. A person who:

(1) with intent to defraud, obtains property by:

(A) using a credit card, knowing that the credit card was unlawfully obtained or retained;

(B) using a credit card, knowing that the credit card is forged, revoked, or expired;

(C) using, without consent, a credit card that was issued to another person;

(D) representing, without the consent of the credit card holder, that the person is the authorized holder of the credit card; or

(E) representing that the person is the authorized holder of a credit card when the card has not in fact been issued;

~~(2) being authorized by an issuer to furnish property upon presentation of a credit card, fails to furnish the property and, with intent to defraud the issuer or the credit card holder, represents in writing to the issuer that the person has furnished the property;~~

~~(3) being authorized by an issuer to furnish property upon presentation of a credit card, furnishes, with intent to defraud the issuer or the credit card holder, property upon presentation of a credit card, knowing that the credit card was unlawfully obtained or retained or that the credit card is forged, revoked, or expired;~~

~~(4) not being the issuer, knowingly or intentionally sells a credit card;~~

~~(5) not being the issuer, receives a credit card, knowing that the credit card was unlawfully obtained or retained or that the credit card is forged, revoked, or expired;~~

~~(6) with intent to defraud, receives a credit card as security for debt;~~

~~(7) receives property, knowing that the property was obtained in violation of subdivision (1) of this section;~~

~~(8) with intent to defraud the person's creditor or purchaser, conceals, encumbers, or transfers property;~~

~~(9) with intent to defraud, damages property; or~~

~~(10) knowingly or intentionally:~~

~~(A) sells;~~

~~(B) rents;~~

~~(C) transports; or~~

~~(D) possesses;~~

~~a recording for commercial gain or personal financial gain that does not conspicuously display the true name and address of the manufacturer of the recording;~~

~~commits fraud, a Level 6 felony.~~

(a) A person who:

(1) with the intent to obtain property or data, or an educational, governmental, or employment benefit to which the person is not entitled, knowingly or intentionally:

(A) makes a false or misleading statement; or

(B) creates a false impression in another person;

(2) with the intent to cause another person to obtain property, knowingly or intentionally:

(A) makes a false or misleading statement;

(B) creates a false impression in a third person; or

(C) causes to be presented a claim that:

(i) contains a false or misleading statement; or

(ii) creates a false or misleading impression in a third person;

(3) possesses, manufactures, uses, or alters a document, instrument, computer program, or device with the intent to obtain:

(A) property;

(B) data; or

(C) an educational, governmental, or employment benefit;

to which the person is not entitled; or

(4) knowingly or intentionally engages in a scheme or artifice to commit an offense described in subdivisions (1) through (3);

commits fraud, a Class A misdemeanor except as otherwise provided in this section.

(b) The offense described in subsection (a) is a Level 6 felony if one (1) or more of the following apply:

(1) The offense is committed not later than seven (7) years from the date the person:

(A) was convicted of a prior unrelated conviction for an offense under this article; or

(B) was released from a term of incarceration, probation, or parole (whichever occurred last) imposed for a prior unrelated conviction for an offense under this article;

whichever occurred last.

(2) The pecuniary loss is at least seven hundred fifty dollars ($750) but less than fifty thousand dollars ($50,000).

(3) The victim is:

(A) an endangered adult (as defined in IC 12-10-3-2(a)); or

(B) less than eighteen (18) years of age.

(4) The person makes a false or misleading statement representing an entity as:

(A) a disadvantaged business enterprise (as defined in IC 5-16-6.5-1); or

(B) a women-owned business enterprise (as defined in IC 5-16-6.5-3);

in order to qualify for certification as such an enterprise under a program conducted by a public agency (as defined in IC 5-16-6.5-2) designed to assist disadvantaged business enterprises or women-owned business enterprises in obtaining contracts with public agencies for the provision of goods and services.

(5) The person makes a false or misleading statement

representing an entity with which the person will subcontract all or part of a contract with a public agency (as defined in IC 5-16-6.5-2) as:

(A) a disadvantaged business enterprise (as defined in IC 5-16-6.5-1); or

(B) a women-owned business enterprise (as defined in IC 5-16-6.5-3);

in order to qualify for certification as an eligible bidder under a program that is conducted by a public agency designed to assist disadvantaged business enterprises or women-owned business enterprises in obtaining contracts with public agencies for the provision of goods and services.

(6) The offense is committed by a person who is confined in:

(A) the department of correction;

(B) a county jail; or

(C) a secure juvenile facility.

(7) The document or instrument that the person possesses, manufactures, uses, or alters is a document or instrument:

(A) issued by a public servant or a governmental entity;

(B) that has been manufactured or altered to appear to have been issued by a public servant or a governmental entity; or

(C) that the person tendered to, or intends to tender to a public servant or a governmental entity.

(8) Except as provided in subsection (d), the person:

(A) made the false or misleading statement; or

(B) created the false impression in another person;

on or by means of a document or written instrument.

(9) The agreement is unconscionable.

(10) The offense involves human reproductive material (as defined in IC 34-24-5-1).

(c) The offense described in subsection (a) is a Level 5 felony if one (1) or more of the following apply:

(1) The pecuniary loss is at least fifty thousand dollars ($50,000) and less than one hundred thousand dollars ($100,000).

(2) The pecuniary loss is at least seven hundred fifty dollars ($750) and the victim is:

(A) an endangered adult (as defined in IC 12-10-3-2(a)); or

(B) less than eighteen (18) years of age.

(3) The victim was a financial institution.

(d) The offense described in subsection (b)(9) is a Class A

misdemeanor if the defendant proves by a preponderance of the evidence that the:

(1) value of the property, data, or benefit intended to be obtained; and

(2) actual pecuniary loss;

is less than seven hundred fifty dollars ($750).

SECTION 49. IC 35-43-5-4.3 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 4.3. (a) As used in this section, "card skimming device" means a device that is designed to read information encoded on a credit card. The term includes a device designed to read, record, or transmit information encoded on a credit card:~~

~~(1) directly from a credit card; or~~

~~(2) from another device that reads information directly from a credit card.~~

~~(b) A person who possesses a card skimming device with intent to commit:~~

~~(1) identity deception (IC 35-43-5-3.5);~~

~~(2) synthetic identity deception (IC 35-43-5-3.8);~~

~~(3) fraud (IC 35-43-5-4); or~~

~~(4) terroristic deception (IC 35-46.5-2-4) (or IC 35-43-5-3.6 before its repeal);~~

~~commits unlawful possession of a card skimming device. Unlawful possession of a card skimming device under subdivision (1), (2), or (3) is a Level 6 felony. Unlawful possession of a card skimming device under subdivision (4) is a Level 5 felony.~~

SECTION 50. IC 35-43-5-4.5 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 4.5. (a) A person who, knowingly and with intent to defraud:~~

~~(1) makes, utters, presents, or causes to be presented to an insurer or an insurance claimant, a claim statement that contains false, incomplete, or misleading information concerning the claim;~~

~~(2) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, an oral, a written, or an electronic statement that the person knows to contain materially false information as part of, in support of, or concerning a fact that is material to:~~

~~(A) the rating of an insurance policy;~~

~~(B) a claim for payment or benefit under an insurance policy;~~

~~(C) premiums paid on an insurance policy;~~

~~(D) payments made in accordance with the terms of an insurance policy;~~

~~(E) an application for a certificate of authority;~~

(F) the financial condition of an insurer; or

(G) the acquisition of an insurer;

or conceals any information concerning a subject set forth in clauses (A) through (G);

(3) solicits or accepts new or renewal insurance risks by or for an insolvent insurer or other entity regulated under IC 27;

(4) removes:

(A) the assets;

(B) the record of assets, transactions, and affairs; or

(C) a material part of the assets or the record of assets, transactions, and affairs;

of an insurer or another entity regulated under IC 27, from the home office, other place of business, or place of safekeeping of the insurer or other regulated entity, or conceals or attempts to conceal from the department of insurance assets or records referred to in clauses (A) through (B); or

(5) diverts funds of an insurer or another person in connection with:

(A) the transaction of insurance or reinsurance;

(B) the conduct of business activities by an insurer or another entity regulated under IC 27; or

(C) the formation, acquisition, or dissolution of an insurer or another entity regulated under IC 27;

commits insurance fraud. Except as provided in subsection (b), insurance fraud is a Level 6 felony.

(b) An offense described in subsection (a) is a Level 5 felony if:

(1) the person who commits the offense has a prior unrelated conviction under this section; or

(2) the:

(A) value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense; or

(B) economic loss suffered by another person as a result of the offense;

is at least two thousand five hundred dollars ($2,500).

(c) A person who knowingly and with intent to defraud makes a material misstatement in support of an application for the issuance of an insurance policy commits insurance application fraud, a Class A misdemeanor.

SECTION 51. IC 35-43-5-4.6 IS REPEALED [EFFECTIVE JULY 1, 2021]. See. 4.6. (a) The following definitions apply throughout this section:

~~(1) "Automated sales suppression device" means a software program:~~

~~(A) carried on a memory stick or removable compact disc;~~

~~(B) accessed through an Internet link; or~~

~~(C) accessed through any other means;~~

~~that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and transaction reports.~~

~~(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or a computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.~~

~~(3) "Phantom-ware" means a hidden, a pre-installed, or an installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:~~

~~(A) can be used to create a virtual second till; or~~

~~(B) may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.~~

~~(4) "Transaction data" includes information regarding:~~

~~(A) items purchased by a customer;~~

~~(B) the price for each item;~~

~~(C) a taxability determination for each item;~~

~~(D) a segregated tax amount for each of the taxed items;~~

~~(E) the amount of cash or credit tendered;~~

~~(F) the net amount returned to the customer in change;~~

~~(G) the date and time of the purchase;~~

~~(H) the name, address, and identification number of the vendor; and~~

~~(I) the receipt or invoice number of the transaction.~~

~~(5) "Transaction report" means:~~

~~(A) a report that includes:~~

~~(i) the sales;~~

~~(ii) taxes collected;~~

~~(iii) media totals; and~~

~~(iv) discount voids;~~

~~at an electronic cash register that is printed on cash register tape at the end of a day or shift; or~~

~~(B) a report documenting every action at an electronic cash~~

~~register that is stored electronically.~~

~~(6) "Zapper" refers to an automated sales suppression device.~~

~~(b) A person who knowingly or intentionally sells, purchases, installs, transfers, or possesses:~~

~~(1) an automated sales suppression device or a zapper; or~~

~~(2) phantom-ware;~~

~~after June 30, 2013, commits unlawful sale or possession of a transaction manipulation device, a Level 5 felony.~~

SECTION 52. IC 35-43-5-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 4.7. (a) A person who, knowingly or intentionally:**

(1) solicits or accepts new or renewal insurance risks by or for an insolvent insurer or other entity regulated under IC 27;

(2) removes:

(A) the assets;

(B) the record of assets, transactions, and affairs; or

(C) a material part of the assets or the record of assets, transactions, and affairs;

of an insurer or another entity regulated under IC 27, from the home office, other place of business, or place of safekeeping of the insurer or other regulated entity, or conceals or attempts to conceal from the department of insurance assets or records referred to in clauses (A) through (B); or

(3) diverts funds of an insurer or another person in connection with:

(A) the transaction of insurance or reinsurance;

(B) the conduct of business activities by an insurer or another entity regulated under IC 27; or

(C) the formation, acquisition, or dissolution of an insurer or another entity regulated under IC 27;

commits insurance fraud, a Class A infraction.

(b) Notwithstanding IC 34-28-5-4, a judgment of up to one hundred thousand dollars ($100,000) may be entered for a violation of this section. In determining the amount of the judgment, the court shall consider:

(1) whether the person who commits the violation has a prior unrelated judgment under this section or conviction under this article;

(2) the:

(A) value of property, services, or other benefits obtained

or attempted to be obtained by the person as a result of the violation;

(B) economic loss suffered by another person as a result of the violation; and

(C) risk and magnitude of economic loss to another person which could have resulted as a consequence of the violation; and

(3) whether the judgment imposed is proportional to the gravity of the offense.

SECTION 53. IC 35-43-5-5 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 5. (a) A person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is:~~

~~(1) a Level 6 felony if the amount of the check, draft, or order is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000); and~~

~~(2) a Level 5 felony if the amount of the check, draft, or order is at least fifty thousand dollars ($50,000).~~

~~(b) An unpaid and dishonored check, a draft, or an order that has the drawee's refusal to pay and reason printed, stamped, or written on or attached to it constitutes prima facie evidence:~~

~~(1) that due presentment of it was made to the drawee for payment and dishonor thereof; and~~

~~(2) that it properly was dishonored for the reason stated.~~

~~(c) The fact that a person issued or delivered a check, a draft, or an order, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check, draft, or order would not be paid or honored.~~

~~(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, draft, or order if at the time of its acceptance they are obtained and recorded, either on the check, draft, or order itself or on file, by the payee:~~

~~(1) Name and residence, business, or mailing address of the maker.~~

~~(2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the~~

maker.

(c) It is a defense under subsection (a) if a person who:

(1) has an account with a credit institution but does not have sufficient funds in that account; and

(2) issues or delivers a check, a draft, or an order for payment on that credit institution;

pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty-seven dollars and fifty cents ($27.50) or five percent (5%) (but not more than two hundred fifty dollars ($250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check, draft, or order has not been paid by the credit institution. Notice sent in the manner set forth in IC 26-2-7-3 constitutes notice to the person that the check, draft, or order has not been paid by the credit institution. The payee or holder of a check, draft, or order that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.

(f) A person does not commit a crime under subsection (a) when:

(1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check, draft, or order is postdated; or

(2) insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.

SECTION 54. IC 35-43-5-6 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 6. (a) A customer who utilizes any device or scheme to avoid being assessed for the full amount of services received from a utility or a cable TV service provider commits a Class B infraction.

(b) Evidence that a customer's metering device has been altered, removed, or bypassed without the knowledge of or notification to the utility is prima facie evidence that the customer has utilized a device or scheme to avoid being assessed for the full amount of services received from the utility.

(c) Evidence that access to services of a utility or a cable TV service provider has been obtained without authority from the utility or the cable TV service provider constitutes prima facie evidence that the person benefiting from the access has utilized a device or scheme to avoid being assessed for the full amount of services received from the utility or the cable TV service provider.

SECTION 55. IC 35-43-5-6.5 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 6.5. (a) A person who manufactures, distributes, sells,

~~leases, or offers for sale or lease:~~

~~(1) a device; or~~

~~(2) a kit of parts to construct a device;~~

~~designed in whole or in part to intercept, unscramble, or decode a transmission by a cable television system with the intent that the device or kit be used to obtain cable television system services without full payment to the cable television system commits a Level 6 felony.~~

~~(b) The sale or distribution by a person of:~~

~~(1) any device; or~~

~~(2) a kit of parts to construct a device;~~

~~described in subsection (a) constitutes prima facie evidence of a violation of subsection (a) if, before or at the time of sale or distribution, the person advertised or indicated that the device or the assembled kit will enable a person to receive cable television system service without making full payment to the cable television system.~~

SECTION 56. IC 35-43-5-7 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 7. (a) A person who knowingly or intentionally:~~

~~(1) obtains public relief or assistance by means of impersonation, fictitious transfer, false or misleading oral or written statement, fraudulent conveyance, or other fraudulent means;~~

~~(2) acquires, possesses, uses, transfers, sells, trades, issues, or disposes of:~~

~~(A) an authorization document to obtain public relief or assistance; or~~

~~(B) public relief or assistance;~~

~~except as authorized by law;~~

~~(3) uses, transfers, acquires, issues, or possesses a blank or incomplete authorization document to participate in public relief or assistance programs, except as authorized by law;~~

~~(4) counterfeits or alters an authorization document to receive public relief or assistance, or knowingly uses, transfers, acquires, or possesses a counterfeit or altered authorization document to receive public relief or assistance; or~~

~~(5) conceals information for the purpose of receiving public relief or assistance to which he is not entitled;~~

~~commits welfare fraud, a Class A misdemeanor, except as provided in subsection (b).~~

~~(b) The offense is:~~

~~(1) a Level 6 felony if the amount of public relief or assistance involved is more than seven hundred fifty dollars ($750) but less than fifty thousand dollars ($50,000); and~~

~~(2) a Level 5 felony if the amount of public relief or assistance~~

involved is at least fifty thousand dollars ($50,000).

(c) Whenever a person is convicted of welfare fraud under this section, the clerk of the sentencing court shall certify to the appropriate state agency and the appropriate agency of the county of the defendant's residence:

(1) the defendant's conviction; and

(2) whether the defendant is placed on probation and restitution is ordered under IC 35-38-2.

SECTION 57. IC 35-43-5-7.1 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 7.1. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

(1) makes, utters, presents, or causes to be presented to the Medicaid program under IC 12-15 a Medicaid claim that contains materially false or misleading information concerning the claim;

(2) obtains payment from the Medicaid program under IC 12-15 by means of a false or misleading oral or written statement or other fraudulent means;

(3) acquires a provider number under the Medicaid program except as authorized by law;

(4) alters with the intent to defraud or falsifies documents or records of a provider (as defined in 42 CFR 1000.30) that are required to be kept under the Medicaid program; or

(5) conceals information for the purpose of applying for or receiving unauthorized payments from the Medicaid program;

commits Medicaid fraud, a Class A misdemeanor.

(b) The offense described in subsection (a) is:

(1) a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000); and

(2) a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars ($50,000).

SECTION 58. IC 35-43-5-7.2 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 7.2. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

(1) files a children's health insurance program claim, including an electronic claim, in violation of IC 12-17.6;

(2) obtains payment from the children's health insurance program under IC 12-17.6 by means of a false or misleading oral or written statement or other fraudulent means;

(3) acquires a provider number under the children's health insurance program except as authorized by law;

(4) alters with intent to defraud or falsifies documents or records

of a provider (as defined in 42 CFR 400.203) that are required to be kept under the children's health insurance program; or

(5) conceals information for the purpose of applying for or receiving unauthorized payments from the children's health insurance program;

commits insurance fraud, a Class A misdemeanor.

(b) The offense described in subsection (a) is:

(1) a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000); and

(2) a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars ($50,000).

SECTION 59. IC 35-43-5-8 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 8. (a) A person who knowingly executes, or attempts to execute, a scheme or artifice:

(1) to defraud a state or federally chartered or federally insured financial institution; or

(2) to obtain any of the money, funds, credits, assets, securities, or other property owned by or under the custody or control of a state or federally chartered or federally insured financial institution by means of false or fraudulent pretenses, representations, or promises;

commits a Level 5 felony.

(b) As used in this section, the term "state or federally chartered or federally insured financial institution" means:

(1) an institution with accounts insured by the Federal Deposit Insurance Corporation;

(2) a credit union with accounts insured by the National Credit Union Administration Board;

(3) a federal home loan bank or a member, as defined in Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in effect on December 31, 1990, of the Federal Home Loan Bank System; or

(4) a bank, banking association, land bank, intermediate credit bank, bank for cooperatives, production credit association, land bank association, mortgage association, trust company, savings bank, or other banking or financial institution organized or operating under the laws of the United States or of the state.

The term does not include a lender licensed under IC 24-4.5.

SECTION 60. IC 35-43-5-12 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 12. (a) As used in this section, "financial institution" refers to a state or federally chartered bank, savings bank, savings

association, or credit union.

(b) A person who knowingly or intentionally obtains property, through a scheme or artifice, with intent to defraud:

(1) by issuing or delivering a check, a draft, an electronic debit, or an order on a financial institution:

(A) knowing that the check, draft, order, or electronic debit will not be paid or honored by the financial institution upon presentment in the usual course of business;

(B) using false or altered evidence of identity or residence;

(C) using a false or an altered account number; or

(D) using a false or an altered check, draft, order or electronic instrument;

(2) by:

(A) depositing the minimum initial deposit required to open an account; and

(B) either making no additional deposits or making insufficient additional deposits to insure debits to the account; or

(3) by opening accounts with more than one (1) financial institution in either a consecutive or concurrent time period;

commits check fraud, a Class A misdemeanor.

(c) However, an offense under subsection (b) is:

(1) a Level 6 felony if the aggregate amount of property obtained is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000); and

(2) a Level 5 felony if the aggregate amount of the property obtained is at least fifty thousand dollars ($50,000).

SECTION 61. IC 35-43-5-15 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 15. A person who, with intent to defraud, possesses a device to make retail sales receipts, universal product codes (UPC), or other product identification codes, commits possession of a fraudulent sales document manufacturing device, a Class A misdemeanor.

SECTION 62. IC 35-43-5-16 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 16. A person who, with intent to defraud:

(1) makes or puts a false universal product code (UPC) or another product identification code on property displayed or offered for sale; or

(2) makes a false sales receipt;

commits making a false sales document, a Level 6 felony.

SECTION 63. IC 35-43-5-20 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 20. (a) As used in this section, "inmate" means a person who is confined in:

(1) the custody of:

(A) the department of correction; or

(B) a sheriff;

(2) a county jail; or

(3) a secure juvenile facility.

(b) An inmate who:

(1) is a pretrial detainee; and

(2) with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:

(A) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or

(B) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;

commits inmate fraud, a Level 6 felony.

(c) An inmate:

(1) who is incarcerated because the inmate has been:

(A) convicted of an offense; or

(B) adjudicated a delinquent; and

(2) who, with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:

(A) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or

(B) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;

commits inmate fraud, a Level 5 felony.

SECTION 64. IC 35-43-5-21 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 21. (a) A person who, with intent to avoid the obligation to obtain worker's compensation coverage as required by IC 22-3-5-1 and IC 22-3-7-34, falsely classifies an employee as one (1) of the following commits worker's compensation fraud:

(1) An independent contractor.

(2) A sole proprietor.

(3) An owner.

(4) A partner.

(5) An officer.

(6) A member in a limited liability company.

(b) The offense described in subsection (a) is a Class A misdemeanor.

SECTION 65. IC 35-43-5-22 IS REPEALED [EFFECTIVE JULY

1, 2021]. ~~Sec. 22. A person who, with the intent to obtain money, property, or another benefit, knowingly or intentionally:~~

~~(1) fraudulently represents himself or herself to be an active member or veteran of:~~

~~(A) the United States Air Force;~~

~~(B) the United States Army;~~

~~(C) the United States Coast Guard;~~

~~(D) the United States Marines;~~

~~(E) the United States National Guard;~~

~~(F) the United States Navy; or~~

~~(G) a reserve component of the armed forces of the United States;~~

~~(2) uses a falsified military identification; or~~

~~(3) fraudulently represents himself or herself to be a recipient of the:~~

~~(A) Congressional Medal of Honor;~~

~~(B) Distinguished Service Cross;~~

~~(C) Navy Cross;~~

~~(D) Air Force Cross;~~

~~(E) Silver Star;~~

~~(F) Purple Heart;~~

~~(G) Combat Infantryman Badge;~~

~~(H) Combat Action Badge;~~

~~(I) Combat Medical Badge;~~

~~(J) Combat Action Ribbon; or~~

~~(K) Air Force Combat Action Medal;~~

~~commits stolen valor, a Class A misdemeanor.~~

SECTION 66. IC 35-43-6-12 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 12. (a) A home improvement supplier who enters into a home improvement contract and knowingly:~~

~~(1) misrepresents a material fact relating to:~~

~~(A) the terms of the home improvement contract; or~~

~~(B) a preexisting or existing condition of any part of the property involved, including a misrepresentation concerning the threat of:~~

~~(i) fire; or~~

~~(ii) structural damage;~~

~~if the property is not repaired;~~

~~(2) creates or confirms a consumer's impression that is false and that the home improvement supplier does not believe to be true;~~

~~(3) promises performance that the home improvement supplier does not intend to perform or knows will not be performed;~~

(4) uses or employs any deception, false pretense, or false promise to cause a consumer to enter into a home improvement contract;

(5) enters into an unconscionable home improvement contract with a home improvement contract price of four thousand dollars ($4,000) or more, but less than seven thousand dollars ($7,000);

(6) misrepresents or conceals the home improvement supplier's:

(A) real name;

(B) business name;

(C) physical or mailing business address; or

(D) telephone number;

(7) upon request by the consumer, fails to provide the consumer with any copy of a written warranty or guarantee that states:

(A) the length of the warranty or guarantee;

(B) the home improvement that is covered by the warranty or guarantee; or

(C) how the consumer could make a claim for a repair under the warranty or guarantee;

(8) uses a product in a home improvement that has been diluted, modified, or altered in a manner that would void the manufacturer's warranty of the product without disclosing to the consumer the reasons for the dilution, modification, or alteration and that the manufacturer's warranty may be compromised; or

(9) falsely claims to a consumer that the home improvement supplier:

(A) was referred to the consumer by a contractor who previously worked for the consumer;

(B) is licensed, certified, or insured; or

(C) has obtained all necessary permits or licenses before starting a home improvement;

commits home improvement fraud, a Class B misdemeanor, except as provided in section 13 of this chapter.

(b) A home improvement supplier who, with the intent to enter into a home improvement contract, knowingly:

(1) damages the property of a consumer;

(2) does work on the property of a consumer without the consumer's prior authorization;

(3) misrepresents that the supplier or another person is an employee or agent of the federal government, the state, a political subdivision of the state, or any other governmental agency or entity; or

(4) misrepresents that the supplier or another person is an employee or agent of any public or private utility;

~~commits a Class A misdemeanor, except as provided in section 13(b) of this chapter.~~

SECTION 67. IC 35-43-6-13 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 13. (a) The offense in section 12(a) of this chapter is a Class A misdemeanor:~~

~~(1) in the case of an offense under section 12(a)(1) through 12(a)(4) of this chapter or section 12(a)(6) through 12(a)(9) of this chapter, if the home improvement contract price is one thousand dollars ($1,000) or more;~~

~~(2) for the second or subsequent offense under this chapter;~~

~~(3) if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars ($1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention; or~~

~~(4) if, in a violation of section 12(a)(5) of this chapter, the home improvement contract price is at least seven thousand dollars ($7,000), but less than ten thousand dollars ($10,000).~~

~~(b) The offense in section 12 of this chapter is a Level 6 felony:~~

~~(1) if, in a violation of section 12(a)(5) of this chapter, the home improvement contract price is at least ten thousand dollars ($10,000);~~

~~(2) if, in a violation of:~~

~~(A) section 12(a)(1) through 12(a)(5); or~~

~~(B) section 12(a)(7) through 12(a)(9);~~

~~of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is less than ten thousand dollars ($10,000);~~

~~(3) if, in a violation of section 12(b) of this chapter, the consumer is at least sixty (60) years of age; or~~

~~(4) if the home improvement supplier violates more than one (1) subdivision of section 12(a) of this chapter.~~

~~(c) The offense in section 12(a) of this chapter is a Level 5 felony:~~

~~(1) if, in a violation of:~~

~~(A) section 12(a)(1) through 12(a)(5); or~~

~~(B) section 12(a)(7) through 12(a)(9);~~

~~of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is at least ten thousand dollars ($10,000); or~~

~~(2) if, in a violation of:~~

~~(A) section 12(a)(1) through 12(a)(4); or~~

~~(B) section 12(a)(7) through 12(a)(9);~~

of this chapter, the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars ($1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.

SECTION 68. IC 35-43-6-14 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 14. For the purposes of section 13 of this chapter, it is not a defense to home improvement fraud committed against a consumer who is at least sixty (60) years of age that the supplier reasonably believed the consumer to be an individual less than sixty (60) years of age.

SECTION 69. IC 35-43-6.5-1 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 1. (a) A person that sells or offers for sale a vehicle, a vehicle part, or a watercraft knowing that an identification number or certificate of title of the vehicle, vehicle part, or watercraft has been:

(1) destroyed;

(2) removed;

(3) altered;

(4) covered; or

(5) defaced;

commits a Class A misdemeanor. However, the offense is a Level 6 felony if the aggregate fair market value of all vehicles, vehicle parts, and watercraft sold or offered for sale is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000), and a Level 5 felony if the aggregate fair market value of all vehicles, vehicle parts, and watercraft sold or offered for sale is at least fifty thousand dollars ($50,000).

(b) Subsection (c) does not apply to a person that manufactures or installs a plate or label containing an original identification number:

(1) in a program authorized by a manufacturer of motor vehicles or motor vehicle parts; or

(2) as authorized by the bureau under IC 9-17-4.

(c) A person that knowingly or intentionally possesses a plate or label that:

(1) contains an identification number; and

(2) is not attached to the motor vehicle or motor vehicle part to which the identification number was assigned by the manufacturer or governmental entity;

commits a Class A misdemeanor, except as provided in subsection (d).

(d) The offense described in subsection (c) is a:

(1) Level 6 felony if:

(A) the person possesses more than one (1) plate or label and the plates or labels are not attached to a motor vehicle or motor vehicle part; or

(B) the aggregate fair market value of all plates and labels, and of all motor vehicles and motor vehicle parts to which the plates or labels are wrongfully attached, is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000); and

(2) Level 5 felony if the aggregate fair market value of all plates or labels, and of all motor vehicles and motor vehicle parts to which the plate or label is wrongfully attached, is at least fifty thousand dollars ($50,000).

(c) A person that knowingly:

(1) damages;

(2) removes; or

(3) alters;

an original or special identification number commits a Level 6 felony.

(f) A person who counterfeits or falsely reproduces a certificate of title for a motor vehicle, semitrailer, or recreational vehicle with intent to:

(1) use the certificate of title; or

(2) permit another person to use the certificate of title;

commits a Class A misdemeanor. However, the offense is a Level 6 felony if the aggregate fair market value of all motor vehicles, semitrailers, and recreational vehicles for which the person counterfeits or falsely reproduces a certificate of title is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000), and a Level 5 felony if the aggregate fair market value of all motor vehicles, semitrailers, and recreational vehicles for which the person counterfeits or falsely reproduces a certificate of title is at least fifty thousand dollars ($50,000).

SECTION 70. IC 35-43-6.5-2 IS REPEALED [EFFECTIVE JULY 1, 2021]. Sec. 2. (a) A person who, with the intent to defraud:

(1) advertises for sale;

(2) sells;

(3) uses; or

(4) installs;

any device that causes an odometer to register mileage other than the mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance commits a Level 6 felony.

(b) A person who, with the intent to defraud:

(1) disconnects, resets, or alters the odometer of any motor

~~vehicle with intent to change the number of miles or kilometers indicated on the odometer; or~~

~~(2) sells a motor vehicle that has a broken odometer or an odometer that is not displaying correct mileage of the vehicle;~~

~~commits a Level 6 felony.~~

SECTION 71. IC 35-43-9-7 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 7. (a) An officer, a director, or an employee of a title insurer, an individual associated with the title insurer as an independent contractor, or a title insurance agent who knowingly or intentionally:~~

~~(1) converts or misappropriates money received or held in a title insurance escrow account; or~~

~~(2) receives or conspires to receive money described in subdivision (1);~~

~~commits a Level 6 felony, except as provided in subsection (b).~~

~~(b) The offense is:~~

~~(1) a Level 5 felony if the amount of money:~~

~~(A) converted, misappropriated, or received; or~~

~~(B) for which there is a conspiracy;~~

~~is more than ten thousand dollars ($10,000) but less than one hundred thousand dollars ($100,000); and~~

~~(2) a Level 4 felony if the amount of money:~~

~~(A) converted, misappropriated, or received; or~~

~~(B) for which there is a conspiracy;~~

~~is at least one hundred thousand dollars ($100,000).~~

SECTION 72. IC 35-43-9-8 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 8. The court shall direct the clerk of court to notify the Indiana department of insurance about a conviction of an offense under section 7 of this chapter.~~

SECTION 73. IC 35-43-9-9 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 9. In addition to any sentence or fine imposed for a conviction of an offense in section 7 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime pursuant to IC 35-50-5-3.~~

SECTION 74. IC 35-44.1-2-2, AS AMENDED BY P.L.252-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A person who:

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

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

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

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

(2) knowingly or intentionally in ~~an official criminal~~ **a legal** proceeding or **an administrative or criminal** investigation:

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

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

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

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

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

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

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

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

(1) offers, gives, or promises any benefit to;

(2) communicates a threat as defined by IC 35-45-2-1(c) to; or

(3) intimidates, unlawfully influences, or unlawfully persuades;

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

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

(1) the commission of a crime involving domestic or family

violence under IC 35-31.5-2-76 involving a family or household member under IC 35-31.5-2-128;

(2) the commission of a crime of domestic violence under IC 35-31.5-2-78 involving a family or household member under IC 35-31.5-2-128; or

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

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

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

(2) a person who, as:

(A) an attorney;

(B) a physician;

(C) a member of the clergy; or

(D) a husband or wife;

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

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

(1) an attorney;

(2) an investigator;

(3) a law enforcement officer; or

(4) a judge;

engaged in that person's professional or official duties.

SECTION 75. IC 35-44.1-2-3, AS AMENDED BY P.L.142-2020, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.

(c) A person who reports ~~by telephone, telegraph, mail, or other written or oral communication,~~ that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false, commits false reporting, a Level 6 felony.

(d) A person who:

(1) gives:

(A) a false report of the commission of a crime; or

(B) ~~gives~~ false information ~~in the official investigation of~~ **to a law enforcement officer that relates to** the commission of a crime;

knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false;

(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or missing endangered adult (as defined in IC 12-7-2-131.3) or gives false information ~~in the official investigation of~~ **to a law enforcement officer or a governmental entity that relates to** a missing child or missing endangered adult knowing the report or information to be false;

(5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3(b)) that employs the officer:

(A) alleging the officer engaged in misconduct while performing the officer's duties; and

(B) knowing the complaint to be false;

(6) makes a false report of a missing person, knowing the report or information is false;

(7) gives a false report of actions, behavior, or conditions concerning:

(A) a septic tank soil absorption system under IC 8-1-2-125 or IC 13-26-5-2.5; or

(B) a septic tank soil absorption system or constructed wetland septic system under IC 36-9-23-30.1;

knowing the report or information to be false; or

(8) makes a false report that a person is dangerous (as defined in IC 35-47-14-1) knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to another person.

SECTION 76. IC 35-44.1-2-13, AS AMENDED BY P.L.188-2015, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. (a) Except as provided in subsection (b), a person who, with the intent to obstruct vehicular or pedestrian traffic, obstructs vehicular or pedestrian traffic commits

obstruction of traffic, a Class B misdemeanor.

(b) The offense described in subsection (a) is:

(1) a Class A misdemeanor if the offense includes the use of a motor vehicle; ~~and~~

(2) a Level 6 felony if:

(A) the offense results in serious bodily injury;

(B) the person blocks an authorized emergency vehicle (as defined in IC 9-13-2-6) while the vehicle is:

(i) responding to an emergency call;

(ii) in the pursuit of an actual or suspected violator of the law; or

(iii) responding to, but not returning from, a fire alarm;

if the vehicle is using visible or audible signals as required by law; or

(C) the person obstructs the entryway to a facility that provides emergency medical services; and

(3) a Level 5 felony if the offense results in catastrophic bodily injury or death.

(c) A person who unreasonably obstructs vehicular or pedestrian traffic commits a Class C infraction.

(d) It is a defense to an action under subsection (c) that the obstruction was caused by a vehicle malfunction.

SECTION 77. IC 35-44.1-3-1, AS AMENDED BY HEA 1097-2021, SECTION 1, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (c).

(b) A person who, having been denied entry by **a firefighter,** an emergency medical services provider, or a law enforcement officer, knowingly or intentionally enters an area that is marked off with barrier

tape or other physical barriers, commits interfering with public safety, a Class B misdemeanor, except as provided in subsection (c) or (k).

(c) The offense under subsection (a) or (b) is a:

(1) Level 6 felony if:

(A) the person uses a vehicle to commit the offense; or

(B) while committing the offense, the person:

(i) draws or uses a deadly weapon;

(ii) inflicts bodily injury on or otherwise causes bodily injury to another person; or

(iii) operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Level 5 felony if:

(A) while committing the offense, the person operates a vehicle in a manner that causes serious bodily injury to another person; or

(B) the person uses a vehicle to commit the offense and the person has a prior unrelated conviction under this section involving the use of a vehicle in the commission of the offense;

(3) Level 3 felony if, while committing the offense, the person operates a vehicle in a manner that causes the death or catastrophic injury of another person; and

(4) Level 2 felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death or catastrophic injury of **a firefighter,** an emergency medical services provider, or a law enforcement officer while the **firefighter,** emergency medical services provider, or law enforcement officer is engaged in the **firefighter's,** emergency medical services provider's, or officer's official duties.

(d) The offense under subsection (a) is a Level 6 felony if, while committing an offense under:

(1) subsection (a)(1) or (a)(2), the person:

(A) creates a substantial risk of bodily injury to the person or another person; and

(B) has two (2) or more prior unrelated convictions under subsection (a); or

(2) subsection (a)(3), the person has two (2) or more prior unrelated convictions under subsection (a).

(e) If a person uses a vehicle to commit a felony offense under subsection (c)(1)(B), (c)(2), (c)(3), or (c)(4), as part of the criminal penalty imposed for the offense, the court shall impose a minimum

executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(f) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (e) may not be suspended.

(g) If a person is convicted of an offense involving the use of a motor vehicle under:

(1) subsection (c)(1)(A), if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;

(2) subsection (c)(2); or

(3) subsection (c)(3);

the court may notify the bureau of motor vehicles to suspend or revoke the person's driver's license and all certificates of registration and license plates issued or registered in the person's name in accordance with IC 9-30-4-6.1(b) for the period described in IC 9-30-4-6.1(d)(1) or IC 9-30-4-6.1(d)(2). The court shall inform the bureau whether the person has been sentenced to a term of incarceration. At the time of conviction, the court may obtain the person's current driver's license and return the license to the bureau of motor vehicles.

(h) A person may not be charged or convicted of a crime under subsection (a)(3) if the law enforcement officer is a school resource officer acting in the officer's capacity as a school resource officer.

(i) A person who commits an offense described in subsection (c) commits a separate offense for each person whose bodily injury, serious bodily injury, catastrophic injury, or death is caused by a violation of subsection (c).

(j) A court may order terms of imprisonment imposed on a person convicted of more than one (1) offense described in subsection (c) to run consecutively. Consecutive terms of imprisonment imposed under this subsection are not subject to the sentencing restrictions set forth in IC 35-50-1-2(c) through IC 35-50-1-2(d).

(k) As used in this subsection, "family member" means a child, grandchild, parent, grandparent, or spouse of the person. It is a defense to a prosecution under subsection (b) that the person reasonably believed that the person's family member:

(1) was in the marked off area; and

(2) had suffered bodily injury or was at risk of suffering bodily

injury;

if the person is not charged as a defendant in connection with the offense, if applicable, that caused the area to be secured by barrier tape or other physical barriers.

SECTION 78. IC 35-45-14-2 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 2. A person who is not an attorney and who:~~

~~(1) knowingly or intentionally solicits, advises, requests, or induces another person to bring an action in a court; and~~

~~(2) in making a solicitation under subdivision (1), directly or indirectly receives any compensation, fee, or commission from the attorney for the solicitation;~~

~~commits unlawful solicitation, a Class A misdemeanor.~~

SECTION 79. IC 35-45-21-2, AS ADDED BY P.L.158-2013, SECTION 547, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The sale or distribution of:

(1) diagnostic testing equipment or apparatus; or

(2) a blood collection kit;

intended for home use to diagnose or confirm human immunodeficiency virus (HIV) infection or disease is prohibited unless the testing equipment, apparatus, or kit has been approved for such use by the federal Food and Drug Administration.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a ~~Class A misdemeanor.~~ **Class C infraction.**

SECTION 80. IC 35-47-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. Every case of a bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, ice pick, or other sharp or pointed instrument, shall be reported at once to the law enforcement authorities of the county, city, or town in which the person reporting is located by either the physician attending or treating the case, or by the manager, superintendent, or other person in charge if the case is treated in a hospital, clinic, sanitarium, or other facility or institution. A person who violates this section commits a ~~Class A misdemeanor.~~ **Class C infraction.**

SECTION 81. IC 35-50-2-11, AS AMENDED BY P.L.157-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "offense" means:

(1) a felony under IC 35-42 that resulted in death or serious bodily

injury;

(2) kidnapping; ~~or~~

(3) criminal confinement as a Level 2 or Level 3 felony; **or**

(4) attempted murder.

(c) As used in this section, "police officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A city police officer.

(5) A state educational institution police officer appointed under IC 21-39-4.

(6) A school corporation police officer appointed under IC 20-26-16.

(7) A police officer of a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2.

(8) An enforcement officer of the alcohol and tobacco commission.

(9) A conservation officer.

(10) A gaming agent employed under IC 4-33-4.5 or a gaming control officer employed by the gaming control division under IC 4-33-20.

(d) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

(e) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed a felony or misdemeanor other than an offense (as defined under subsection (b)) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing the felony or misdemeanor, knowingly or intentionally:

(1) pointed a firearm; or

(2) discharged a firearm;

at an individual whom the person knew, or reasonably should have known, was a police officer.

(f) If the person was convicted of:

(1) the offense under subsection (d); or

(2) the felony or misdemeanor under subsection (e);

in a jury trial, the jury shall reconvene to hear evidence in the

enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(g) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense under subsection (d), the court may sentence the person to an additional fixed term of imprisonment of between five (5) years and twenty (20) years.

(h) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing a felony or misdemeanor under subsection (e), knowingly or intentionally:

(1) pointed a firearm; or

(2) discharged a firearm;

at an individual whom the person knew, or reasonably should have known, was a police officer, the court may sentence the person to an additional fixed term of imprisonment of between five (5) and twenty (20) years.

(i) A person may not be sentenced under subsections (g) and (h) for offenses, felonies, and misdemeanors comprising a single episode of criminal conduct.

SECTION 82. IC 35-52-6-17 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 17. IC 6-2.5-9-7 defines a crime concerning retail sales.~~

SECTION 83. IC 35-52-16-2 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 2. IC 16-20-1-25 defines a crime concerning local health departments.~~

SECTION 84. IC 35-52-20-4, IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 4. IC 20-27-7-19 defines a crime concerning school transportation.~~

SECTION 85. IC 35-52-24-28 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 28. IC 24-5-14.5-11 defines a crime concerning false or misleading caller identification~~

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

Section Three

Legislative Update 2021 Session

Senator Karen R. Tallian
Attorney At Law
Portage, Indiana

Section Three

Legislative Update 2021 Session…….. Senator Karen R. Tallian

LEGISLATIVE UPDATE 2021 SESSION
Presentation by State Senator Karen Tallian

ENVIRONMENT BILLS

What passed:

389 Wetlands.

This bill started out as a wildcard controversial bill that initially proposed to repeal nearly all of Indiana's wetland regulations. It essentially eliminated wetland designations and permit requirements and programs for any wetlands that were not federally designated, and eliminated most of the requirements for mitigation of wetlands if there was development.

It created a firestorm among all the environmental groups; nearly 150 groups signed on in opposition to the bill. Most interestingly, many of the agency heads were sent, apparently by the Governor's office, to actively speak in opposition to the bill. There was bipartisan opposition to the bill, including former State Senator Beverly Gard, who formerly chaired the Environment Committee, and now heads the Environmental Rules Board.

The measure was in trouble in the House, but eventually passed in a less aggressive form, and was signed by the Governor. The bill does the following.

IC 13-11-2-74.5 changes the definition of Class II and Class III wetlands. Class I wetlands, which are regulated federally, remain the same, but the new definitions of Class II and III do not necessarily follow any federal guidelines on those same definitions. So, beware the definitions.
It raises the minimum size of what can be considered to be an isolated wetland from ¼ acre to 3/8 acre.
It also changes the permit exemption for Class II wetlands on a tract from 1/3 to 60% .

IC 13-18-22-1 sets out the rules for permitted wetland activity and development in a regulated wetland, and now exempts (**IC 13-18-22-5**) isolated wetlands (defined above) from permit requirements; for dredge and fill activities for a Class II wetland within a municipality with an area less than ¾ acre; and for dredge and fill activities in an "ephemeral stream" (defined in IC **13-11-2-72.4**).

IC 13-11-2-48.5 makes some changes to the definition of cropland, and the bill later exempts certain cropland from the permit requirements.

It is unknown at this time precisely how many acres of wetland, or what percentage of Indiana wetlands, will be affected by this. There have been many stories regarding this bill, and articles written that make attempts to estimate these numbers.

IC 13-18-22-6, -7 changes the compensatory mitigation requirements for activities in wetland areas.
Finally, the bill establishes an Indiana Wetlands Task Force to study IN wetlands that do not come under federal jurisdiction, and it is supposed to prepare a report and recommendations by November 1, 2022.

SB 271: Industrial Waste Control Facility: Tax Exemption

This is an exemption for personal property under **IC 6-1.1-10-9, -10.**
Previously, such exemptions were filed with IDEM, but now such applications for exemptions will be filed with the County or Township Assessor. The Assessor may require additional documents from the applicant to support the claims.

What did not pass … but will be continuing issues for the future:

COAL ASH: COAL COMBUSTION RESIDUALS (CCR)

CCRs are commonly referred to as Coal Ash. It is the residual product after coal is burned to generate electricity. CCRs contain a number of materials known to be toxic, including many heavy metals. Unless properly disposed, CCRs may pollute either surface or groundwater, and IN has such areas.

Congress passed the Water Infrastructure Improvement for the Nation Act (WIIN) to provide for state CCR permit programs. Either the state must operate its own CCR plan that is "as protective as" the EPA rule or CCRs will be subject to the federal rules.

S**B 367.** proposed a fairly comprehensive regulatory program for the disposal of coal ash once the coal plants are decommissioned. It would also have regulated various existing waste sites. Indiana has many such sites, indeed among the largest number in any state. As coal-fired generating plants are being dismantled, this is an issue that must be addressed.

SB 367 did not get a hearing. However, is a looming problem, and has at least now had recognition. In the final days of session, a provision was added to **SB 271,** (discussed above) (IC **13-15-1-3** ***et seq***) directing the Environmental Rules Board to establish requirements for permits for disposal of CCRs . (See also: **IC 13-19-3-1**).

Finally, it establishes a CCR Program Fund to pay costs of implementing a state permit program for CCRs.

373:. Carbon Credit Market

This bill required the Dept. of Agriculture and the Dept. of Natural Resources, along with Purdue University, the IURC and several others to study and make recommendations for a state voluntary carbon credit market. It had bipartisan support, and made it through the Senate and the House. In the end, however, it was merged with a bill dealing with a Carbon Dioxide Sequestration project in Terre Haute. The details of that project could never be worked out, and the bill died.

1381: Commercial wind and solar siting.

This bill established basic standards regarding the location of solar and wind power projects in local units. The bill made it through the House, and partially through the Senate, but was not called for a third reading in the Senate.

The bill was innovative in that it proposed the first set of state-wide standards for locations and expansion of commercial solar and wind projects. However, it was also controversial because it attempted to make the state regulations predominate over local regulations; the city, town and county organizations were in vocal opposition.

LABOR ISSUES:

Perhaps the most succinct thing that can be said about Labor legislation in 2021 is that almost nothing passed. Let's look at the topics:

Worker's Compensation, SB 220 passed the Senate, but died in the House for the 3rd year in a row. Statutory benefit amounts for injured workers have not been raised for years.

Worker Misclassification: bills were authored by both Republicans and Democrats in the Senate, but did not make it through.

Work Share benefits for unemployment. These programs set up a method where, for example, instead of having to lay off 2 employees, an employer could keep on both workers part time, and each would qualify for partial unemployment compensation. This idea was first promoted during and after the 2009 recession. The IN Chamber supported this bill as a way for employers to keep their workforce intact during economic downturns, and there were 4 different bills authored. None made it through.

Workplace Immunization, SB 74, prohibited an employer from requiring any employee to have mandatory immunization. This controversial bill had a hearing without a vote in the Senate, and died.

T**axation of Unemployment benefits:** Normally, UI benefits, like social security, are considered to be taxable income. The Biden relief plan, ARP, provided that UI benefits received during COVID 2020 year would be exempt from federal income tax. Despite a bipartisan push, the Indiana legislature specifically rejected that and decoupled from the federal regs; consequently, all UI benefits are still subject to IN state income tax.

SMALL CLAIMS:

HB 1110: This bill raised the Small Claims Jurisdictional Limit from $8000 to $10,000.
A similar bill, HB 1435, interestingly, had a provision that would allow for a 1.5% increase annually; that bill did not receive a hearing.

STATE BUDGET HEA 1001

Every two years, the legislature prepares a biennial budget. Of course, any budget must consider 2 sides: the REVENUE side of the budget, and the SPEND, or appropriation, side.

The REVENUE side of the budget must anticipate state revenues for the next two years, which include projections for state individual income tax, corporate income tax, retail sales tax, gaming revenues, gasoline tax, and miscellaneous others. The job of making this determination is left to a bipartisan group called the Revenue Forecast Committee. This group comes to a consensus forecast, which is then accepted and agreed by the legislative budget writers, normally without question.

The Forecast is reviewed at least quarterly. In December prior to the budget session, the Forecast Committee presents its findings, which become the basis for determining appropriations. Then, in mid-April of the budget session, just about the time that the budget is finished, the Forecast Committee updates its forecast and provides the "final numbers"; appropriations can then be given a final tweak.

This process has worked well for many years, and the Forecast Committee is normally pretty well right on, with the notable exception of the 2009 recession. This year was also an exception.
At the time of the mid-December forecast in 2020, COVID had just wreaked havoc on our national economy. Because of the delay in income tax filings, income that should have been collected in May 2020 was pushed into the next fiscal year, and skewed many of the numbers. The national CARES package, along with many of its benefits, had been passed, along with many

regulations about how and when it could be spent. The revenue forecast gave us numbers showing some growth. Good news, but only a little.

However, the December forecast was quickly out dated by national events. In December, 2020, Congress passed another federal Stimulus package, which not only put more money into the economy, but also changed many of the rules about how and when the previous CARES money could be spent. Then, within a couple of months, the Biden stimulus package was passed, pouring even more money into the economy and into a multitude of programs. By the April forecast, IN had a LOT of money.

What had been a very conservative budget suddenly had money for so many things.
So many things, in fact, that the Budget passed with what I believe is historical bi-partisan support.

The following is just an outline of some of the things that were funded.
This is a $37 Billion dollar budget, with over $2.3 Billion dollars in combined balances … what some people call "the surplus" in each year.

This Budget appropriated about $3 Billion in additional dollars from the federal American Rescue Plan (ARP) stimulus.

$900 M to Next Level Connections
$500 M to Regional Cities
$500 M to the Unemployment Insurance Trust fund. This is in addition to $400 M that was transferred to the UI fund from the CARES money in December, 2020. Normally, all the money in the UI fund is paid solely by employers, and it is NOT funded by state dollars.

$160 for water infrastructure projects
$250 for broadband expansion
$60 M for trails
$25 M for Benjamin Harrison Trust fund for land acquisition
$400 M for the reconstruction of Westville prison
$50 M for the Fall Creek Pavilion at the state fairgrounds

Debts were paid off, or pre-paid:
$231 M to the RDA of NWI for double tracking project was paid up front, instead of the current funding of $12M/ year
$600 M of pension liability was paid to the pre-1996 Teacher Retirement Fund, which allowed our yearly payments to go down. (This is similar to a proposal that I had been trying to get through for several years.)
$300 M for early payoffs of state construction bonds

The biggest single portion of the IN budget is education, with K-12 comprising nearly half of the budget in a regular year. It is not within the scope of this talk to discuss the intricacies of the

school funding formula. In summary, school funding was increased, often subsidized by the ARP money.

The original House budget had public schools increasing at just under 2%/ year, which is a mid-line growth factor. By the time the budget was finished, public schools will receive nearly 4.4% increase for each year of the next biennium.

Other school programs were increased, including money for vouchers. There was no increase for pre-K.

Higher Education: Universities received special grants directly from CARES and from the ARP; thus our colleges and universities did not receive much extra funding through the state budget. But, interestingly, in this time of low low interest rates, they were not allowed any new capital projects, which are normally funded through bonding.

The budget fully funds the state Medicaid program, and directs a lot of new ARP dollars to various health and human services programs. The CHOICE program, providing for in-home care, is 100% restored. Cuts to mental health and addiction were restored, along with Recovery Works. Wages for direct service providers (DSPs), which are paid through Medicaid and thus subject to state wage control, were increased to $15/ hour. Money for food banks was increased to $1M/ year.

Boys & Girls Club funding cuts were restored; Public Defenders received additional money to help with DCS services, and DCS also received an additional $10M.

State police will get salary raises, and some Department of Corrections workers will receive a hazard pay bonus through ARP.

Funding that had been cut in the original House budget for the Arts Commission and Public Television was restored.

LOCAL HEALTH DEPARTMENTS EMERGENCY POWERS

SB 5 restricts the actions of a local health department official during the time of a state or locally declared emergency.

This bill began in the Senate, was amended, moved to the House, went through a tumultuous conference committee hearing, was passed by both chambers, was vetoed by the Governor, and in a special one-day session in May, was passed into law through a veto-override.

The bill originally applied only to a state-wide emergency called by the Governor, but was expanded to include any local public health emergency declared by a local health department. It requires the local county Executive body to approve any local order that is either more stringent than the Governor's order, or not addressed by the Governor's order; and in the case of Marion County, such approval must be passed by an Ordinance, approved by the mayor.

The ability of a local health officer or board of health to enforce orders was seriously curtailed. Certain actions would have to be approved by the legislative body, and the health officer can no longer simply go to court to enforce an action.

It gives the recipient of such an order the ability to either go to court or to bring a special review action directly to a county legislative body, and provides procedures for doing so. It also allows the order to be stayed during the pendency of such an appeal, which could be up to 45 days.

It sets up new procedure for the appointment of local health officers, and makes them subject to the approval of the county legislative body.

Section Four

Legislative Update 2021

Representative John T. Young
Young and Young
Franklin, Indiana

Section Four

Legislative Update 2021…… Representative John T. Young

SEA No. 188

HEA No. 1166

SEA No. 79

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 188

AN ACT to amend the Indiana Code concerning property and to make an appropriation.

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

SECTION 1. IC 4-6-3-3, AS AMENDED BY P.L.137-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. If the attorney general has reasonable cause to believe that a person may be in possession, custody, or control of documentary material, or may have knowledge of a fact that is relevant to an investigation conducted to determine if a person is or has been engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10, IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-8, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8, IC 24-9, IC 25-1-7, ~~IC 32-34-1,~~ **IC 32-34-1.5,** or any other statute enforced by the attorney general or is or has been engaged in a criminal violation of IC 13, only the attorney general may issue in writing, and cause to be served upon the person or the person's representative or agent, an investigative demand that requires that the person served do any combination of the following:

(1) Produce the documentary material for inspection and copying or reproduction.

(2) Answer under oath and in writing written interrogatories.

(3) Appear and testify under oath before the attorney general or the attorney general's duly authorized representative.

SECTION 2. IC 4-12-16-3, AS AMENDED BY P.L.201-2018,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) The fund consists of:

(1) except as provided in subsections (b) and (c), all funds received by the state under:

(A) multistate and Indiana specific settlements;

(B) assurances of voluntary compliance accepted by the attorney general; and

(C) any other form of agreement that:

(i) is enforceable by a court; and

(ii) settles litigation between the state and another party; and

(2) all money recovered as court costs or costs related to litigation.

(b) Any amount of restitution that is:

(1) awarded to an individual or institution under a settlement or assurance of voluntary compliance;

(2) unclaimed by an individual or institution;

(3) received by a state agency; and

(4) determined to be abandoned property under ~~IC 32-34-1;~~ **IC 32-34-1.5;**

must be deposited in the abandoned property fund ~~established by IC 32-34-1-33.~~ **under IC 32-34-1.5-42.**

(c) The fund does not include the following:

(1) Funds received by the state department of revenue.

(2) Funds required to be deposited in the securities division enforcement account (IC 23-19-6-1).

(3) Funds received as the result of a civil forfeiture under IC 34-24-1.

(4) Funds received as a civil penalty or as part of an enforcement or collection action by an agency authorized to impose a civil penalty or engage in an enforcement or collection action, if the funds are required to be deposited in the general fund or another fund by statute.

(5) Funds recovered by the Medicaid fraud control unit in actions to recover money inappropriately paid out of or obtained from the state Medicaid program.

(6) Amounts required to be paid as consumer restitution or refunds in settlements specified in this chapter.

(7) Amounts received under the Master Settlement Agreement (as defined in IC 24-3-3-6).

SECTION 3. IC 5-11-10.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. (a) This section applies to a warrant or a check drawn from the public funds of a

political subdivision, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under ~~IC 32-34-1.~~ **IC 32-34-1.5.**

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

(1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars ($50) or less;

(2) the agreement is in writing;

(3) the agreement is signed by the apparent owner; and

(4) the agreement clearly sets forth:

(A) the nature and value of the property; and

(B) the value of the apparent owner's share after the fee or compensation has been deducted.

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

SECTION 4. IC 5-14-3-4, AS AMENDED BY P.L.64-2020, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a:

(A) person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim; and

(B) school corporation (as defined by IC 20-18-2-16(a)), charter school (as defined by IC 20-24-1-4), or nonpublic school (as defined by IC 20-18-2-12) for the purpose of enhancing the safety or security of a student or a school

facility;

without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

(i) the Indiana economic development corporation;

(ii) the ports of Indiana;

(iii) the Indiana state department of agriculture;

(iv) the Indiana finance authority;

(v) an economic development commission;

(vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or

(vii) a governing body of a political subdivision;

with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be

available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping system, voting system, voter registration system, or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following:

(A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18).

(B) Vulnerability assessments.

(C) Risk planning documents.

(D) Needs assessments.

(E) Threat assessments.

(F) Intelligence assessments.

(G) Domestic preparedness strategies.

(H) The location of community drinking water wells and surface water intakes.

(I) The emergency contact information of emergency responders and volunteers.

(J) Infrastructure records that disclose the configuration of critical systems such as voting system and voter registration system critical infrastructure, and communication, electrical, ventilation, water, and wastewater systems.

(K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:

(i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.

(ii) The public agency must identify a record described

under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

(i) emergency management worker (as defined in IC 10-14-3-3);

(ii) public safety officer (as defined in IC 35-47-4.5-3);

(iii) emergency medical responder (as defined in IC 16-18-2-109.8); or

(iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18) has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone

number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender, an agent, or a relative of an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a probation officer;

(iii) a community corrections officer;

(iv) a law enforcement officer (as defined in IC 35-31.5-2-185);

(v) a judge (as defined in IC 33-38-12-3);

(vi) the victim of a crime; or

(vii) a family member of a correctional officer, probation officer, community corrections officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

For purposes of this subdivision, "agent" means a person who is authorized by an offender to act on behalf of, or at the direction of, the offender, and "relative" has the meaning set forth in IC 35-42-2-1(b). However, the term "agent" does not include an attorney in good standing admitted to the practice of law in Indiana.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

(A) Name.

(B) Address.

(C) Telephone number.

(D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under ~~IC 32-34-1-26~~ **IC 32-34-1.5-18** or in a claim for unclaimed property under ~~IC 32-34-1-36.~~ **IC 32-34-1.5-48:**

(A) Date of birth.

(B) Driver's license number.

(C) Taxpayer identification number.

(D) Employer identification number.

(E) Account number.

(27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

(28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated. However, this subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 5. IC 5-22-21-1, AS AMENDED BY P.L.182-2009(ss),

SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) This chapter applies only to personal property owned by a governmental body that is a state agency.

(b) This chapter does not apply to the following:

(1) The sale of timber by the department of natural resources under IC 14-23-4.

(2) The satisfaction of a lien or judgment by a state agency under court proceedings.

(3) The disposition of unclaimed property under ~~IC 32-34-1.~~ **IC 32-34-1.5.**

(4) The sale or harvesting of vegetation (as defined in IC 8-23-24.5-3) under IC 8-23-24.5.

(5) The sale or harvesting of vegetation (as defined in IC 4-20.5-22-4) under IC 4-20.5-22.

SECTION 6. IC 6-8.1-8-15, AS ADDED BY P.L.111-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15. (a) As used in this section, "apparent owner" has the meaning set forth in ~~IC 32-34-1-4.~~ **IC 32-34-1.5-3(1).**

(b) As used in this section, "unclaimed property" ~~has the meaning set forth in IC 32-34-1-21.~~ **means property presumed abandoned under IC 32-34-1.5.**

(c) If an apparent owner of unclaimed property is subject to a tax warrant issued under IC 6-8.1-8-2, the department may levy on the unclaimed property by filing a claim with the attorney general in accordance with the procedures described in ~~IC 32-34-1-36.~~ **IC 32-34-1.5-48.**

SECTION 7. IC 10-11-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) Except as provided in subsection (c), if:

(1) the money, goods, or other property remains unclaimed in the possession or control of the employee to whom it was delivered for six (6) months; and

(2) the location of the owner is unknown;

the goods or other property shall be sold at public auction.

(b) Notice of the sale must be published one (1) time each week for two (2) consecutive weeks in a newspaper of general circulation printed in the community in which the sale is to be held. The notice must include the following information:

(1) The time and place of the sale.

(2) A description of the property to be sold.

(c) Any property that:

(1) is perishable;

(2) will deteriorate greatly in value by keeping; or

(3) the expense of keeping will be likely to exceed the value of the property;

may be sold at public auction in accordance with the rules or orders of the superintendent. If the nature of the property requires an immediate sale, the superintendent may waive the six (6) month period of custody and the notice of sale provided in this section.

(d) The proceeds of a sale, after deducting all reasonable charges and expenses incurred in relation to the property, and all money shall be presumed abandoned and shall be delivered to the attorney general for deposit into the abandoned property fund for disposition as provided by ~~IC 32-34-1-33~~ **IC 32-34-1.5-42** and ~~IC 32-34-1-34.~~ **IC 32-34-1.5-44.**

SECTION 8. IC 23-1-45-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A corporation's board of directors may propose dissolution for submission to the shareholders.

(b) For a proposal to dissolve to be adopted:

(1) the board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and

(2) the shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (e).

(c) The board of directors may condition its submission of the proposal for dissolution on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with IC 23-1-29-5. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider dissolving the corporation.

(e) Unless the articles of incorporation or the board of directors (acting under subsection (c)) require a greater vote or a vote by voting groups, the proposal to dissolve to be adopted must be approved by a majority of all the votes entitled to be cast on that proposal.

(f) After a proposal for dissolution is adopted, the corporation shall give the notices required by IC 6-8.1-10-9 **and** IC 22-4-32-23. ~~and IC 32-34-1-25.~~

SECTION 9. IC 23-17-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A corporation's board of directors may propose dissolution for submission to the

members.

(b) For a proposal to dissolve to be adopted, the following conditions must be met:

(1) The board of directors must recommend dissolution to the members unless the board of directors determines that because of conflict of interest or other special circumstances the board should not make a recommendation and communicates the basis for the board's determination to the members.

(2) The members entitled to vote must approve the proposal to dissolve as provided under subsection (f).

(3) A person whose approval is required by articles of incorporation authorized under IC 23-17-17-1 for an amendment to the articles of incorporation or bylaws must approve the proposal to dissolve in writing.

(c) If a corporation does not have members, dissolution must be approved by a majority of the directors in office at the time dissolution is approved. The corporation shall provide notice to directors of a director's meeting where an approval for dissolution will be sought under IC 23-17-15-3. The notice must state that the purpose of the meeting is to consider the proposed dissolution.

(d) The board of directors may condition the board's submission of the proposal for dissolution on any basis.

(e) The corporation must notify each member, whether or not entitled to vote, of the proposed members' meeting under IC 23-17-10-5. The notice must state that the purpose of the meeting is to consider dissolving the corporation.

(f) Unless articles of incorporation or a board of directors acting under subsection (d) require a greater vote or a vote by voting groups, the proposal to dissolve to be adopted must be approved by the members by a majority of the votes cast on the proposal.

(g) After a proposal for dissolution is adopted, the corporation must give the notices required under the following:

(1) IC 6-8.1-10-9.

(2) IC 22-4-32-23.

~~(3) IC 32-34-1-25.~~

SECTION 10. IC 24-13-4-2, AS ADDED BY P.L.105-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A person who is entitled to bring an action on the person's own behalf under section 1 of this chapter may bring a class action on behalf of any class of persons of which the person is a member and that has been damaged by the pyramid promotional scheme, subject to and under the Indiana Rules of Trial Procedure

governing class actions.

(b) The court may award reasonable attorney's fees to the party that prevails in a class action under this section. The attorney's fees must be determined by the amount of time reasonably expended by the attorney and not by the amount of the judgment. The court, however, may consider awarding a contingency fee.

(c) Any money or other property recovered in a class action under this section that cannot, with due diligence, be restored to the members of the class within one (1) year after the final judgment must be returned to the abandoned property fund ~~established by IC 32-34-1-33.~~ **under IC 32-34-1.5-42.**

(d) Actual damages awarded to a class have priority over any civil penalty imposed under this article.

SECTION 11. IC 25-30-1-5, AS AMENDED BY P.L.57-2013, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. This chapter does not require any of the following persons to be a licensee:

(1) A law enforcement officer of the United States, a state, or a political subdivision of a state to the extent that the officer or employee is engaged in the performance of the officer's or employee's official duties.

(2) Any person to the extent that the person is engaged in the business of furnishing and obtaining information concerning the financial rating of other persons.

(3) A collection agency licensed by the secretary of state or its employee acting within the scope of the employee's employment, to the extent that the person is making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's assets in a property that the client has an interest in or a lien upon.

(4) An attorney or employee of an attorney to the extent that the person is engaged in investigative matters incident to the delivery of professional services that constitute the practice of law.

(5) An insurance adjuster to the extent that the adjuster is employed in the investigation and settlement of claims made against insurance companies or persons insured by insurance companies if the adjuster is a regular employee of the insurance company and the insurance company is authorized to do business in Indiana and is complying with the laws regulating insurance companies in Indiana.

(6) A person primarily engaged in the business of furnishing information for:

(A) business decisions and transactions in connection with credit, employment, or marketing; or

(B) insurance underwriting purposes;

including a consumer reporting agency as defined by the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(7) A retail merchant or an employee of the retail merchant to the extent that the person is hiring a private investigator for the purposes of loss prevention investigations for the retail merchant's retail establishment.

(8) A professional engineer registered under IC 25-31 or a person acting under a registered professional engineer's supervision, to the extent the professional engineer is engaged in an investigation incident to the practice of engineering.

(9) An architect with a certificate of registration under IC 25-4, to the extent the architect is engaged in an investigation incident to the practice of architecture.

(10) A professional surveyor with a certificate of registration under IC 25-21.5, to the extent the professional surveyor is engaged in an investigation incident to the practice of surveying.

(11) A certified public accountant with a certificate under IC 25-2.1-3, to the extent that the person is engaged in an investigation incident to the practice of accountancy.

(12) An independent consultant employed by the attorney general under ~~IC 32-34-1-48,~~ **IC 32-34-1.5-60,** to the extent that the independent consultant is engaged in providing services for the attorney general.

SECTION 12. IC 26-3-8-15, AS AMENDED BY P.L.144-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15. (a) Any sale of the personal property under this chapter shall be held:

(1) at the self-service storage facility or, if that facility is not a suitable place for a sale, at the suitable place nearest to where the property is held or stored; or

(2) through a publicly accessible Internet web site.

(b) The owner may buy the personal property at any sale under this chapter.

(c) An owner may satisfy the owner's lien from the proceeds of a sale under this chapter. If the proceeds of a sale under this chapter exceed the amount of the owner's lien, the owner shall hold the balance for delivery, upon demand, to the renter. If the renter does not claim the balance of the proceeds within one (1) year after the sale, the balance shall be treated as unclaimed property under ~~IC 32-34-1.~~ **IC 32-34-1.5.**

SECTION 13. IC 27-2-23-16, AS ADDED BY P.L.90-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) The benefit of a policy, annuity, or retained asset account, plus accrued interest applicable under the policy, annuity, or retained asset account, is first payable to designated beneficiaries or policy owners, annuity owners, or account owners.

(b) If beneficiaries or policy owners, annuity owners, or account owners cannot be found, the benefit of the policy, annuity, or retained asset account (not including applicable accrued interest) escheats to the state as unclaimed property under ~~IC 32-34-1.~~ **IC 32-34-1.5.**

SECTION 14. IC 27-2-23-18, AS ADDED BY P.L.90-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 18. (a) With respect to a policy, an annuity, or a retained asset account for which an insurer has knowledge of death:

(1) if:

(A) within one (1) year after the insurer has obtained the knowledge of death, the insurer:

(i) conducts reasonable search efforts; and

(ii) is unable to locate in Indiana a beneficiary under the policy, annuity, or retained asset account; or

(B) no beneficiary was named and the person, for purposes of ~~IC 32-34-1,~~ **IC 32-34-1.5,** had a last known address in Indiana; and

(2) the insurer has, without success, attempted to make the contacts required by and in accordance with ~~IC 32-34-1;~~ **IC 32-34-1.5;**

the insurer may, without further notice to or consent by the state, report and remit the proceeds of the policy, annuity, or retained asset account to the state on an early reporting basis in accordance with ~~IC 32-34-1.~~ **IC 32-34-1.5.**

(b) After a report and remittance of proceeds described in subsection (a), the insurer is relieved and indemnified from any additional liability in relation to the proceeds, in accordance with ~~IC 32-34-1.~~ **IC 32-34-1.5.**

SECTION 15. IC 27-2-23-21, AS ADDED BY P.L.166-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 21. This chapter does not prevent the attorney general from conducting an examination of the records of an insurance company under ~~IC 32-34-1-42.~~ **IC 32-34-1.5-53.**

SECTION 16. IC 28-1-9-11, AS AMENDED BY P.L.35-2010, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. In case depositors or other

creditors or the holders of shares of any such corporation are unknown or shall fail or refuse to accept their distributive shares in the property and assets of such corporation, or are under any disability, or cannot be found after diligent inquiry, upon the final settlement of the liquidation, the liquidating agent shall treat the property as unclaimed property and comply with ~~IC 32-34-1.~~ **IC 32-34-1.5.**

SECTION 17. IC 30-2-16-7, AS ADDED BY P.L.141-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. Section 5 of this chapter does not apply to accounts containing a static balance that would otherwise be reported to the state under ~~IC 32-34-1-26~~ **IC 32-34-1.5-18** as Indiana property.

SECTION 18. IC 32-33-10.5-8, AS ADDED BY P.L.172-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) This section applies if a complaint is filed under section 7 of this chapter and the plaintiff recovers:

(1) a judgment in any sum; or

(2) a judgment:

(A) declaring that an aircraft is abandoned or derelict; and

(B) authorizing the disposal of the aircraft by means of a public auction and removal of the aircraft from the premises of a public-use airport or of a fixed-base operator.

(b) Any net proceeds resulting from the sale or disposal of an aircraft under this chapter shall be paid to:

(1) the owner of the aircraft and any other person having a legal or equitable interest in the aircraft, in proportion to each person's legal or equitable interest in the aircraft; or

(2) if the owner of the aircraft or any other person having a legal or equitable interest in the aircraft cannot be found, to the attorney general as unclaimed property under ~~IC 32-34-1.~~ **IC 32-34-1.5.**

(c) In an action brought under section 7 of this chapter, the plaintiff may also recover as part of the judgment in the action reasonable attorney's fees incurred by the plaintiff in bringing and prosecuting the action.

SECTION 19. IC 32-34-1 IS REPEALED [EFFECTIVE JULY 1, 2021]. (Unclaimed Property Act).

SECTION 20. IC 32-34-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 1.5. Revised Unclaimed Property Act

Sec. 1. (a) This chapter does not apply to property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction.

(b) This chapter does not apply to a business to business credit memorandum or a credit balance resulting from a business to business credit memorandum.

Sec. 2. This chapter may be cited as the "revised unclaimed property act".

Sec. 3. The following definitions apply throughout this chapter:

(1) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.

(2) "Attorney general's agent" means a person with which the attorney general contracts to conduct an examination under section 53 of this chapter on behalf of the attorney general.

(3) "Business association" means a corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.

(4) "Confidential information" means records, reports, and information that are considered confidential under section 78 of this chapter.

(5) "Domicile" means the following:

(A) For a corporation, the state of its incorporation.

(B) For a business association other than a corporation whose formation requires a filing with a state, the state of its filing.

(C) For a federally chartered entity or an investment company registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 et seq.), the state of its home office.

(D) For any other holder, the state of its principal place of business.

(6) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(7) "Electronic mail" means a communication by electronic means which is automatically retained and stored and may be readily accessed or retrieved.

(8) "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.

(9) "Financial organization loyalty program" means a record given without direct monetary consideration, excluding an annual or periodic fee, under an award, reward, benefit, loyalty, incentive, rebate, or other promotional program established by a financial organization for the purpose of rewarding a relationship with the sponsoring financial organization. The term includes:

(A) both a physical card and an electronic record; and

(B) a program offering a record that is redeemable for money or cash or is otherwise monetized by the financial organization.

(10) "Game related digital content" means digital content that exists only in an electronic game or electronic-game platform. The term includes game-play currency such as a virtual wallet, even if denominated in United States currency and, if for use or redemption only within the game or platform or another electronic game or electronic-game platform, points sometimes referred to as gems, tokens, gold, and similar names and digital codes. The term does not include an item that the issuer:

(A) permits to be redeemed for use outside a game or platform for money or goods or services that have more than minimal value; or

(B) otherwise monetizes for use outside a game or platform.

(11) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner property subject to this chapter.

(12) "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and worker's compensation insurance.

(13) "Loyalty card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program which may

be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.

(14) "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by a law of this state other than this chapter.

(15) "Mineral proceeds" means an amount payable for the extraction, production, or sale of minerals, or, on the abandonment of the amount, an amount that becomes payable after abandonment. The term includes an amount payable:

(A) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;

(B) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and

(C) under an agreement or option, including a joint-operation agreement, unit agreement, pooling agreement, and farm out agreement.

(16) "Money order" means a payment order for a specified amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser.

(17) "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(18) "Non-freely transferable security" means a security that cannot be delivered to the attorney general by the Depository Trust & Clearing Corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.

(19) "Owner" means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of the owner. The term includes:

(A) for a deposit, a depositor;

(B) for a trust other than a deposit in trust, a beneficiary;

(C) for other property, a creditor, claimant, or payee; and

(D) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(20) "Payroll card" means a record that evidences a payroll card account as defined in Regulation E (12 CFR Part 1005).

(21) "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(22) "Property" means tangible property described in section 8 of this chapter or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government or governmental subdivision, agency, or instrumentality. The term includes:

(A) all income from or increments to the property; and

(B) property referred to as or evidenced by:

(i) money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;

(ii) a credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;

(iii) a security, except for a worthless security or a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(iv) a bond, debenture, note, or other evidence of indebtedness;

(v) money deposited to redeem a security, make a distribution, or pay a dividend;

(vi) an amount due and payable under an annuity contract or insurance policy; and

(vii) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or a similar benefit.

The term does not include property held in a plan described

in Section 529A of the Internal Revenue Code, game related digital content, a financial organization loyalty program, a loyalty card, or an in-store credit for returned merchandise.

(23) "Putative holder" means a person believed by the attorney general to be a holder, until the person pays or delivers to the attorney general property subject to this chapter or the attorney general or court makes a final determination that the person is or is not a holder.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Security" means:

(A) a security (as defined in IC 26-1-8.1-102);

(B) a security entitlement (as defined in IC 26-1-8.1-102), including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

(i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(ii) payable to the order of the person; or

(iii) specifically indorsed to the person; or

(C) an equity interest in a business association not included in clause (A) or (B).

(26) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(28) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:

(A) Transmission of communications or information.

(B) Production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(C) Provision of sewage or septic services, or trash, garbage, or recycling disposal.

(29) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store

of value, which does not have legal tender status recognized by the United States. The term does not include:

(A) the software or protocols governing the transfer of the digital representation of value;

(B) game related digital content;

(C) a financial organization loyalty program; or

(D) a loyalty card.

(30) "Worthless security" means a security whose cost of liquidation and delivery to the attorney general would exceed the value of the security on the date a report is due under this chapter.

Sec. 4. Subject to section 11 of this chapter, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified as follows:

(1) For a traveler's check, fifteen (15) years after issuance.

(2) For a money order, seven (7) years after issuance.

(3) For a state or municipal bond, bearer bond, or original issue discount bond, three (3) years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises.

(4) For a debt of a business association, three (3) years after the obligation to pay arises.

(5) For a payroll card or demand, savings, or time deposit, including a deposit that is automatically renewable, three (3) years after the maturity of the deposit. This does not include a deposit that is automatically renewable, which is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at the time of account opening or at or about the time of the renewal.

(6) For money or a credit owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three (3) years after the obligation arose.

(7) For an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three (3) years after the obligation to pay arose under the terms of the policy or contract. If a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, the amount must be paid as follows:

(A) With respect to an amount owed on a life or

endowment insurance policy, three (3) years after the earlier of the date the insurance company has knowledge of the death of the insured or the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based.

(B) With respect to an amount owed on an annuity contract, three (3) years after the date the insurance company has knowledge of the death of the annuitant.

(8) For property distributable by a business association in the course of dissolution, one (1) year after the property becomes distributable.

(9) For property held by a court, including property received as proceeds of a class action, one (1) year after the property becomes distributable.

(10) For property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one (1) year after the property becomes distributable.

(11) For wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card, one (1) year after the amount becomes payable.

(12) For a deposit or refund owed to a subscriber by a utility, one (1) year after the deposit or refund becomes payable.

(13) For property not specified in this section or sections 8 and 9 of this chapter, the earlier of three (3) years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

Sec. 5. (a) Subject to section 11 of this chapter, property held in a pension account or retirement account that qualifies for tax deferral under federal income tax laws is presumed abandoned if it is unclaimed by the apparent owner three (3) years after the later of the following:

(1) The following dates:

(A) Except as provided in clause (B), the date a second consecutive communication sent by the holder by first class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service.

(B) If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was

returned undelivered by the United States Postal Service.

(2) The earlier of the following dates:

(A) The date the apparent owner reaches the age at which the Internal Revenue Service requires a minimum distribution from the account, if determinable by the holder.

(B) If the Internal Revenue Code requires distribution to avoid a tax penalty, two (2) years after the following dates:

(i) The date the holder receives confirmation of the death of the apparent owner in the ordinary course of its business.

(ii) The date the holder confirms the death of the apparent owner under subsection (b).

(b) If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner of an account described in subsection (a) and subsection (a)(2) applies, the holder shall attempt not later than ninety (90) days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

(c) If the holder does not send communications to the apparent owner of an account described in subsection (a) by first class United States mail, the holder must attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic mail communication not later than two (2) years after the apparent owner's last indication of interest in the property. However, the holder must attempt to contact the apparent owner by first class United States mail within sixty (60) days if any of the following apply:

(1) The holder does not have information needed to send the apparent owner an electronic mail communication or the holder believes the apparent owner's electronic mail address in the holder's records is not valid.

(2) The holder receives notification the electronic mail communication was not received.

(3) The apparent owner does not respond to the electronic mail communication not later than thirty (30) days after the communication was sent.

(d) If first class United States mail sent under subsection (c) is returned to the holder undelivered by the United States Postal Service, the property is presumed abandoned three (3) years after the later of the following:

(1) Except as provided in subdivision (2), the date a second

consecutive communication to the apparent owner sent by first class United States mail is returned to the holder undelivered.

(2) If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered.

(3) The date established by subsection (a)(2).

Sec. 6. Subject to section 11 of this chapter and except for property described in section 5 of this chapter and property held in a plan described in Section 529A of the Internal Revenue Code, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three (3) years after the earlier of the following:

(1) The date, if determinable by the holder, specified in federal income tax laws and regulations by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made.

(2) Thirty (30) years after the date the account was opened.

Sec. 7. (a) Subject to section 11 of this chapter, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three (3) years after the later of the following:

(1) Except as provided in subdivision (2), the date a second consecutive communication sent by the holder by first class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service.

(2) If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered.

(3) The date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.

(b) If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection (a) was opened by first class United States mail, the holder shall

attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication not later than two (2) years after the custodian's last indication of interest in the property. However, the holder shall attempt to contact the custodian by first class United States mail within sixty (60) days if any of the following applies:

(1) The holder does not have information needed to send the custodian an electronic mail communication or the holder believes the electronic mail address in the holder's records is not valid.

(2) The holder receives notification that the electronic mail communication was not received.

(3) The custodian does not respond to the electronic mail communication not later than thirty (30) days after the communication was sent.

(c) If first class United States mail sent under subsection (b) is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three (3) years after the later of the following:

(1) The date a second consecutive communication to contact the custodian by first class United States mail is returned to the holder undelivered by the United States Postal Service.

(2) The date established by subsection (a)(3).

(d) When the property in the account described in subsection (a) is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject to this section.

Sec. 8. Tangible property held in a safe deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this chapter are presumed abandoned if the property remains unclaimed by the apparent owner five (5) years after the earlier of the:

(1) expiration of the lease or rental period for the box; or

(2) earliest date when the lessor of the box is authorized by law of this state other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

Sec. 9. (a) Subject to section 11 of this chapter, a security is presumed abandoned three (3) years after:

(1) the date a second consecutive communication sent by the holder by first class United States mail to the apparent owner is returned to the holder undelivered by the United States

Postal Service; or

(2) if the second communication is made later than thirty (30) days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States Postal Service.

(b) If the holder does not send communications to the apparent owner by first class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic mail communication not later than two (2) years after the apparent owner's last indication of interest in the security. However, the holder must attempt to contact the apparent owner by first class United States mail within sixty (60) days if:

(1) the holder does not have information needed to send the apparent owner an electronic mail communication or the holder believes that the apparent owner's electronic mail address in the holder's records is not valid;

(2) the holder receives notification that the electronic mail communication was not received; or

(3) the apparent owner does not respond to the electronic mail communication not later than thirty (30) days after the communication was sent.

(c) If first class United States mail sent under subsection (b) is returned to the holder undelivered by the United States Postal Service, the security is presumed abandoned three (3) years after the date the mail is returned.

Sec. 10. At and after the time property is presumed abandoned under this chapter, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned.

Sec. 11. (a) The period after which property is presumed abandoned is measured from the later of:

(1) the date the property is presumed abandoned under this chapter; or

(2) the latest indication of interest by the apparent owner in the property.

(b) Under this chapter, an indication of an apparent owner's interest in property includes:

(1) a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(2) an oral communication by the apparent owner to the

holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(3) presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;

(4) activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(5) a deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;

(6) subject to subsection (e), payment of a premium on an insurance policy;

(7) the mailing of any correspondence in writing from a financial institution to the apparent owner, including:

(A) a statement;

(B) a report of interest paid or credited; or

(C) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable or any other account or property the apparent owner has with the financial institution, if the correspondence is not returned to the financial institution for nondelivery;

(8) any activity by the apparent owner that concerns:

(A) another demand, savings, or matured time deposit account or other account the apparent owner has with a financial institution, including any activity by the apparent owner that results in an increase or decrease in the amount of any other account; or

(B) any other relationship with the financial institution, including the payment of any amounts due on a loan; and

(9) any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows the property exists.

(c) An action by an agent or other representative of an apparent

owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

(d) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.

(e) If an insured dies or an insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic premium loan provision or other nonforfeiture provision contained in the policy, the operation does not prevent the policy from maturing or terminating.

Sec. 12. (a) As used in this section, "death master file" means the United States Social Security Administration Death Master File or other data base or service that is at least as comprehensive as the United States Social Security Administration Death Master File for determining that an individual reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

(1) the company receives a death certificate or court order determining that the insured or annuitant has died;

(2) due diligence, performed as required under IC 27-2-23 to maintain contact with the insured or annuitant or determine whether the insured or annuitant has died, validates the death of the insured or annuitant;

(3) the company conducts a comparison for any purpose between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and validates the death;

(4) the attorney general or the attorney general's agent conducts a comparison for the purpose of finding matches during an examination conducted under section 53 of this chapter between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and the company validates the death; or

(5) the company:

(A) receives notice of the death of the insured or annuitant from the attorney general, a beneficiary, policy owner, relative of the insured, or trustee or from an executor or other legal representative of the insured's or annuitant's estate; and

(B) validates the death of the insured or annuitant.

(c) The following rules apply under this section:

(1) A death master file match under subsection (b)(3) or (b)(4) occurs if the criteria for an exact or partial match are satisfied as provided under:

(A) IC 27-2-23;

(B) the National Conference of Insurance Legislators' model legislation regarding unclaimed benefits; or

(C) a rule or policy adopted by the department of insurance.

(2) The death master file match does not constitute proof of death for the purpose of submission to an insurance company of a claim by a beneficiary, annuitant, or owner of the policy or contract for an amount due under an insurance policy or annuity contract.

(3) The death master file match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.

(4) If no provision in IC 27-2 establishes a time for validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records and information to validate the death and document the effort taken not later than ninety (90) days after the insurance company has notice of the death.

(d) This chapter does not affect the determination of the extent to which an insurance company, before July 1, 2021, had knowledge of the death of an insured or annuitant or was required to conduct a death master file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed.

Sec. 13. If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not

involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account.

Sec. 14. (a) The following rules apply under this section:

(1) The last known address of an apparent owner is any description, code, or other indication of the location of the apparent owner which identifies the state, even if the description, code, or indication of location is not sufficient to direct the delivery of first class United States mail to the apparent owner.

(2) If the United States postal ZIP code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state.

(3) If the address under subdivision (2) is in another state, the other state is deemed to be the state of the last known address of the apparent owner.

(4) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under IC 27-2.

(b) The attorney general may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country if:

(1) the last known address of the apparent owner in the records of the holder is in this state; or

(2) the records of the holder do not reflect the identity or last known address of the apparent owner, but the attorney general has determined that the last known address of the apparent owner is in this state.

(c) Except as provided in subsection (d), if records of a holder reflect multiple addresses for an apparent owner and this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.

(d) If it appears from records of the holder that the most

recently recorded address of the apparent owner under subsection (c) is a temporary address and this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.

(e) Except as provided elsewhere in this section, the attorney general may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is this state or a governmental subdivision, agency, or instrumentality of this state, and:

(1) another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or

(2) the state or foreign country of the last known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property.

If the holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this subsection is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

(f) Property is not subject to custody of the attorney general under subsection (e) if the property is specifically exempt from custodial taking under the law of this state or the state or foreign country of the last known address of the apparent owner.

(g) If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

Sec. 15. Except as provided in sections 12, 13, and 14 of this chapter, the attorney general may take custody of property presumed abandoned whether located in this state or another state if:

(1) the transaction out of which the property arose took place in this state;

(2) the holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property is not subject to the custody of the attorney general; and

(3) the last known address of the apparent owner or other person entitled to the property is unknown or in a state that

does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the last known address, the property is not subject to the custody of the attorney general.

Sec. 16. The attorney general may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. 2501 through 2503.

Sec. 17. If a holder disputes the attorney general's right to custody of unclaimed property, the attorney general has the burden to prove:

(1) the existence and amount of the property;

(2) the property is presumed abandoned; and

(3) the property is subject to the custody of the attorney general.

Sec. 18. (a) A holder of property presumed abandoned and subject to the custody of the attorney general must report in a record to the attorney general concerning the property. The attorney general may not require a holder to file a paper report.

(b) A holder may contract with a third party to make the report required under subsection (a).

(c) Whether or not a holder contracts with a third party under subsection (b), the holder is responsible:

(1) to the attorney general for the complete, accurate, and timely reporting of property presumed abandoned; and

(2) for paying or delivering to the attorney general property described in the report.

Sec. 19. (a) The report required under section 18 of this chapter must:

(1) be signed by or on behalf of the holder and verified as to its completeness and accuracy;

(2) if filed electronically, be in a secure format approved by the attorney general which protects confidential information of the apparent owner in the same manner as required of the attorney general's agent under section 80 of this chapter;

(3) describe the property;

(4) contain:

(A) the name, if known;

(B) the last known address, if known; and

(C) the Social Security number or taxpayer identification number, if known or readily ascertainable;

of the apparent owner of the property of property with a value of fifty dollars ($50) or more;

(5) for an amount held or owing under a life or endowment insurance policy or annuity contract, contain the name and last known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;

(6) for property held in or removed from a safe deposit box, indicate the location of the property, where it may be inspected by the attorney general, and any amounts owed to the holder under section 32 of this chapter;

(7) contain the commencement date for determining abandonment under sections 4, 5, 6, 7, 8, and 9 of this chapter;

(8) state that the holder has complied with the notice requirements of section 23 of this chapter;

(9) identify property that is a non-freely transferable security and explain why it is a non-freely transferable security; and

(10) include any other information required by the attorney general.

(b) A report required under section 18 of this chapter may include in the aggregate items valued under fifty dollars ($50) each. If the report includes items in the aggregate valued under fifty dollars ($50) each, the attorney general may not require the holder to provide the name and address of an apparent owner of an item, unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report required under section 18 of this chapter may include personal information as defined in section 77(a) of this chapter about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder must include in the report required under section 18 of this chapter its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

Sec. 20. (a) Except as otherwise provided in subsection (b) and subject to subsection (c), the report required under section 18 of this chapter must be filed before November 1 of each year and cover the twelve (12) months preceding July 1 of that year.

(b) Subject to subsection (c), the report required under section 18 of this chapter to be filed by an insurance company must be

filed before May 1 of each year for the immediately preceding calendar year.

(c) Before the date for filing the report required under section 18 of this chapter, the holder of property presumed abandoned may request that the attorney general extend the time for filing. The attorney general may grant an extension. If an extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. A payment or partial payment under this subsection terminates accrual of interest on the amount paid.

Sec. 21. A holder required to file a report under section 18 of this chapter must retain records for ten (10) years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the attorney general. The holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

(1) the information required to be included in the report;

(2) the date, place, and nature of the circumstances that gave rise to the property right;

(3) the amount or value of the property;

(4) the last address of the apparent owner, if known to the holder; and

(5) if the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.

Sec. 22. Property is reportable and payable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

Sec. 23. (a) Subject to subsection (b), the holder of property presumed abandoned must send to the apparent owner notice by first class United States mail that complies with section 24 of this chapter in a format acceptable to the attorney general not more than one hundred eighty (180) days and less than sixty (60) days before filing the report under section 18 of this chapter if:

(1) the holder has in its records an address for the apparent owner which the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first class United States mail to the apparent owner; and

(2) the value of the property is fifty dollars ($50) or more.

(b) If an apparent owner has consented to receive electronic mail delivery from the holder, the holder may, at its election, send the notice described in subsection (a) by either first class United States mail to the apparent owner's last known mailing address, or by electronic mail, unless the holder believes the apparent owner's electronic mail address is invalid.

Sec. 24. (a) The notice under section 23 of this chapter must contain a heading that reads substantially as follows:

"Notice. The State of Indiana requires us to notify you that your property may be transferred to the custody of the attorney general if you do not contact us before thirty (30) days after the date of this notice.".

(b) The notice under section 23 of this chapter must:

(1) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;

(2) state that the property will be turned over to the attorney general;

(3) state that after the property is turned over to the attorney general an apparent owner that seeks return of the property must file a claim with the attorney general;

(4) state that property that is not legal tender of the United States may be sold by the attorney general; and

(5) provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the attorney general.

Sec. 25. (a) The attorney general shall give notice to an apparent owner that property presumed abandoned and appearing to be owned by the apparent owner is held by the attorney general under this chapter by:

(1) publishing once per year in at least one (1) newspaper of general circulation to each county of the state notice of property with a value greater than one hundred dollars ($100) held by the attorney general, which must include:

(A) the name of each apparent owner residing in the county, as set forth in the report filed by the holder;

(B) the last known address or location of each apparent owner residing in the county, if an address or a location is set forth in the report filed by the holder;

(C) a statement explaining that the property of the apparent owner is presumed abandoned and has been taken into the protective custody of the attorney general;

(D) a statement that information about the abandoned property and its return to the apparent owner is available from the attorney general to a person having a legal or beneficial interest in the property;

(E) the web address of the unclaimed property Internet web site maintained by the attorney general;

(F) a telephone number and electronic mail address to contact the attorney general to inquire about or claim property; and

(G) a statement that a person may access the Internet by a computer to search for unclaimed property and a computer may be available as a service to the public at a local public library; and

(2) maintaining an Internet web site or data base accessible by the public and electronically searchable which contains the names reported to the attorney general of all apparent owners for whom property valued at ten dollars ($10) or more is being held by the attorney general.

(b) The Internet web site or data base maintained under subsection (a)(2) must include instructions for filing with the attorney general a claim to property and a printable claim form with instructions for its use.

(c) In addition to publishing the information under subsection (a)(1) and maintaining the Internet web site or data base under subsection (a)(2), the attorney general may use other printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the attorney general.

Sec. 26. Unless prohibited by law other than this chapter, on request of the attorney general, each officer, agency, board, commission, division, and department of the state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the attorney general and cooperate with the attorney general to determine the current address of an apparent owner of property held by the attorney general under this chapter.

Sec. 27. In this chapter, payment or delivery of property is made in good faith if a holder:

(1) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the attorney general under this chapter; or

(2) made payment or delivery:

(A) in response to a demand by the attorney general or the attorney general's agent; or

(B) under a guidance or ruling issued by the attorney general which the holder reasonably believed required or permitted the property to be paid or delivered.

Sec. 28. (a) A holder may deduct a dormancy charge from property required to be paid or delivered to the attorney general if:

(1) a valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and

(2) the holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.

(b) The amount of the deduction under subsection (a) is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner.

Sec. 29. (a) Except as otherwise provided in this section, upon filing a report under section 18 of this chapter, the holder shall pay or deliver to the attorney general the property described in the report.

(b) If property in a report under section 18 of this chapter is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the attorney general at the time of the report, the date for payment of the property to the attorney general is extended until a penalty or forfeiture no longer would result from payment.

(c) Tangible property in a safe deposit box may not be delivered to the attorney general until thirty (30) days after filing the report under section 18 of this chapter.

(d) If property reported to the attorney general under section 18 of this chapter is a security, the attorney general may:

(1) make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security; or

(2) dispose of the security under section 38 of this chapter.

(e) If the holder of property reported to the attorney general under section 18 of this chapter is the issuer of a certificated

security, the attorney general may obtain a replacement certificate in physical or book entry form under IC 26-1-8.1-405. An indemnity bond is not required.

(f) The attorney general shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the attorney general by a holder.

(g) An issuer, holder, and transfer agent or other person acting under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and must be indemnified by the state against, a claim arising with respect to property after property has been delivered to the attorney general.

(h) A holder is not required to deliver to the attorney general a security identified by the holder as a non-freely transferable security. If the attorney general or holder determines that a security is no longer a non-freely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter. The holder shall make a determination annually whether a security identified in a report filed under section 18 of this chapter as a non-freely transferable security is no longer a non-freely transferable security.

Sec. 30. (a) On payment or delivery of property to the attorney general under this chapter, the attorney general, as agent for the state, assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the attorney general in good faith and substantially complies with sections 23 and 24 of this chapter is relieved of liability arising after with respect to payment or delivery of the property to the attorney general.

(b) The state must defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the attorney general made in good faith and after the holder substantially complied with sections 23 and 24 of this chapter.

Sec. 31. (a) A holder that pays money to the attorney general under this chapter may file a claim for reimbursement from the attorney general of the amount paid if the holder:

(1) paid the money in error; or

(2) after paying the money to the attorney general, paid money to a person the holder reasonably believed was entitled to the money.

(b) If a claim for reimbursement under subsection (a) is made

for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder must submit proof that the instrument was presented and payment was made to a person the holder reasonably believed was entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.

(c) If a holder is reimbursed by the attorney general under subsection (a)(2), the holder may also recover from the attorney general income or gain under section 33 of this chapter that would have been paid to the owner if the money had been claimed from the attorney general by the owner to the extent the income or gain was paid by the holder to the owner.

(d) A holder that delivers property other than money to the attorney general under this chapter may file a claim for return of the property from the attorney general if:

(1) the holder delivered the property in error; or

(2) the apparent owner has claimed the property from the holder.

(e) If a claim for return of property is made under subsection (d), the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the attorney general in error.

(f) The attorney general may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.

(g) A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.

(h) Not later than ninety (90) days after a claim is filed under subsection (a) or (d), the attorney general shall allow or deny the claim and give the claimant notice of the decision in a record. If the attorney general does not take action on a claim during the ninety (90) day period, the claim is deemed denied.

(i) The claimant may initiate a proceeding under IC 4-21.5 for review of the attorney general's decision or the deemed denial under subsection (h) not later than:

(1) thirty (30) days following receipt of the notice of the attorney general's decision; or

(2) one hundred twenty (120) days following the filing of a claim under subsection (a) or (d) in the case of a deemed denial under subsection (h).

(j) A final decision in an administrative proceeding initiated under subsection (i) is subject to judicial review by a trial court with competent jurisdiction.

Sec. 32. Property removed from a safe deposit box and delivered to the attorney general under this chapter is subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The attorney general shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the attorney general in selling the property. If a claim is filed for property removed from a safe deposit box before the property is sold, the owner must provide proof that all unpaid rent and fees have been paid to the financial institution.

Sec. 32.5. (a) Notwithstanding section 30(a) of this chapter, United States savings bonds that are presumed abandoned under this chapter escheat to the state subject to the provisions of this chapter. All property rights and legal title to United States savings bonds and proceeds from United States savings bonds vest solely in the state.

(b) If:

(1) a claim has not been made for a United States savings bond in accordance with the provisions of this chapter within one hundred eighty (180) days after the bond stops earning interest; and

(2) the attorney general brings an action in a court with competent jurisdiction;

the court shall enter a judgment for the state concerning the bond if the court is satisfied with the evidence that the attorney general has substantially complied with this chapter and the laws of the state.

(c) The attorney general shall:

(1) collect all United States savings bonds escheated to the state, including any proceeds from the bonds; and

(2) transfer all money received to the treasurer of state under section 42 of this chapter.

(d) A person who wishes to make a claim for a United States savings bond escheated to the state under this section may file a claim with the attorney general. Upon providing sufficient proof of the validity of the claim filed under this subsection, the attorney

general may pay the claim, less any expenses and costs that have been incurred by the state in securing full title and ownership of the property by escheat.

(e) If payment has been made to a claimant under subsection (d), an action may not be brought or maintained against the state, or any officer of the state, for or on account of any acts taken by the attorney general under this section.

Sec. 33. (a) If property other than money is delivered to the attorney general, the owner is entitled to receive from the attorney general income or gain realized or accrued on the property before the property is sold. If the property was an interest bearing demand, savings, or time deposit, the attorney general shall pay interest at the lesser rate of the average commercial interest rate for similar interest bearing property, as determined by an appropriate index, or the rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the attorney general and ends on the date on which payment is made to the owner.

(b) Interest on interest bearing property is not payable under this section for any period before July 1, 2021, unless authorized by IC 32-34-1-30.1 (before its repeal).

Sec. 34. (a) The attorney general may decline to take custody of property reported under section 18 of this chapter if the attorney general determines that:

(1) the property has a value less than the estimated expenses of notice and sale of the property; or

(2) taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the attorney general before the property is presumed abandoned under this chapter if the holder:

(1) sends the apparent owner of the property notice required by section 23 of this chapter and provides the attorney general evidence of the holder's compliance with this subsection;

(2) includes with the payment or delivery a report regarding the property conforming to section 19 of this chapter; and

(3) first obtains the attorney general's consent in a record to accept payment or delivery.

(c) A holder's request for the attorney general's consent under subsection (b)(3) must be in a record. If the attorney general fails to respond to the request not later than thirty (30) days after receipt of the request, the attorney general is deemed to have denied the payment or delivery of the property.

(d) On payment or delivery of property under subsection (b), the property is presumed abandoned.

Sec. 35. (a) If the attorney general takes custody of property delivered under this chapter and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the attorney general may return the property to the holder or destroy or otherwise dispose of the property.

(b) An action or proceeding may not be commenced against the state, an agency of the state, the attorney general, another officer, employee, or agent of the state, or a holder for or because of an act of the attorney general under this section, except for intentional misconduct or malfeasance.

Sec. 36. (a) Expiration before, on, or after the effective date of this chapter of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of the holder under this chapter to file a report or pay or deliver property to the attorney general.

(b) The attorney general may not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property more than five (5) years after the holder filed a nonfraudulent report under section 18 of this chapter with the attorney general. The parties may agree in a record to extend the limitation in this subsection.

(c) The attorney general may not commence an action, proceeding, or examination with respect to a duty of a holder under this chapter more than ten (10) years after the duty arose.

Sec. 37. (a) Subject to section 38 of this chapter, not earlier than three (3) years after receipt of property presumed abandoned, the attorney general may sell the property.

(b) Before selling property under subsection (a), the attorney general must give notice to the public of:

(1) the date of the sale; and

(2) a reasonable description of the property.

(c) A sale under subsection (a) must be to the highest bidder:

(1) at public sale at a location in this state which the attorney general determines to be the most favorable market for the property;

(2) on the Internet; or

(3) on another forum the attorney general determines is likely to yield the highest net proceeds of sale.

(d) The attorney general may decline the highest bid at a sale under this section and reoffer the property for sale if the attorney general determines the highest bid is insufficient.

(e) If a sale held under this section is to be conducted other than on the Internet, the attorney general must publish at least one (1) notice of the sale, at least three (3) weeks but not more than five (5) weeks before the sale, in a newspaper of general circulation in the county in which the property is sold.

Sec. 38. (a) The attorney general shall sell a security as soon as reasonably possible.

(b) The attorney general may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The attorney general may sell a security not listed on an established exchange by any commercially reasonable method.

Sec. 39. If a valid claim is made for a security in the possession of the attorney general, the attorney general shall:

(1) transfer the security to the claimant; or

(2) pay the claimant the value of the security as of the date the security was delivered to the attorney general.

Sec. 40. A purchaser of property at a sale conducted by the attorney general under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder. The attorney general shall execute documents necessary to complete the transfer of ownership to the purchaser.

Sec. 41. (a) The attorney general may not sell a medal or decoration awarded for military service in the armed forces of the United States.

(b) The attorney general, with the consent of the respective organization under subdivision (1), agency under subdivision (2), or entity under subdivision (3), may deliver a medal or decoration described in subsection (a) to be held in custody for the owner, to:

(1) a military veterans organization qualified under Section 501(c) of the Internal Revenue Code;

(2) the agency that awarded the medal or decoration; or

(3) a governmental entity.

(c) Upon delivery under subsection (b), the attorney general is not responsible for safekeeping the medal or decoration.

Sec. 42. (a) Except as otherwise provided in this section, the attorney general shall transfer to the treasurer of state for deposit in the abandoned property fund all funds received under this

chapter, including proceeds from the sale of property under sections 37 and 38 of this chapter.

(b) The attorney general shall maintain an account with an amount of funds the attorney general reasonably estimates is sufficient to pay claims allowed under this chapter. If the aggregate amount of claims by owners allowed at any time exceeds the amount held in the account, an excess claim must be paid out of the state general fund.

Sec. 43. The attorney general shall:

(1) record and retain the name and last known address of each person shown on a report filed under section 18 of this chapter to be the apparent owner of property delivered to the attorney general;

(2) record and retain the name and last known address of each insured or annuitant and beneficiary shown on the report;

(3) for each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and

(4) for each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid.

Sec. 44. (a) Before transferring funds received under this chapter to the treasurer of state for deposit in the abandoned property fund, the attorney general may deduct:

(1) expenses of disposition of property delivered to the attorney general under this chapter;

(2) costs of mailing and publication in connection with property delivered to the attorney general under this chapter;

(3) reasonable service charges; and

(4) expenses incurred in examining records of or collecting property from a putative holder or holder.

(b) If the balance of the principal in the abandoned property fund exceeds five hundred thousand dollars ($500,000), the treasurer of state may, and at least once each fiscal year shall, transfer to the state general fund the balance of the principal of the abandoned property fund that exceeds five hundred thousand dollars ($500,000).

(c) If a claim is allowed or a refund is ordered under this chapter that is more than five hundred thousand dollars ($500,000), the treasurer of state shall transfer from the state

general fund sufficient money to make prompt payment of the claim. There is annually appropriated to the treasurer of state from the state general fund the amount of money sufficient to implement this subsection.

(d) Except as provided in subsection (e), earnings on the abandoned property fund must be credited to the fund.

(e) On July 1 of each year, the interest balance in the abandoned property fund must be transferred to the state general fund.

Sec. 45. Property received by the attorney general under this chapter is held in custody for the benefit of the owner and is not owned by the state.

Sec. 46. (a) If the attorney general knows that property held by the attorney general under this chapter is subject to a superior claim of another state, the attorney general shall:

(1) report and pay or deliver the property to the other state;

(2) return the property to the holder so that the holder may pay or deliver the property to the other state; or

(3) pay or deliver the property to the owner if the owner makes a claim while the property is in the custody of the attorney general.

(b) The attorney general is not required to enter into an agreement to transfer property to the other state under subsection (a).

Sec. 47. (a) Property held under this chapter by the attorney general is subject to the right of another state to take custody of the property if:

(1) the property was paid or delivered to the attorney general because the records of the holder did not reflect a last known address in the other state of the apparent owner and:

(A) the other state establishes that the last known address of the apparent owner or other person entitled to the property was in the other state; or

(B) under the law of the other state, the property has become subject to a claim by the other state of abandonment;

(2) the records of the holder did not accurately identify the owner of the property, the last known address of the owner was in another state, and, under the law of the other state, the property has become subject to a claim by the other state of abandonment;

(3) the property was subject to the custody of the attorney general of this state under section 15 of this chapter and,

under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

(4) the property:

(A) is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the attorney general under section 16 of this chapter; and

(B) under the law of the other state, has become subject to a claim by the other state of abandonment.

(b) A claim by another state to recover property under this section must be presented in a form prescribed by the attorney general, unless the attorney general waives presentation of the form.

(c) The attorney general shall decide a claim under this section not later than ninety (90) days after it is presented. If the attorney general determines that the other state is entitled under subsection (a) to custody of the property, the attorney general shall allow the claim and pay or deliver the property to the other state.

(d) The attorney general may require another state, before recovering property under this section, to agree to indemnify this state and its agents, officers, and employees against any liability on a claim to the property.

Sec. 48. (a) A person claiming to be the owner of property held under this chapter by the attorney general may file a claim for the property on a form prescribed by the attorney general. The claimant must verify the claim as to its completeness and accuracy.

(b) The attorney general may waive the requirement in subsection (a) and may pay or deliver property directly to a person if:

(1) the person receiving the property or payment is shown to be the apparent owner included on a report filed under section 18 of this chapter;

(2) the attorney general reasonably believes the person is entitled to receive the property or payment; and

(3) the property has a value of less than one thousand dollars ($1,000).

(c) A person may file a claim under subsection (a) at any time not later than twenty-five (25) years after the date on which the property is presumed abandoned under this chapter, notwithstanding the expiration of any other time period specified by statute, contract, or court order during which an action or a

proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property.

Sec. 49. (a) The attorney general shall pay or deliver property to a claimant under section 48(a) of this chapter if the attorney general receives evidence sufficient to establish to the satisfaction of the attorney general that the claimant is the owner of the property.

(b) Not later than ninety (90) days after a claim is filed under section 48(a) of this chapter, the attorney general shall allow or deny the claim and give the claimant notice in a record of the decision.

(c) If the claim is denied under subsection (b):

(1) the attorney general shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed;

(2) the claimant may file an amended claim with the attorney general or commence an action under section 51 of this chapter; and

(3) the attorney general shall consider an amended claim filed under subdivision (2) as an initial claim.

(d) If the attorney general does not take action on a claim during the ninety (90) day period following the filing of a claim under section 48(a) of this chapter, the claim is deemed denied.

Sec. 50. (a) Not later than thirty (30) days after a claim is allowed under section 49(b) of this chapter, the attorney general shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 33 of this chapter.

(b) Property held under this chapter by the attorney general is subject to a claim for the payment of an enforceable debt the owner owes in this state for:

(1) child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;

(2) a civil or criminal fine or penalty, court costs, surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or

(3) state or local taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the local taxing authority.

(c) Before delivery or payment to an owner under subsection (a) of property or payment to the owner of net proceeds of a sale of the

property, the attorney general first shall apply the property or net proceeds to a debt under subsection (b) the attorney general determines is owed by the owner. The attorney general shall pay the amount to the appropriate state or local agency.

(d) The attorney general may make periodic inquiries of state and local agencies in the absence of a claim filed under section 48 of this chapter to determine whether an apparent owner included in the unclaimed property records of this state has enforceable debts described in subsection (b). The attorney general first shall apply the property or net proceeds of a sale of property held by the attorney general to a debt under subsection (b) of an apparent owner which appears in the records of the attorney general and deliver the amount to the appropriate state or local agency.

Sec. 51. Not later than one (1) year after filing a claim under section 48(a) of this chapter, the claimant may commence an action against the attorney general in a court with jurisdiction to establish a claim that has been denied or deemed denied under section 49(d) of this chapter.

Sec. 52. If a person does not file a report required by section 18 of this chapter or the attorney general believes that a person may have filed an inaccurate, incomplete, or false report, the attorney general may require the person to file a verified report in a form prescribed by the attorney general. The verified report must:

(1) state whether the person is holding property reportable under this chapter;

(2) describe property not previously reported or about which the attorney general has inquired;

(3) specifically identify property described under subdivision (2) about which there is a dispute whether it is reportable under this chapter; and

(4) state the amount or value of the property.

Sec. 53. The attorney general, at reasonable times and with reasonable notice, may:

(1) examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this chapter;

(2) issue an administrative subpoena requiring the person or agent of the person to make records available for examination; and

(3) bring an action seeking judicial enforcement of the

subpoena.

Sec. 54. (a) The attorney general may adopt rules under IC 4-22-2 governing procedures and standards for an examination under section 53 of this chapter, including rules for use of an estimation, extrapolation, and statistical sampling in conducting an examination.

(b) An examination under section 53 of this chapter must be performed under rules adopted under subsection (a) and with generally accepted examination practices and standards applicable to an unclaimed property examination.

(c) If a person subject to examination under section 53 of this chapter has filed the reports required under sections 18 and 52 of this chapter and has retained the records required by section 21 of this chapter, the following rules apply:

(1) The examination must include a review of the person's records.

(2) The examination may not be based on an estimate unless the person expressly consents in a record to the use of an estimate.

(3) The person conducting the examination shall consider the evidence presented in good faith by the person in preparing the findings of the examination under section 58 of this chapter.

Sec. 55. Records obtained and records, including work papers, compiled by the attorney general in the course of conducting an examination under section 53 of this chapter:

(1) are subject to the confidentiality and security provisions of sections 77, 78, 79, 80, 81, 82, 83, and 84 of this chapter;

(2) may be used by the attorney general in an action to collect property or otherwise enforce this chapter;

(3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to sections 77, 78, 79, 80, 81, 82, 83, and 84 of this chapter;

(4) must be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in sections 77, 78, 79, 80, 81, 82, 83, and 84 of this

chapter, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to sections 77, 78, 79, 80, 81, 82, 83, and 84 of this chapter;

(5) must be produced by the attorney general under an administrative or judicial subpoena or administrative or court order; and

(6) must be produced by the attorney general on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.

Sec. 56. (a) A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.

(b) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection (a) or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

(c) A putative holder may overcome prima facie evidence under subsection (a) by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:

(1) issued as an unaccepted offer in settlement of an unliquidated amount;

(2) issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;

(3) issued to a party affiliated with the issuer;

(4) paid, satisfied, or discharged;

(5) issued in error;

(6) issued without consideration;

(7) issued but there was a failure of consideration;

(8) voided not later than ninety (90) days after issuance for a valid business reason set forth in a contemporaneous record; or

(9) issued but not delivered to the third party payee for a sufficient reason recorded within a reasonable time after issuance.

(d) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

Sec. 57. If a person subject to examination under section 53 of this chapter does not retain the records required by section 21 of

this chapter, the attorney general may determine the value of property due using a reasonable method of estimation based on all information available to the attorney general, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards under section 54 of this chapter.

Sec. 58. At the conclusion of an examination under section 53 of this chapter, the attorney general or the attorney general's agent shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

(1) the work performed;

(2) the property types reviewed;

(3) the methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;

(4) each calculation showing the value of property determined to be due; and

(5) the findings of the person conducting the examination.

Sec. 59. (a) If a person subject to examination under section 53 of this chapter believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the attorney general to intervene and take appropriate remedial action, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination, or reassigning the examination to another person.

(b) If a person in a record requests a conference with the attorney general to present matters that are the basis of a request under subsection (a), the attorney general shall hold the conference not later than thirty (30) days after receiving the request. The attorney general may hold the conference in person, by telephone, or by electronic means.

(c) If a conference is held under subsection (b), not later than thirty (30) days after the conference ends, the attorney general shall provide a report in a record of the conference to the person that requested the conference.

Sec. 60. (a) As used in this section, "related to the attorney general" means an individual who is:

(1) the attorney general's spouse, partner in a civil union, domestic partner, or reciprocal beneficiary;

(2) the attorney general's child, stepchild, grandchild, parent,

stepparent, sibling, stepsibling, half-sibling, aunt, uncle, niece, or nephew;

(3) a spouse, partner in a civil union, domestic partner, or reciprocal beneficiary of an individual under subdivision (2); or

(4) any individual residing in the attorney general's household.

(b) The attorney general may contract with a person to conduct an examination under this chapter. The contract may be awarded only under IC 5-22.

(c) If the person with which the attorney general contracts under subsection (b) is:

(1) an individual, the individual may not be related to the attorney general; or

(2) a business entity, the entity may not be owned in whole or in part by the attorney general or an individual related to the attorney general.

(d) At least sixty (60) days before assigning a person under contract with the attorney general under subsection (b) to conduct an examination, the attorney general shall demand in a record that the person to be examined submit a report and deliver property that is previously unreported.

(e) If the attorney general contracts with a person under subsection (b):

(1) the contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee;

(2) a contingent fee arrangement may not provide for a payment that exceeds ten percent (10%) of the amount or value of property paid or delivered as a result of the examination; and

(3) on request by a person subject to examination by a contractor, the attorney general shall deliver to the person a complete and unredacted copy of the contract and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

(f) A contract under subsection (b) is subject to public disclosure without redaction under IC 5-14-3.

Sec. 61. The attorney general or an individual employed by the attorney general who participates in, recommends, or approves the award of a contract under section 60(b) of this chapter on or after July 1, 2021, is subject to the ethics and conflicts of interest provisions under IC 4-2-6.

Sec. 62. (a) Not later than three (3) months after the end of the fiscal year, the attorney general shall compile and submit a report to the treasurer of state. The report must contain the following information about property presumed abandoned for the preceding fiscal year for the state:

(1) The total amount and value of all property paid or delivered under this act to the attorney general, separated into the following:

(A) The part voluntarily paid and delivered.

(B) The part paid or delivered as a result of an examination under section 53 of this chapter, separated into the following:

(i) The part received as a result of an examination conducted by a state employee.

(ii) The part received as a result of an examination conducted by a contractor under section 60 of this chapter.

(2) The name of and amount paid to each contractor under section 60 of this chapter and the percentage of the total compensation paid to all contractors under section 60 of this chapter bears to the total amount paid or delivered to the attorney general as a result of all examinations performed under section 60 of this chapter.

(3) The total amount and value of all property paid or delivered by the attorney general to persons that made claims for property held by the attorney general under this chapter and the percentage the total payments made and value of property delivered to claimants bears to the total amounts paid and value delivered to the attorney general.

(4) The total amount of claims made by persons claiming to be owners which were denied, were allowed, and are pending.

(b) The report under subsection (a) is a public record subject to public disclosure without redaction under IC 5-14-3.

Sec. 63. If the attorney general determines from an examination conducted under section 53 of this chapter that a putative holder failed or refused to pay or deliver to the attorney general property which is reportable under this chapter, the attorney general shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.

Sec. 64. (a) Not later than thirty (30) days after receipt of a notice under section 63 of this chapter, the putative holder may

request an informal conference with the attorney general to review the determination. Except as otherwise provided in this section, the attorney general may designate an employee to act on behalf of the attorney general.

(b) If a putative holder makes a timely request under subsection (a) for an informal conference:

(1) not later than twenty (20) days after the date of the request, the attorney general shall set the time and place of the conference;

(2) the attorney general shall give the putative holder notice in a record of the time and place of the conference;

(3) the conference may be held in person, by telephone, or by electronic means, as determined by the attorney general;

(4) the request tolls the ninety (90) day period under sections 66 and 67 of this chapter until notice of a decision under subdivision (7) has been given to the putative holder or the putative holder withdraws the request for the conference;

(5) the conference may be postponed, adjourned, and reconvened as the attorney general deems appropriate;

(6) the attorney general or the attorney general's designee with the approval of the attorney general may modify or withdraw a determination made under section 63 of this chapter; and

(7) the attorney general shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than twenty (20) days after the conference ends.

(c) A conference under subsection (b) is not an administrative remedy and is not a contested case subject to IC 4-21.5. An oath is not required and rules of evidence do not apply in the conference.

(d) At a conference under subsection (b), the putative holder must be given an opportunity to confer informally with the attorney general and the person that examined the records of the putative holder to:

(1) discuss the determination made under section 63 of this chapter; and

(2) present any issue concerning the validity of the determination.

(e) If the attorney general fails to act within the period prescribed in subsection (b)(1) or (b)(7), the failure does not affect a right of the attorney general, except that interest does not accrue on the amount for which the putative holder was determined to be

liable under section 63 of this chapter during the period in which the attorney general failed to act until the earlier of:

(1) the date the putative holder initiates administrative review under section 66 of this chapter or files an action under section 67 of this chapter; or

(2) ninety (90) days after the putative holder received notice of the attorney general's determination under section 63 of this chapter if no review was initiated under section 66 of this chapter and no action was filed under section 67 of this chapter.

(f) The attorney general may hold an informal conference with a putative holder about a determination under section 63 of this chapter without a request at any time before the putative holder initiates administrative review under section 66 of this chapter or files an action under section 67 of this chapter.

(g) Interest and penalties under section 71 of this chapter continue to accrue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.

Sec. 65. A putative holder may seek relief from a determination under section 63 of this chapter by:

(1) administrative review under section 66 of this chapter; and

(2) after the administrative remedies under section 66 of this chapter are exhausted, judicial review under section 67 of this chapter.

Sec. 66. (a) Not later than ninety (90) days after receiving notice of the attorney general's determination under section 63 of this chapter, a putative holder may initiate a proceeding under IC 4-21.5 for review of the attorney general's determination.

(b) A final decision in an administrative proceeding initiated under subsection (a) is subject to judicial review by a court with jurisdiction.

Sec. 67. (a) Not later than ninety (90) days after the putative holder has exhausted the administrative remedies available in section 66 of this chapter, the putative holder may:

(1) file an action against the attorney general in a court with jurisdiction challenging the attorney general's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(2) pay the amount or deliver the property determined by the attorney general to be paid or delivered to the attorney

general and, not later than six (6) months after payment or delivery, file an action against the attorney general in a court with jurisdiction for a refund of all or part of the amount paid or return of all or part of the property delivered.

(b) If a putative holder pays or delivers property the attorney general determined must be paid or delivered to the attorney general at any time after the putative holder files an action under subsection (a)(1), the court shall continue the action as if it had been filed originally as an action for a refund or return of property under subsection (a)(2).

(c) Upon the final determination of an action filed under subsection (a), the court may award reasonable attorney's fees to a putative holder that prevails in an action under this section.

(d) A putative holder that prevails in an action under subsection (a)(2) for a refund of money paid to the attorney general is entitled to interest on the amount refunded, at the same rate a holder is required to pay to the attorney general under section 71(a) of this chapter, from the date paid to the attorney general until the date of the refund.

Sec. 68. If a determination under section 63 of this chapter becomes final and is not subject to administrative or judicial review, the attorney general may commence an action in a court with jurisdiction over the defendant to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property. The action must be brought not later than one (1) year after the determination becomes final.

Sec. 69. (a) Subject to subsection (b), the attorney general may:

(1) exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and

(2) authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a putative holder under sections 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 62 of this chapter.

(b) An exchange or examination under subsection (a) may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in sections 77, 78, 79, 80, 81, 82, 83, and 84 of this chapter or agrees in a record to be bound by this state's confidentiality and security requirements.

Sec. 70. (a) The attorney general may join another state or

foreign country to examine and seek enforcement of this chapter against a putative holder.

(b) On request of another state or foreign country, the attorney general may commence action on behalf of the other state or country to enforce, in this state, the law of the other state or country against a putative holder subject to a claim by the other state or country, if the other state or country agrees to pay the costs incurred by the attorney general in the action.

(c) The attorney general may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the attorney general. The state shall pay all the costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection.

(d) The attorney general may pursue an action on behalf of this state to recover property subject to this chapter but delivered to the custody of another state if the attorney general believes the property is subject to the custody of the attorney general.

(e) The attorney general may retain an attorney in this state, another state, or a foreign country to commence an action to recover property on behalf of the attorney general and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.

(f) Expenses incurred by the state in an action under this section may be paid from property received under this chapter or the net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this chapter by the owner.

Sec. 71. (a) A holder that fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the attorney general interest at the following rates:

(1) The annual interest rate for a period of one (1) year or less after the time required by this chapter for reporting, payment, or delivery of property is the one (1) year Treasury Bill rate published in The Wall Street Journal or its successor on the third Tuesday of the month in which the remittance was due, plus one (1) percentage point.

(2) The interest rate for each year after the initial year to which subdivision (1) applies is the one (1) year Treasury Bill rate published in The Wall Street Journal or its successor on

the third Thursday of the month immediately preceding the anniversary of the due date, plus one (1) percentage point.

(b) Except as otherwise provided in sections 72 and 73 of this chapter, the attorney general may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the attorney general, in addition to interest under subsection (a), a civil penalty of two hundred dollars ($200) for each day the duty is not performed, up to a cumulative maximum of five thousand dollars ($5,000).

Sec. 72. (a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the attorney general may require the holder to pay the attorney general, in addition to interest under section 71(a) of this chapter, a civil penalty of one thousand dollars ($1,000) for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.

(b) If a holder makes a fraudulent report under this chapter, the attorney general may require the holder to pay to the attorney general, in addition to interest under section 71(a) of this chapter, a civil penalty of one thousand dollars ($1,000) for each day from the date the report was made until corrected, up to a cumulative maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the amount or value of any property that should have been reported but was not included in the report or was underreported.

Sec. 73. The attorney general shall waive interest under section 71(a) of this chapter and penalties under sections 71(b) and 72 of this chapter if the attorney general determines the holder acted in good faith and without negligence.

Sec. 74. An agreement by an apparent owner and another person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the attorney general, is enforceable only if the agreement:

(1) is in a record that clearly states the nature of the property and the services to be provided;

(2) is signed by or on behalf of the apparent owner;

(3) states the amount or value of the property reasonably

expected to be recovered, computed before and after a fee or other compensation to be paid to the person has been deducted; and

(4) informs the apparent owner that a claim for property held by the attorney general may be made without charge through the attorney general's office.

Sec. 75. (a) Subject to subsection (b), an agreement under section 74 of this chapter is void if it is entered into during the period beginning on the date the property was paid or delivered by a holder to the attorney general and ending twenty-four (24) months after the payment or delivery.

(b) If a provision in an agreement described in subsection (a) applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a part of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void regardless of when the agreement was entered into.

(c) An agreement under subsection (a) which provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner. Compensation for an agreement under subsection (a) is unconscionable if the fee or compensation is more than ten percent (10%) of the amount collected, unless the amount collected is fifty dollars ($50) or less, and may not exceed five thousand dollars ($5,000). An apparent owner that believes the compensation the apparent owner has agreed to pay is unconscionable or the attorney general, acting on behalf of an apparent owner, or both, may file an action in a court with jurisdiction to reduce the compensation to the maximum amount that is not unconscionable. An apparent owner that prevails in an action under this subsection may be awarded reasonable attorney's fees.

(d) An apparent owner or the attorney general may assert that an agreement described in this section is void on a ground other than it provides for payment of unconscionable compensation.

(e) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the attorney general or to contest the attorney general's denial of a claim for recovery of the property.

Sec. 76. (a) An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner which is held by the

attorney general may designate the person as the agent of the apparent owner. The designation must be in a record signed by the apparent owner.

(b) The attorney general shall give the agent of the apparent owner all information concerning the property which the apparent owner is entitled to receive, including information that otherwise is confidential information under section 78 of this chapter.

(c) If authorized by the apparent owner, the agent of the apparent owner may bring an action against the attorney general on behalf of and in the name of the apparent owner.

Sec. 77. (a) As used in this section and sections 78, 79, 80, 81, 82, 83, and 84 of this chapter, "personal information" means:

(1) information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:

(A) Social Security number or other government issued number or identifier;

(B) date of birth;

(C) home or physical address;

(D) electronic mail address or other online contact information or Internet provider address;

(E) financial account number or credit or debit card number;

(F) biometric data, health or medical data, or insurance information; or

(G) passwords or other credentials that permit access to an online or other account;

(2) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

(3) any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting under IC 4-1-11 and federal privacy and data security law, whether or not the attorney general or the attorney general's agent is subject to the law.

(b) A provision of this section and sections 78, 79, 80, 81, 82, 83, and 84 of this chapter that applies to the attorney general or the attorney general's records also applies to the attorney general's agent.

Sec. 78. (a) Except as otherwise provided in this chapter, the following are confidential and are exempt from public inspection

or disclosure:

(1) Reports and records of a holder in possession of the attorney general or the attorney general's agent.

(2) Personal information and other information derived or otherwise obtained by or communicated to the attorney general or the attorney general's agent from an examination under this chapter of the records of a person.

(b) A record or other information that is confidential under law of this state other than this chapter, another state, or the United States continues to be confidential when disclosed or delivered under this chapter to the attorney general or the attorney general's agent.

Sec. 79. (a) When reasonably necessary to enforce or implement this chapter, the attorney general may disclose confidential information concerning property held by the attorney general or the attorney general's agent only to:

(1) an apparent owner or the apparent owner's personal representative, attorney, other legal representative, relative, or agent designated under section 76 of this chapter to have the information;

(2) the personal representative, other legal representative, relative of a deceased apparent owner, agent designated under section 76 of this chapter by the deceased apparent owner, or a person entitled to inherit from the deceased apparent owner;

(3) another department or agency of this state or the United States;

(4) the person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the attorney general of this state if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to sections 77, 78, 79, 80, 81, 82, 83, and 84 of this chapter; and

(5) a person subject to an examination under section 55(6) of this chapter.

(b) Except as otherwise provided in section 78(a) of this chapter, the attorney general shall include on the Internet web site or in the data base required by section 25(a)(2) of this chapter the name of each apparent owner of property held by the attorney general. The attorney general may include in published notices, printed publications, telecommunications, the Internet, or other media and

on the Internet web site or in the data base additional information concerning the apparent owner's property if the attorney general believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.

(c) The attorney general and the attorney general's agent may not use confidential information provided to them or in their possession except as expressly authorized by this chapter or required by another law of this state.

Sec. 80. A person to be examined under section 53 of this chapter may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

(1) is in a form that is reasonably satisfactory to the attorney general; and

(2) requires the person having access to the records to comply with the provisions of this section and sections 77, 78, 79, 80, 81, 82, 83, and 84 of this chapter applicable to the person.

Sec. 81. Except as otherwise provided in sections 23 and 24 of this chapter, a holder is not required to include confidential information in a notice the holder is required to provide to an apparent owner under this chapter.

Sec. 82. (a) If a holder is required to include confidential information in a report to the attorney general, the information must be provided by a secure means.

(b) If confidential information in a record is provided to and maintained by the attorney general or the attorney general's agent as required by this chapter, the attorney general or the attorney general's agent shall:

(1) implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information required by IC 4-1-11 and federal privacy and data security law whether or not the attorney general or the attorney general's agent is subject to the law;

(2) protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and

(3) protect against unauthorized access to or use of the information which could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, and policy or contract owners and their

beneficiaries.

(c) The attorney general:

(1) after notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the attorney general's possession and seeks to mitigate the risks; and

(2) shall ensure that the attorney general's agent adopts and implements a similar plan with respect to confidential information in the agent's possession.

(d) The attorney general and the attorney general's agent shall educate and train their employees regarding the plan adopted under subsection (c).

(e) The attorney general and the attorney general's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this chapter.

Sec. 83. (a) Except to the extent prohibited by law other than this chapter, the attorney general or the attorney general's agent shall notify a holder as soon as practicable of:

(1) a suspected loss, misuse or unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the attorney general or the attorney general's agent; and

(2) any interference with operations in any system hosting or housing confidential information which:

(A) compromises the security, confidentiality, or integrity of the information; or

(B) creates a substantial risk of identity fraud or theft.

(b) The attorney general and the attorney general's agent must comply with the requirements of IC 4-1-10 and IC 4-1-11 if an event described in subsection (a) leads to the disclosure of confidential information.

(c) If an event described in subsection (a) occurs, the attorney general and the attorney general's agent shall:

(1) take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and

(2) cooperate with the holder with respect to:

(A) any notification required by law concerning a data or other security breach; and

(B) a regulatory inquiry, litigation, or similar action.

Sec. 84. (a) If a claim is made or action commenced arising out of an event described in section 83(a) of this chapter relating to

confidential information possessed by the attorney general's agent, the attorney general's agent shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:

(1) any claim or action; and

(2) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney's fees and costs, established by the claim or action.

(b) The attorney general shall require an agent that will receive confidential information required under this chapter to maintain adequate insurance for the indemnification obligations under subsection (a). The agent required to maintain the insurance shall provide evidence of the insurance to:

(1) the attorney general not less frequently than annually; and

(2) the holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed under section 82(e) of this chapter.

Sec. 85. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 86. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.), but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. 7001(c)), or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. 7003(b)).

Sec. 87. (a) The attorney general may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

(b) The attorney general shall adopt rules under IC 4-22-2 regarding virtual currency and digital assets.

SECTION 21. IC 32-34-3 IS REPEALED [EFFECTIVE JULY 1, 2021]. (Unclaimed Money in Possession of a Court Clerk).

SECTION 22. IC 34-30-2-139, AS AMENDED BY P.L.86-2018, SECTION 317, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 139. ~~IC 32-34-1-27 and IC 32-34-1-29~~ **IC 32-34-1.5-30** (Concerning holders of abandoned property who deliver the property to the attorney general).

SECTION 23. IC 35-52-32-3 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 3. IC 32-34-1-45 defines a crime concerning lost or unclaimed personal property.~~

SECTION 24. IC 36-9-23-28, AS AMENDED BY P.L.127-2017, SECTION 315, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2021]: Sec. 28. (a) The legislative body of a municipality that operates sewage works under this chapter may, by ordinance, require the owners, lessees, or users of property served by the works to pay a deposit to ensure payment of sewer fees.

(b) The deposit required may not exceed the estimated average payment due from the property served by the sewage works for a three (3) month period. The deposit must be retained in a separate fund.

(c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

(1) has been conveyed or transferred to another person; or

(2) no longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

(d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of the depositor's use or ownership of the property served, the depositor forfeits the depositor's deposit and all accrued interest. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner prescribed by section 31 or 32 of this chapter.

(e) A deposit may be used to satisfy all or part of any judgment awarded the municipality under section 31 of this chapter.

(f) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of the municipality. ~~IC 32-34-1~~ **IC 32-34-1.5** (unclaimed property) does not apply to a deposit described in this subsection.

SECTION 25. IC 36-9-23-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 28.5. (a) This section does not apply to a deposit made under section 28 of this chapter.

(b) ~~IC 32-34-1~~ **IC 32-34-1.5** does not apply to an overpayment described in subsection (d).

(c) As used in this section, "payor" refers to the owner, lessee, or user of property served by the sewage works who has paid for service from the sewage works.

(d) An overpayment of sewer fees that remains unclaimed by a payor for more than seven (7) years after the termination of the service for which the overpayment was made becomes the property of the municipality.

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1166

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-4-22, AS AMENDED BY P.L.232-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) If any assessing official assesses or reassesses any real property under this article (including an annual adjustment under section 4.5 of this chapter), the official shall give notice to the taxpayer and the county assessor, by mail or by using electronic mail that includes a secure Internet link to the information in the notice, of the amount of the assessment or reassessment.

(b) Each township or county assessor shall provide the notice required by this section by the earlier of:

(1) ninety (90) days after the assessor:

(A) completes the appraisal of a parcel; or

(B) receives a report for a parcel from a professional appraiser or professional appraisal firm; or

(2) April 10 of the year containing the assessment date for which the assessment or reassessment first applies, if the assessment date occurs in a year that ends before January 1, 2016, and February 10 of the year containing the assessment date for which the assessment or reassessment first applies, if the assessment date occurs in a year that begins after December 31, 2015.

(c) The notice required by this section is in addition to any required notice of assessment or reassessment included in a property tax

statement under IC 6-1.1-22 or IC 6-1.1-22.5.

(d) The notice required by this section must include notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1.1.

(e) Notice of the opportunity to appeal the assessed valuation required under subsection (d) must include the following:

(1) The procedure that a taxpayer must follow to appeal the assessment or reassessment.

(2) The forms that must be filed for an appeal of the assessment or reassessment.

(3) Notice that an appeal of the assessment or reassessment requires evidence relevant to the true tax value of the taxpayer's property as of the assessment date.

(f) The notice required by this section must include notice to the taxpayer of the taxpayer's right to submit a written complaint to the department under IC 6-1.1-35.7-4(b) if a taxpayer has reason to believe that the township assessor, the county assessor, an employee of the township assessor or county assessor, or an appraiser has violated IC 6-1.1-35.7-3 or IC 6-1.1-35.7-4(a). The notice required under this subsection must include the procedure that a taxpayer must follow to submit the written complaint to the department.

SECTION 2. IC 6-1.1-13-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: **Sec. 13. (a) This section applies to both residential real property and commercial property, with an assessed value of three million dollars ($3,000,000) or less, for which the assessed value was increased for a tax year by an assessing official for any reason other than by the application of the annual adjustment factor used by the assessing official to adjust property values for that year. However, this section does not apply to an assessment if the assessment is based on:**

(1) structural improvements;

(2) zoning; or

(3) uses;

that were not considered in the assessment for the prior tax year.

(b) If the taxpayer:

(1) appeals an increased assessment as described in subsection (a) to the county property tax assessment board of appeals or the Indiana board; and

(2) prevails in an appeal described in subdivision (1) or any resulting subsequent appeal of the increased assessment

described in subsection (a);

the assessing official shall not increase the assessed value of the property until the first year of the next four (4) year cyclical assessment cycle for any reason other than by application of the annual adjustment factor used by the assessing official to adjust property values for a tax year. During this period, the taxpayer may not appeal an increased assessment made by the assessor unless the taxpayer believes that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year. If the taxpayer does appeal during this period on the grounds that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year, the provision shifting the burden to the assessing official to prove that the assessment is correct under IC 6-1.1-15-17.2(d) does not apply.

(c) This section does not apply if:

(1) the reduction in assessed value is the result of a settlement agreement between the taxpayer and the assessing official; or

(2) the appeal is based on a correction of error under IC 6-1.1-15-1.1(a) and IC 6-1.1-15-1.1(b).

(d) If the taxpayer who appealed an increased assessment under this section sells the property, whose assessment was appealed, for fair market value, notwithstanding subsection (b), the assessor may reassess the property that was sold.

SECTION 3. IC 6-1.1-15-17.3, AS AMENDED BY P.L.232-2017, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 17.3. (a) As used in this section, "tax official" means:

(1) a township assessor;

(2) a county assessor;

(3) a county auditor;

(4) a county treasurer;

(5) a member of a county board; or

(6) any employee, contract employee, or independent contractor of an individual described in subdivisions (1) through (5).

(b) Except as provided in subsection (c), a tax official in a county may not serve as a tax representative of any taxpayer with respect to property subject to property taxes in the county before the county board of that county or the Indiana board. The prohibition under this subsection applies regardless of whether or not the individual receives

any compensation for the representation or assistance.

(c) Subsection (b) does not:

(1) prohibit a contract employee or independent contractor of a tax official from serving as a tax representative before the county board or Indiana board for a taxpayer with respect to property subject to property taxes in the county unless the contract employee or independent contractor personally and substantially participated in the assessment of the property; or

(2) prohibit an individual from appearing before the county board or Indiana board regarding property owned by the individual.

(d) An individual who is a former county assessor, former township assessor, former employee or contract employee of a county assessor or township assessor, or an independent contractor formerly employed by a county assessor or township assessor may not serve as a tax representative for or otherwise assist another person in an assessment appeal before a county board or the Indiana board if:

(1) the appeal involves the assessment of property located in:

(A) the county in which the individual was the county assessor or was an employee, contract employee, or independent contractor of the county assessor; or

(B) the township in which the individual was the township assessor or was an employee, contract employee, or independent contractor of the township assessor; and

(2) while the individual was the county assessor or township assessor, was employed by or a contract employee of the county assessor or the township assessor, or was an independent contractor for the county assessor or the township assessor, the individual personally and substantially participated in the assessment of the property.

The prohibition under this subsection applies regardless of whether the individual receives any compensation for the representation or assistance. However, this subsection does not prohibit an individual from appearing before the Indiana board or county board regarding property owned by the individual.

(e) The department shall prepare and make available to taxpayers a power of attorney form that allows the owner of property that is the subject of an appeal under this article to appoint a relative (as defined in IC 2-2.2-1-17) for specific assessment years to represent the owner concerning the appeal before the county board or the department of local government finance. A relative who is appointed by the owner of the property under this subsection:

(1) may represent the owner before the county board or the

department of local government finance but not the Indiana board concerning the appeal; and

(2) is not required to be certified as a tax representative in order to represent the owner concerning the appeal.

(f) Notwithstanding any other law, but subject to subsections (b) and (d) and IC 6-1.1-31.7-3.5, an individual may serve as a tax representative of any taxpayer concerning property subject to property taxes in the county:

(1) before the county board of that county, if:

(A) the individual is certified as a level two assessor-appraiser under IC 6-1.1-35.5; and

(B) the taxpayer authorizes the individual to serve as the taxpayer's tax representative on a form that is:

(i) prepared by the department of local government finance; and

(ii) submitted with the taxpayer's notice to initiate an appeal; or

(2) before the county board of that county or the Indiana board, if the individual is certified as a level three assessor-appraiser under IC 6-1.1-35.5.

SECTION 4. IC 6-1.1-35.7-4, AS ADDED BY P.L.134-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A township assessor, a county assessor, an employee of the township assessor or county assessor, or an appraiser:

(1) must be competent to perform a particular assessment;

(2) must acquire the necessary competency to perform the assessment; or

(3) shall contract with an appraiser who demonstrates competency to do the assessment.

(b) If a taxpayer has reason to believe that the township assessor, the county assessor, an employee of the township assessor or county assessor, or an appraiser has violated subsection (a) or section 3 of this chapter, the taxpayer may submit a written complaint to the department. The department shall respond in writing to the complaint within thirty (30) days.

~~(b)~~ **(c)** The department may revoke the certification of a township assessor, a county assessor, an employee of the township assessor or county assessor, or an appraiser under 50 IAC 15 for gross incompetence in the performance of an assessment.

~~(c)~~ **(d)** An individual whose certification is revoked by the department under subsection ~~(b)~~ **(c)** may appeal the department's

decision to the certification appeal board established under subsection ~~(d).~~ **(e).** A decision of the certification appeal board may be appealed to the tax court in the same manner that a final determination of the department may be appealed under IC 33-26.

~~(d)~~ **(e)** The certification appeal board is established for the sole purpose of conducting appeals under this section. The board consists of the following seven (7) members:

(1) Two (2) representatives of the department appointed by the commissioner of the department.

(2) Two (2) individuals appointed by the governor. The individuals must be township or county assessors.

(3) Two (2) individuals appointed by the governor. The individuals must be licensed appraisers.

(4) One (1) individual appointed by the governor. The individual must be a resident of Indiana.

The commissioner of the department shall designate a member appointed under subdivision (1) as the chairperson of the board. Not more than four (4) members of the board may be members of the same political party. Each member of the board serves at the pleasure of the appointing authority.

~~(e)~~ **(f)** The certification appeal board shall meet as often as is necessary to properly perform its duties. Each member of the board is entitled to the following:

(1) The salary per diem provided under IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 5. [EFFECTIVE JANUARY 1, 2022] **(a) IC 6-1.1-13-13, as added by this act, applies to taxable years beginning after December 31, 2021.**

(b) This SECTION expires June 30, 2024.

SECTION 6. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

First Regular Session of the 122nd General Assembly (2021)

SENATE ENROLLED ACT No. 79

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

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

SECTION 1. IC 34-26-5-2, AS AMENDED BY P.L.156-2020, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A person who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:

(1) family or household member who commits an act of domestic or family violence; or

(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.

(b) A person who is or has been subjected to harassment may file a petition for an order for protection against a person who has committed repeated acts of harassment against the petitioner.

(c) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:

(1) family or household member who commits an act of domestic or family violence;

(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child;

(3) person who has committed repeated acts of harassment against the child; or

(4) person who engaged in a course of conduct involving repeated

or continuing contact with a child that is intended to prepare or condition a child for sexual activity (as defined in IC 35-42-4-13).

(d) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall:

(1) assign a new case number; and

(2) maintain a separate court file;

for each respondent.

(e) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.

(f) If a petition for an order for protection is filed by a person or on behalf of an unemancipated minor, the court shall determine, after reviewing the petition or making an inquiry, whether issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor. If the court determines that issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor, then the court may not issue the order for protection until the following requirements are met:

(1) Notice is provided to the school corporation, by registered mail or certified mail, that includes:

(A) notice of the petition for the order for protection; and

(B) the date for the hearing on the petition for the order for protection, if applicable.

(2) Upon receipt of the notice, the school corporation is allowed to:

(A) respond to the notice not later than three (3) business days after receipt of the notice; and

(B) testify at the hearing on the petition for the order for protection.

If the school corporation fails to respond to the notice of the petition for the order for protection as described in subdivision (2), then the court may issue the order for protection described in this subsection.

SECTION 2. IC 35-42-2-1.3, AS AMENDED BY P.L.142-2020, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1.3. (a) Except as provided in subsections (b) through (f), a person who knowingly or intentionally:

(1) touches a family or household member in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member;

commits domestic battery, a Class A misdemeanor.

(b) The offense under subsection (a)(1) or (a)(2) is a Level 6 felony if one (1) or more of the following apply:

(1) The person who committed the offense has a previous, unrelated conviction:

(A) for a battery offense included in this chapter; or

(B) for a strangulation offense under IC 35-42-2-9.

(2) The person who committed the offense is at least eighteen (18) years of age and committed the offense against a family or household member in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(3) The offense results in moderate bodily injury to a family or household member.

(4) The offense is committed against a family or household member who is less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(5) The offense is committed against a family or household member of any age who has a mental or physical disability and is committed by a person having the care of the family or household member with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(6) The offense is committed against a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(7) The offense is committed against a family or household member:

(A) who has been issued a protection order (as defined in IC 34-26-7.5-2) that protects the family or household member from the person and the protection order was in effect at the time the person committed the offense; or

(B) while a no contact order issued by the court directing the person to refrain from having any direct or indirect contact with the family or household member was in effect at the time the person committed the offense.

(c) The offense described in subsection (a)(1) or (a)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to a family or household member.

(2) The offense is committed with a deadly weapon against a family or household member.

(3) The offense results in bodily injury to a pregnant family or household member if the person knew of the pregnancy.

(4) The person has a previous conviction for a battery offense **or strangulation (as defined in section 9 of this chapter)** included in this chapter against the same family or household member.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(B) A family or household member who has a mental or physical disability if the offense is committed by an individual having care of the family or household member with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(C) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(d) The offense described in subsection (a)(1) or (a)(2) is a Level 4 felony if it results in serious bodily injury to a family or household member who is an endangered adult (as defined in IC 12-10-3-2).

(e) The offense described in subsection (a)(1) or (a)(2) is a Level 3 felony if it results in serious bodily injury to a family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(f) The offense described in subsection (a)(1) or (a)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A family or household member who is less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) A family or household member who is an endangered adult (as defined in IC 12-10-3-2).

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 79 — Concur

Section Five

2021 Legislative Session

Senator Aaron M. Freeman
The Freeman Law Office, LLC
Indianapolis, Indiana

Section Five

2021 Legislative Session…… Senator Aaron M. Freeman

PowerPoint Presentation

Available and Flexible Methods for Signing, Witnessing or Notarizing Indiana Wills, POAs, and Health Care Advance Directives by Jeffrey S. Dible.

(Thank you to Jeffrey S. Dible, Frost Brown Todd LLC, for sharing his article which was recently presented at the 48th Annual Midwest Estate Tax & Business Planning Institute June 3-4, 2021)

2021 Legislative Session

State Senator Aaron Freeman

2021 Legislation

- Senate Enrolled Act 336: Business Personal Property Tax Exemption
- House Enrolled Act 1123: Legislative Oversight of Certain Fiscal and Emergency Matters
- Senate Enrolled Act 001: Civil Immunity related to COVID-19
- House Enrolled Act 1002: Civil Immunity related to COVID-19
- House Enrolled Act 1056: Recording Requirements
- House Enrolled Act 1252: Probate and Guardianship Matters
- House Enrolled Act 1255: Probate and Property Matters

Senate Enrolled Act 336: Business Personal Property Tax Exemption

Technical Correction

- Before the enactment of SEA 336, IC 6-1.1-3-7.2(d) considered a taxpayer's business personal property exempt from taxation if the **acquisition cost** of the property in a county was less than forty thousand dollars ($40,000)
- Doubles the business personal property tax exemption so that any business with less than $80,000 (previously $40,000) in equipment does not have to pay the tax.
- The Legislative Services Agency estimates this law will exempt approximately 34,000 additional filers from paying the business personal property tax starting in 2023 The collective savings for these filers are projected to be about $18 million.

House Enrolled Act 1123: Legislative Oversight of Certain Fiscal and Emergency Matters

Emergency Session

- Authorizes the Legislative Council to convene an emergency session of the General Assembly if the governor declares a state of emergency that the Legislative Council determines has a statewide impact.
  - Governor Holcomb as filed a lawsuit over this provision.
- A Legislative Council resolution convening an emergency session must outline the session agenda for addressing the emergency. Only bills related to that agenda can be enacted during the emergency session.
- An emergency session cannot last more than 40 calendar days.
- If the governor ends the state of emergency, the emergency session must end no more than 10 days later.

HEA 1123: Legislative Oversight of Certain Fiscal and Emergency Matters, cont.

Economic Stimulus Fund

- Establishes the Economic Stimulus Fund to receive all federal stimulus dollars that the state can spend at its discretion.
- Dollars received into the fund when the General Assembly is in session are subject to legislative appropriation or review by the State Budget Committee.
- Dollars received into the fund when the General Assembly is not in session must be reviewed by the State Budget Committee before they can be spent.
    - (Federal stimulus dollars that Congress requires to be spent for specific programs would not be subject to this provision.)

Legislative State of Emergency Advisory Group

- Establishes the Legislative State of Emergency Advisory Group to consult with and advise the Governor during emergencies that the Legislative Council determines have a statewide impact.

HEA 1123: Legislative Oversight of Certain Fiscal and Emergency Matters, cont.

Legislative State of Emergency Advisory Group, cont.

- The advisory group is compromised of the following 10 members:
  - The Senate President Pro Tem and the Speaker of the House
  - The minority leader for each chamber
  - The majority floor leader for each chamber
  - The caucus chair for each of the four legislative caucuses

Constitutionality

- Is HEA 1123 constitutional? The key sentence from Article 4, Section 9 of the Indiana Constitution states: "The length and frequency of the sessions of the General Assembly shall be fixed by law."
  - Article 4, Section 9 also says the Governor may call special sessions, but that does not limit the General Assembly's broad authority to fix the frequency of sessions. The Governor's power to call special sessions is in addition to the General Assembly's power to fix the frequency of its own sessions.

Senate Enrolled Act 001: Civil Immunity related to COVID-19

- SEA 001 was enrolled to address issues arising from the COVID-19 Pandemic and applies to a cause of action that accrues on or after March 1, 2020.
- Sunsets on December 31, 2024.
- This legislation does not protect bad actors. Liability protection is specifically denied in cases of gross negligence or willful or wanton misconduct.

Immunity Related to COVID-19

- Gives all non-healthcare individuals, organizations and entities immunity from civil tort liability for damages arising from COVID-19 on the defendant's property or during an activity under the defendant's control.

COVID-19 Related Products Liability

- Gives manufacturers and suppliers of COVID-19 medical products (including personal protective equipment, aka PPE) immunity from civil tort liability if a person claims the product caused them harm.

SEA 001: Civil Immunity related to COVID-19, cont.

COVID-19 Related Products Liability, cont.

- This immunity does not apply if a party engages in gross negligence, or willful or wanton misconduct.
- Proof by clear and convincing evidence is required.

Other Claims

- SEA 001 does not apply to a claim brought under Worker's Compensation, Worker's Occupational Diseases Compensation, Occupational Health and Safety, or Unemployment Compensation.
- The civil immunity provided in SEA 001 is in addition to any other protections that apply under state and federal law.

House Enrolled Act 1002: Civil Immunity related to COVID-19

Civil Immunity

- While SEA 1 provides liability protection for all individuals and entities regarding the spread of COVID-19, HEA 1002 is carefully crafted to give further protections for two industries that have faced unique challenges during the pandemic: the health care and education sectors.
- Does not provide blanket immunity for everything a health care facility or educational institution does.
- Set to last until the end of the General Assembly's 2022 session. If the pandemic is over and society returns to normal, there will be no need to extend HEA 1002.
- Permanently expands our immunity laws for health care workers during emergencies to make sure volunteers and those who provide care under temporary licenses are covered.

Health Care Sector Liability

- Gives health care providers, health care facilities and health care employers immunity from civil liability and professional discipline for acts or omissions relating to health care services arising from a state disaster emergency declared in response to COVID-19.

HEA 1002: Civil Immunity related to COVID-19, cont.

Health Care Sector Liability, cont.

- Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency in response to COVID-19 do not create new causes of action or new legal duties.
- Expands existing liability protections for health care services during declared emergencies to cover additional types of services and workers, including unlicensed, temporarily licensed and volunteer individuals who are permitted to practice during an emergency.
- This temporary immunity does not cover gross negligence, willful or wanton misconduct, fraud, or intentional misrepresentation.
- Immunity is retroactive to March 1, 2020, and sunsets on March 31, 2022.

Education Sector Liability (K-12 and Higher Education)

- Gives government entities and employees immunity for acts or omissions arising from COVID-19, except for instances of gross negligence, willful or wanton misconduct, or intentional misrepresentation.

HEA 1002: Civil Immunity related to COVID-19, cont.

Education Sector Liability (K-12 and Higher Education), cont.

- Prohibits class action lawsuits based on contract or unjust enrichment claims against any college/university or government entity in Indiana for loss or damages arising from COVID-19.
- The provisions described in the two preceding bullets are retroactive to March 1, 2020, and sunset on March 31, 2022.

House Enrolled Act 1056: Recording Requirements

- HEA 1056 was quickly and unanimously passed into law early this session to restore Indiana's law on recording titles to pre-2020 practice.
- A law passed in 2020 unintentionally made it harder to record property titles, and HEA 1056 fixed this issue.
  - Amends the requirements for instruments and conveyances to be recorded.
  - Ratifies documents from 2020 filed not in conformance with this statute
- Adds instances in which an instrument is considered validly recorded for purposes of providing constructive notice

House Enrolled Act 1056: Recording Requirements

- An instrument to be recorded must have one (1) of the following notarial acts:
- 1. An acknowledgment (as defined in IC 33-42-0.5-19)
- 2. A proof.
- or
- 3. in compliance with:
- IC 33-42-9-8; IC 33-42-9-9; IC 33-42-9-10; or IC 33-42-9-11.

House Enrolled Act 1252: Probate and Guardianship Matters

Annual Update to Indiana probate laws

- Covers issues such as wills, powers of attorney and guardianships.
- Allows for compassionate and expedient handling of a deceased tenant's property, protecting a tenant's property as well as ensuring that landlords know what to do in these instances without undue delay on the use of their property.
- A tenant's representative is assigned to a tenant that has died or become incapacitated.
- Prohibits a principal, the individual granting Power of Attorney (POA), from being a minor in order to ensure that POA is granted prudently.
- Ensures priority payment of creditors is disbursed only after liens and administrative costs of the estate have been satisfied.

Guardianship Matters

- Creation of legal status of "tenant's representative" for a deceased tenant or a tenant under a guardianship.

HEA 1252: Probate and Guardianship Matters, cont.

Guardianship Matters, cont.

- Amends the priority of expenses that a guardian may pay upon a protected person's death.
- Previous law protected the proceeds of a real estate sale against the claims of creditors unless a creditor filed a claim within 5 months of the real estate owner's death. HEA 1252 expands this protection to cover all "real property", not just "real estate."
- Specifies that a "principal" under the power of attorney act cannot be a minor.
- Creates consistency between the probate and guardianship statutes regarding classification of claims.

House Enrolled Act 1255: Probate and Property Matters

- Modernizes the Probate Code by making changes that allow for more efficient operation under pandemic conditions, including allowing for remote notarization and remote execution of wills, trusts, and powers of attorney (POA).
- Updates the meaning of the words "presence" and "observe" to allow for the use of real time audio and video technology for validation purposes, particularly in the case of a testator executing a will and his witnesses, codifying a Supreme Court order issued in response to the COVID-19 pandemic.
- Allows witnesses and testators to sign separate paper documents that can later be consolidated into a single, composite will document, further enabling remote procedures and ensuring that testamentary documents can be executed even in the midst of pandemic restrictions.
- Removes duplicative will re-ratification requirements so that electronic ratification is not unnecessarily burdensome.

48th Annual Midwest Estate Tax & Business Planning Institute
Indiana Continuing Legal Education Forum

AVAILABLE AND FLEXIBLE METHODS FOR SIGNING, WITNESSING OR NOTARIZING INDIANA WILLS, POAS, AND HEALTH CARE ADVANCE DIRECTIVES

(under 2021 Legislation)

by Jeffrey S. Dible
Frost Brown Todd LLC
jdible@fbtlaw.com

Indianapolis

June 4, 2021

DISCLAIMER

Jeff Dible has used his best efforts to include accurate and up-to-date information in this paper. Citations and URL links to new or amended Indiana statutes are to the latest versions available on the Indiana General Assembly's web site. Sample form provisions and signing / witnessing blocks are offered for illustrative purposes and as general guidance for drafting, and not as legal advice to any particular individuals.

TABLE OF CONTENTS

AVAILABLE AND FLEXIBLE METHODS FOR SIGNING, WITNESSING OR NOTARIZING INDIANA WILLS, POAS, AND HEALTH CARE ADVANCE DIRECTIVES
(Under 2021 Legislation)

(1) A summary of signing methods available for Indiana Wills in various fact situations

	Fact Pattern for (and Constraints on) the Testator (T)	Suggested and Available Signing Method(s)	Applicable Statute(s)	Details of Signing & Witnessing Requirements
A	T ***can*** meet in person in same space with 2 witnesses and ***can*** sign the Will on paper	Traditional signing meeting with T and witnesses in same physical space	I.C. §§ 29-1-5-3 and 29-1-5-3.1	No new requirements under I.C. § 29-1-5-3 and 29-1-5-3.1 as amended by HEA 1255
B	T ***can*** meet in person in same space with 2 witnesses but ***cannot*** hold a pen to sign on paper	• T directs some third person to sign T's name on paper Will in direct presence of T and the witnesses • T and witnesses use digital technology to electronically sign the Will in each other's direct presence	I.C. § 29-1-5-3(b)(1)(A) [*paper Will*] I.C. § 29-1-21-4(a)(4)(B) [*electronic Will*]	• Under unchanged Indiana law, the person who signs at T's direction cannot be one of the witnesses and must sign in T's direct presence • A testator who cannot hold a pen and sign may be able to tap a screen or click a mouse to add his or her digital or electronic signature to the electronic record for the Will

	Fact Pattern for (and Constraints on) the Testator (T)	Suggested and Available Signing Method(s)	Applicable Statute(s)	Details of Signing & Witnessing Requirements
C	T and the witnesses can sign in separate rooms or spaces in the same building and ***can*** pass the original Will (single document) between them	T signs the Will on paper with "remote witnessing" and the original Will is *carried* to the separate location where the 2 witnesses sign the same original Will	I.C. § 29-1-1-3(a)(15), (16), (26), and (27) [*definitions of "presence" and "observe"*] to allow use of technology to satisfy "presence" requirement I.C. § 29-1-5-3(b) [*signing procedure*]	• If T and the witnesses can talk by phone in real time and see each other through a glass window, that fits the definition of "presence" • T and the witnesses could also satisfy the "presence" requirement by using 2-way real time audiovisual technology (FaceTime, etc.) to observe and interact with each other throughout the signing meeting
D	T and the witnesses must remain physically separated and miles apart but T has access to and ***can*** use an electronic or digital signing method	T and the witnesses electronically sign the electronic record for the Will while interacting using 2-way audiovisual technology	I.C. § 29-1-21-3(14) thru (17) [*definitions of "presence" and "observe"*] I.C. § 29-1-21-4(b) thru (d) [*signing procedure*]	• T and the witnesses must use 2-way real time audiovisual technology to interact • A licensed attorney or paralegal must supervise the signing (§ 29-1-21-4(b)) • Attorney or paralegal must complete an affidavit of compliance (subsec. 4(c)) • File the compliance affidavit when the Will is filed for probate (subsec. 4(d))

	Fact Pattern for (and Constraints on) the Testator (T)	Suggested and Available Signing Method(s)	Applicable Statute(s)	Details of Signing & Witnessing Requirements
E	T and the witnesses must remain physically separated and miles apart AND T doesn't have access to or ***cannot*** use an electronic or digital signing method	T and the witnesses sign identical counterparts of the Will on paper while interacting using 2-way audiovisual technology	I.C. § 29-1-1-3(a)(15), (16), (26), and (27) [*definitions of "presence" and "observe"*] I.C. § 29-1-5-3(c) thru (e) [*signing procedure, including combining separate signed counterparts into composite document within 5 business days*]	• T and the witnesses must use 2-way real time audiovisual technology to interact • A licensed attorney or paralegal must supervise the signing (§ 29-1-5-3(c)) • Attorney or paralegal must complete an affidavit of compliance (subsec. 3(d)) • File the compliance affidavit when the Will is filed for probate (subsec. 3(e))

If a testator and witnesses signed a traditional Will on paper *OR* an electronic will on or after March 31, 2020 and before January 1, 2021, *AND* if the signing and witnessing method used complied with either —

- the Indiana Supreme Court's emergency order in Case No. 20S-MS-237, as extended during 2020 *or*
- the signing methods added or amended by HEA 1255,

then the testator does not need to "re-execute" or "re-ratify" the Will in the direct physical presence of witnesses (which was required under the Supreme Court's emergency order). *See* Section 5 of HEA 1255 [*adding* I.C. § 29-1-5-3.3] and Section 8 of HEA 1255 [*adding* I.C. § 29-1-21-4.1]. The Supreme Court's emergency order (permitting remote witnessing of Wills) currently expires on July 1, 2021. **The negative implication of this rule** is that if a testator signs a traditional paper Will or electronic Will with remote witnessing after December 31, 2020 and before the effective date (April 29, 2021) of HEA 1255, then that testator is required to re-execute the Will using either direct presence or (if signing occurs after April 29, 2021) using one of the added or amended procedures under HEA 1255.

(2) Further details on the Will signing, trust signing, and POA signing changes in the first 46 pages of House Enrolled Act 1255.

House Bill 1255 was the PTRP Section's massive "probate and property bill," and many of the changes in this Bill were driven by practical lessons learned during the COVID-19 pandemic, when it became either extremely difficult or impossible for many legally competent Hoosiers to sign valid Wills and POAs in the direct physical presence of attesting witnesses or a notary public. The Indiana Supreme Court's March 31, 2020 emergency order in Case 20S-MS-237 helped a little, but provided only a temporary solution until July 1, 2021 and required that the testator re-execute his or her Will (after the public health emergency ended) in compliance with current statutes. For strategic reasons, the ISBA decided to combine the pandemic-driven Probate Code expansion of signing methods with the real property / recording provisions from the "stakeholder bill" into one large bill, on the rationale that both sets of legislative changes would be more likely to pass if they were combined into one "must pass" bill.

On April 1, the House concurred in the Senate's amendments to House Bill 1255, and the Speaker of the House and Senate Pro Tempore signed the Bill by April 8th. Gov. Holcomb signed HEA 1255 on April 29, 2021. The official version of HEA 1255 is here: http://iga.in.gov/legislative/2021/bills/house/1255#document-2cf7f99a

The following are the main changes that the first 51 pages of HEA 1255 makes in titles 29 and 30. All provisions in HEA 1255 are effective upon passage (April 29, 2021).

(a) For "traditional" wills signed on paper, HEA 1255 adds new definitions of "presence," "in the presence of," "observe," and "observing" to I.C. § 29-1-1-3(a), so that the "presence" requirement can be satisfied through the use of technology for real-time two-way interaction between the testator and the witnesses, if they are not directly present with each other in the same physical space. *See* **Part (3)** below.

(b) For electronic wills, HEA 1255 adds substantially similar definitions of "presence," "in the presence of," "observe," and "observing," to I.C. § 29-1-21-3.[1]

(c) For traditional paper wills, electronic wills, and POAs signed on paper or electronically, HEA 1255 adds a new defined term, "directed paralegal," meaning a nonlawyer assistant who is employed or retained by a licensed attorney and who works under that attorney's direct supervision. *For context, see paragraphs (e) and (i) below.*

[1] Section 6 of HEA 1255 also deletes the definition of "actual presence" from I.C. § 29-1-21-3, which states the definitions that apply in the electronic wills chapter.

(d) For traditional wills signed on paper, HEA 1255 amends I..C. § 29-1-5-3 by inserting two new lettered subsections (c) and (d), which allow the will to be signed by the testator and the two witnesses on separate but identical paper counterparts, which must be combined after signing into a single composite document that contains all signatures. This signing method will be useful to competent testators who are unable to use electronic or digital signature technology and in situations where the testator and the witnesses cannot physically handle and pass around the single original will printed on paper. *See* pages 11 and 12 below.

(e) Under new subsection (d) of I.C. § 29-1-5-3, if a traditional will is going to be signed and witnessed on paper in counterparts:

- An attorney or directed paralegal must supervise the execution and witnessing of the will in counterparts.
- The attorney or paralegal who supervises must sign an "affidavit of compliance" after assembling the completed will that was signed and witnessed in counterparts. See pages 12 and 20-21 below.
- The attorney's or paralegal's affidavit of compliance must be filed <u>with</u> the probate petition or at any later time ordered by the probate court.
- Under the last sentence of subsection (d), if the will was signed in counterparts <u>*without*</u> the required supervision by an attorney or directed paralegal, the will is not void but is <u>*voidable*</u> in the discretion of the probate court, <u>*or*</u> if an objection to probate is filed under I.C. § 29-1-7-16, <u>*or*</u> if a timely will contest is filed under I.C. § 29-1-7-17. [2]

(f) For traditional wills signed on paper *in counterparts*, HEA 1255 adds a new subsection (e) to I.C. § 29-1-5-3.1, prescribing a new self-proving clause. *See* pages 15 and 19 below.

(g) HEA 1255 amends I.C. § 29-1-5-3.2 to clarify that an audio recording, photograph(s), or video recording made during <u>*part*</u> or <u>*all*</u> of the signing of a traditional will may be admissible in evidence.

(h) HEA 1255 amends the execution and witnessing requirements for electronic wills in I.C. § 229-1-21-4 to permit "remote witnessing," so long as the testator and the witnesses interact in real time in ways that satisfy the new, broader

---

[2] These changes were added by a Senate amendment to House Bill 1255 during the week of March 15-19, in order to overcome opposition (to signing in counterparts in general) by 1 to 3 members of the Senate Judiciary Committee. For the distinction between "void" and "voidable," *see* **Troxel v. Troxel**, 737 N.E.2d 745 (Ind. 2000) [applied to a probate court order issued without subject matter jurisdiction].

definitions of "presence" and "observe." In the prescribed self-proving clause for electronic wills in I.C. § 29-1-21-4(e) and elsewhere in section 29-1-21-4, the words "actual presence" and "actual and direct physical presence" are replaced by "presence." *See* **Part (4)** on pages 23-24 below.

(i) For electronic wills, HEA 1255 adds two new subsections (b) and (c) to I.C. § 29-1-21-4, to add these requirements *if remote witnessing is used*: [3]

- An attorney or a directed paralegal must supervise the execution and witnessing of that electronic will.
- The attorney or paralegal who supervises the execution and remote witnessing of the electronic will must sign an "affidavit of compliance" containing prescribed content. *See* pages 25-26 and 29-31 below.
- If that electronic will is offered for probate, the proponent must file a copy of the affidavit of compliance with the probate petition or later when ordered to do so by the probate court.
- Under the last sentence of subsection (d), if the electronic will was signed with remote witnessing but *without* the required supervision by an attorney or directed paralegal, the electronic will is not void but is *voidable* in the discretion of the probate court, *or* if an objection to probate is filed under I.C. § 29-1-7-16, *or* if a timely will contest is filed under I.C. § 29-1-7-17.

(j) Note that under I.C. §§ 29-1-5-5 (for traditional paper wills) and 29-1-21-7 (for electronic wills), a testator who is physically present in Indiana when he or she signs a will has to comply with these Indiana execution requirements; the testator won't be able to use an on-line document assembly service (Willing.com, Trust and Will.com, etc.) that purports to rely on and invoke the law of another jurisdiction (*e.g.*, Nevada) that has looser standards for remote witnessing.

(k) HEA 1255 modifies the prescribed content of the self-proving clause for an electronic will in new subsection (e) of I.C. .§ 29-1-21-4, so that "presence" replaces "actual and direct physical presence."

(l) **Inter vivos trust signing.** In 2020, the signing procedures for inter vivos trusts signed on paper and for electronic inter vivos trust instruments were revised to explicitly allow the competent settlor to direct someone else to sign the trust instrument at the settlor's presence and at the settlor's direction —a

[3] These changes were added by a Senate amendment to House Bill 1255 during the week of March 15-19, in order to overcome opposition (to remote witnessing in general) by 1 to 3 members of the Senate Judiciary Committee.

technique that was already permitted for wills and durable powers of attorney. However, the 2020 amendments did not limit who could act to sign the settlor's name on a trust instrument at the settlor's direction. Because valid inter vivos trust instruments can be validly signed with just the settlor's signature (no witnesses or notarization required), there is some potential that a dishonest individual could use undue influence or trickery to have the settlor direct that individual to sign the settlor's name on a trust instrument, which names the individual as the controlling trustee or which names the individual as a significant beneficiary.

(m) Sections 14 and 15 of HEA 1255 amend I.C. §§ 30-4-1.5-4 [for electronic trust instruments] and 30-4-2-1 [for trust instruments signed on paper] to prohibit the following persons from signing the trust instrument at the settlor's direction:

- A trustee named in the trust instrument.
- A relative of the settlor.
- A person who is entitled to receive a beneficial interest in the trust assets or a power of appointment under the terms of the trust.

If settlor's signature is placed on the trust instrument by an eligible individual who signs for the settlor and at the settlor's direction, the trust instrument must state that the signer is not in any of the above three categories.

(n) **Signing POAs with 2 witnesses instead of notarization.** Sections 16 through 21 of HEA 1255 are effective upon passage (April 29, 2021) and apply to durable powers of attorney signed on paper on or after March 31, 2020 using the signatures of two or more attesting witnesses *instead of* a notarized acknowledgement. The public policy objective is to permit a competent principal to sign a durable POA with two witnesses if it is logistically too difficult to arrange for the principal to interact with a notary public or other notarial officer. [4]

- New § 30-5-4-1.3 defines which persons are treated as "having an interest in the power of attorney" and who therefore cannot act as attesting witnesses.

[4] For example, a completely competent principal may be living under lockdown conditions, may be unable to meet in person with a notary, and may not have access to (or be able to use) audiovisual technology that would allow the POA to be signed electronically with remote on-line notarization that complies with I.C. 33-42-17.

- New § 30-5-4-1.5 specifies the signing procedures when a durable POA is signed on paper with two attesting witnesses instead of notarization, either with or without "signing in counterparts."
- If the durable POA will be signed in paper counterparts with 2 attesting witnesses, subsection (d) of new § 30-5-4-1.5 requires that an attorney or a directed paralegal supervise the signing, and requires that the supervising attorney or paralegal make and keep an "affidavit of compliance" with content specified in subsection (e).
- New § 30-5-4-1.7 specifies the content of two *optional* self-proving clauses that can be included in a durable POA that is signed on paper with two attesting witnesses, or signed and attached to the POA later. Subsections 1.7(d) and (e) state the content of a self-proving clause to use when the POA is *not* signed and witnessed in separate counterparts. Subsection (f) states the content of the self-proving clause that should be used when the POA is signed and witnessed on paper in separate counterparts.
- New § 30-5-4-1.9 explicitly makes photographs and audio and/or video recordings of POA signings admissible in evidence to show validity and compliance with signing formalities.

(o) For durable POAs that are signed electronically, HEA 1255 adds definitions of "observe" and "observing" to I.C. § 30-5-11-3, so that real-time two-way interaction using audiovisual technology can be used by the principal and by the notary or the witnesses to satisfy the "in the presence" requirement.

(p) For electronic powers of attorney, HEA 1255 amends I.C. § 30-5-11-4 to permit either electronic signing in the presence of a notary *or* electronic signing in the "presence" of two witnesses.

(q) Sections 25 through 28 of HEA 1255 add four new sections (4.3, 4.5, 4.7,. and 4.9) to the electronic POAs chapter, which are analogous in purpose and content to the new sections described in paragraph (n) above for durable POAs signed on paper.

- New § 30-5-11-4.3 defines which persons are treated as "having an interest in the electronic power of attorney" and who therefore cannot act as attesting witnesses.
- New § 30-5-11-4.5 specifies the signing procedures when POA is signed electronically with two attesting witnesses instead of notarization.
- If the durable POA will be signed electronically with 2 attesting witnesses who use technology to interact with the principal, subsection (d) of new § 30-5-11-4.5 requires that an attorney or a directed paralegal supervise the

signing, and requires that the supervising attorney or paralegal make and keep an "affidavit of compliance" with content specified in subsection (e).

- New § 30-5-11-4.7 specifies the content of the *optional* self-proving clause that can be included in an electronic POA that is signed on paper with two attesting witnesses, or signed and attached to the electronic POA later. Subsections 4.7(d) and (e) state the content of a self-proving clause for use when the electronic POA is signed and witnessed with direct presence among the principal and the witnesses *or* when the principal and witnesses use technology to interact and to satisfy the "presence" requirement. .
- New § 30-5-11-4.9 explicitly makes photographs and audio and/or video recordings of electronic POA signings admissible in evidence to show validity and compliance with signing formalities.

(r) New § 30-5-11-4.1 applies to any electronic POA that is signed and notarized on or after March 31, 2020 and on or before January 1, *2022*. If such an electronic POA was electronically notarized using audiovisual technology that allowed the notary to positively identify the principal or someone signing at the principal's direction, and if the electronic POA complied with the other requirements of I.C. § 30-5-11-4, then the electronic POA must be treated as executed in compliance with chapter 30-5-11, even if the methods used for electronic notarization technically did not comply with other legal requirements in effect in 2020.

(s) Finally, and for transfers or registrations of *tangible personal property* in TOD beneficiary form on or after the date of enactment (April 29, 2021), HEA 1255 amends I.C. § 32-17-14-12 so that a deed of gift, bill of sale, or other document used to designate the "owner" and the TOD beneficiaries can be signed in the presence of a disinterested witness *instead of* with a notarized acknowledgement. New subsection (d) defines "disinterested witness."

(3) Excerpts from HEA 1255's changes to the Probate Code for traditional Wills signed on paper *and* sample form provisions.

The following Probate Code provisions, as added or amended by House Enrolled Act 1255, apply to traditional Wills signed on paper with "remote witnessing" and/or with "signing in counterparts" on or after the date of enactment (April 29, 2021). Text added by HEA 1255 is shown in **bold**.

SECTION 1. IC 29-1-1-3, AS AMENDED BY P.L.231-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following definitions apply throughout this article, unless otherwise apparent from the context:

. . . .

(9) "Directed paralegal" means a nonlawyer assistant who is employed, retained, or otherwise associated with a licensed attorney or law firm and whose work is directly supervised by a licensed attorney, as required by Rule 5.3 of the Rules of Professional Conduct.

. . . .

(15) For purposes of IC 29-1-5, and with respect to testators and attesting witnesses, "in the presence of" has the meaning set forth in subdivision (16).

(16) For purposes of IC 29-1-5, and with respect to testators and attesting witnesses, "presence" means a process of signing and witnessing in which:

(A) the testator and witness are:

(i) directly present with each other in the same physical space; or

(ii) able to interact with each other in real time through use of any audiovisual communications technology now known or later developed;

(B) the testator and witness are able to positively identify each other; and

(C) each witness is able to interact with the testator and with each other by observing:

(i) the testator's expression of intent to make a will;

(ii) the testator's actions in executing or directing the execution of the testator's will; and

(iii) the actions of other witnesses when signing the will.

The term includes the use of technology or learned skills for the purpose of assisting with hearing, eyesight, and speech, or for the purpose of compensating for a hearing, eyesight, or speech impairment.

. . . .

(26) "Observe" means to perceive another's actions or expressions of intent through the senses of eyesight or hearing, or both. The term includes perceptions involving the use of technology or learned skills to:

(A) assist the person's capabilities of eyesight or hearing, or both; or

(B) compensate for an impairment of the person's capabilities of eyesight or hearing, or both.

(27) "Observing" has the meaning set forth in subdivision (26).

. . . .

SECTION 2. IC 29-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section applies to a will executed before, on, or after July 1, 2003. A will, other than a nuncupative will, must be executed by the signature of the testator and of at least two (2) witnesses on:

(1) a will under subsection (b);

(2) a self-proving clause under section 3.1(c) of this chapter; or

(3) a self-proving clause under section 3.1(d) of this chapter.

(b) A will may be attested as follows:

(1) The testator, in the presence of two (2) or more attesting witnesses, shall signify to the witnesses that the instrument is the testator's will and either:

(A) sign the will;

(B) acknowledge the testator's signature already made; or

(C) at the testator's direction and in the testator's presence have someone else sign the testator's name.

(2) The attesting witnesses must sign in the presence of the testator and each other.

An attestation or self-proving clause is not required under this subsection for a valid will.

(c) Under the supervision of an attorney or directed paralegal, the testator and the witnesses may execute and complete the will in two (2) or more original counterparts that exist in a tangible and readable paper form with:

(1) the testator's signature placed on one (1) original counterpart in the presence of attesting witnesses; and

(2) the signatures of the witnesses placed on one (1) or more different counterparts of the same will;

in a tangible and readable paper form. If a will is signed and witnessed in counterparts under this subsection, the testator or an individual acting at the testator's specific direction must physically assemble all of the separately signed paper counterparts of the will and the signatures of the testator and all attesting witnesses not later than five (5) business days after all the paper counterparts have been signed by the testator and witnesses. If the testator directs another individual to assemble the separate, signed paper counterparts of the will into a single composite paper document, the five (5) business day period does not commence until the compiling individual receives all of the separately signed paper counterparts. Any scanned copy or photocopy of the composite document containing all signatures shall be treated as validly signed under this section and may be electronically filed to offer the will for probate under IC 29-1-7. If the testator dies after executing a will under this subsection but before the separate counterparts are assembled into a single composite paper document, the intervening death of the testator shall not affect the validity of the will.

(d) An attorney or directed paralegal must supervise the execution of a will that is signed and witnessed in counterparts as described in subsection (c). An attorney or directed paralegal may supervise the execution of a will in counterparts even if the

supervising attorney or directed paralegal is one (1) of the will's attesting witnesses. When an attorney or directed paralegal supervises the execution of a will in counterparts as described in subsection (c), the attorney or directed paralegal must sign, date, and complete an affidavit of compliance within a reasonable time after all paper counterparts of the will have been signed by the testator and the witnesses. An affidavit of compliance under this subsection must be sworn or affirmed by the signing attorney or directed paralegal under the penalties of perjury and must contain the following information:

(1) The name and residence address of the testator.

(2) The name and:

(A) residential address; or

(B) business address;

for each witness who signs the will.

(3) The address, city, and state in which the testator was physically located at the time the testator signed an original counterpart of the will.

(4) The city and state in which each attesting witness was physically located when the witness signed an original counterpart of the will as a witness.

(5) A description of the method and form of identification used to confirm the identity of the testator to the witnesses and to the supervising attorney or directed paralegal, as applicable.

(6) A description of the audiovisual technology or other method used by the supervising attorney or paralegal, as applicable, the testator, and the witnesses for the purpose of interacting with each other in real time during the signing process.

(7) A description of the method used by the testator and the witnesses to identify the location of each page break within the text of the will and to confirm that the separate paper counterparts of the will were identical in content.

(8) A general description of how and when the attorney or paralegal, as applicable, physically combined the separate, signed paper counterparts of the will into a single composite paper document containing the will, the signature of the testator, and the signatures of all attesting witnesses.

(9) The name, business or residence address, and telephone number of the attorney or directed paralegal who supervised the execution and witnessing of the will in counterparts.

(10) Any other information that the supervising attorney or directed paralegal, as applicable, considers to be material with respect to:

(A) the testator's capacity to sign a valid will; and

(B) the testator's and witnesses' compliance with subsection (c).

(e) When a party files a petition under IC 29-1-7 to probate a will that was executed and witnessed in counterparts under subsection (c), the party shall file a true copy of the affidavit of compliance under subsection (d) with the petition or at any time ordered by the court. A party who files a copy of the affidavit of compliance may redact private information from the affidavit in a manner consistent with Rule 5 of the Indiana Rules on Access to Court Records. If a will is executed and witnessed in counterparts under subsection (c) but without the supervision of an attorney or directed paralegal and that will is later offered for probate under IC 29-1-7, the will is voidable in the discretion of the court, upon objection to probate filed under IC 29-1-7-16, or upon a timely filed will contest under IC 2-29-7-17.

~~(c)~~ **(f)** A will that is executed substantially in compliance with subsection (b) will not be rendered invalid by the existence of:

(1) an attestation or self-proving clause or other language; or

(2) additional signatures;

not required by subsection (b).

~~(d)~~ **(g)** A will executed in accordance with subsection (b) is self-proved if the witness signatures follow an attestation or self-proving clause or other declaration indicating in substance the facts set forth in section 3.1(c) or 3.1(d) of this chapter.

~~(e)~~ **(h)** This section shall be construed in favor of effectuating the testator's intent to make a valid will.

SECTION 3. IC 29-1-5-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies to a will executed before, on, or after July 1, 2003. When a will is executed, the will may be:

(1) attested; and

(2) made self-proving;

by incorporating into or attaching to the will a self-proving clause that meets the requirements of subsection (c) or (d). If the testator and witnesses sign a self-proving clause that meets the requirements of subsection (c) or (d) at the time the will is executed, no other signatures of the testator and witnesses are required for the will to be validly executed and self-proved.

(b) If a will is executed by the signatures of the testator and witnesses on an attestation clause under section 3(b) of this chapter, the will may be made self-proving at a later date by attaching to the will a self-proving clause signed by the testator and witnesses that meets the requirements of subsection (c) or (d).

(c) A self-proving clause must contain the acknowledgment of the will by the testator and the statements of the witnesses, each made under the laws of Indiana and evidenced by the signatures of the testator and witnesses (which may be made under

the penalties for perjury) attached or annexed to the will in form and content substantially as follows:

We, the undersigned testator and the undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument declare:

(1) that the testator executed the instrument as the testator's will;

(2) that, in the presence of both witnesses, the testator signed or acknowledged the signature already made or directed another to sign for the testator in the testator's presence;

(3) that the testator executed the will as a free and voluntary act for the purposes expressed in it;

(4) that each of the witnesses, in the presence of the testator and of each other, signed the will as a witness;

(5) that the testator was of sound mind when the will was executed; and

(6) that to the best knowledge of each of the witnesses the testator was, at the time the will was executed, at least eighteen (18) years of age or was a member of the armed forces or of the merchant marine of the United States or its allies.

_____
Testator

_____ _____
Date Witness

_____
Witness

(d) A will is attested and self-proved if the will includes or has attached a clause signed by the testator and the witnesses that indicates in substance that:

(1) the testator signified that the instrument is the testator's will;

(2) in the presence of at least two (2) witnesses, the testator signed the instrument or acknowledged the testator's signature already made or directed another to sign for the testator in the testator's presence;

(3) the testator executed the instrument freely and voluntarily for the purposes expressed in it;

(4) each of the witnesses, in the testator's presence and in the presence of all other witnesses, is executing the instrument as a witness;

(5) the testator was of sound mind when the will was executed; and

(6) the testator is, to the best of the knowledge of each of the witnesses, either:

(A) at least eighteen (18) years of age; or

(B) a member of the armed forces or the merchant marine of the United States or its allies.

(e) If the testator and the attesting witnesses executed the will in two (2) or more counterparts on paper under section 3(c) of this chapter, the self-proving clause, if applicable, for the will must substantially be in the following form:

"We, the undersigned testator and undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument, declare the following:

(1) That the undersigned testator and witnesses interacted with each other in real time through the use of technology, and each witness was able to observe the testator and other witnesses throughout the signing process.

(2) That the testator executed a complete counterpart of the instrument, in a readable form on paper, as the testator's will.

(3) That, in the presence of both witnesses, the testator:

(A) signed the paper counterpart of the will;

(B) acknowledged the testator's signature already made; or

(C) directed another individual to sign the paper counterpart of the will for the testator in the testator's presence.

(4) That the testator executed the will as a free and voluntary act for the purpose expressed in the will.

(5) That each of the witnesses, in the presence of the testator and of each other, signed one (1) or more other complete paper counterparts of the will as a witness.

(6) That each paper counterpart of the will that was signed by the witness was complete, in readable form, and with content identical to the paper counterpart signed by the testator.

(7) That the testator was of sound mind when the will was executed.

(8) That, to the best knowledge of each witness, the testator was at least eighteen (18) years of age at the time the will was executed or was a member of the armed forces or of the merchant marine of the United States or its allies.".

~~(e)~~ **(f)** This section shall be construed in favor of effectuating the testator's intent to make a valid will.

SECTION 4. IC 29-1-5-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. Subject to the applicable Indiana Rules of Trial Procedure **and the Indiana Rules of Evidence,** a videotape **video recording, one (1) or more photographs, or an audio recording made or captured during part or all of a will's execution** may be admissible as evidence of the following:

(1) The proper execution of a will.

(2) The intentions of a testator.

(3) The mental state or capacity of a testator.

(4) The authenticity of a will.

(5) Matters that are determined by a court to be relevant to the probate of a will.

SECTION 5. IC 29-1-5-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.3. (a) This section applies to a will that is signed and witnessed:**

(1) on or after March 31, 2020;

(2) before January 1, 2021; and

(3) in reliance on the Indiana supreme court's order signed and filed on March 31, 2020, under case number 20S-MS-237, or, as supplemented or extended by the supreme court's order signed and filed on May 1, 2020, under case number 20S-MS-237, and by the supreme court's orders signed and filed on May 29, 2020, and November 10, 2020, under case number 20S-CB-123.

(b) Notwithstanding any other law or provision, a will described in subsection (a) that was signed and witnessed in compliance with:

(1) the procedures and requirements set forth in the Indiana supreme court's order signed and filed on March 31, 2020, under case number 20S-MS-237, or, as supplemented or extended by the supreme court's order signed and filed on May 1, 2020, under case number 20S-MS-237 and by the supreme court's order signed and filed on November 10, 2020, under case number 20S-CB-123; or

(2) the procedures and requirements set forth in section 3.1 of this chapter or IC 29-1-21-4;

is not required to be reexecuted or reratified by the testator or the witnesses in compliance with the witnessing procedures specified under section 3 or 3.1 of this chapter as those chapters existed on June 30, 2020.

(c) A proponent who offers a will for probate may demonstrate prima facie compliance with subsection (b) by relying on the contents of a self-proving clause or by describing compliance in a verified petition under IC 29-1-7-4. A person contesting the validity of a will described in subsection (a) has the burden of proving noncompliance with subsection (b).

Sample (suggested) self-proving signature / witnessing block and affidavit with a single set of signatures, for a Will signed on paper WITH remote witnessing but WITHOUT signing in counterparts [*recommended additional content is in* ***red***]:

UNDER THE PENALTIES FOR PERJURY, we, the undersigned Testator and the undersigned witnesses, whose names are signed to the attached or foregoing instrument, declare:

(1) That the Testator identified and signed the instrument (which consists of ____ pages in total) as the Testator's will;

(2) That at the time they signed the attached or foregoing will, the Testator and the two witnesses were all physically located in _____ [*describe building and state address*] but, for medical or health reasons, the testator was unable to interact directly with the witnesses in the same room or physical space;

(3) That the Testator and the two undersigned witnesses used _____ [*insert name or description of audio-video communication technology or other interaction method used*] to remain in simultaneous or contemporaneous, real-time audible and visible communication with each other throughout the signing process;

(4) That by using the technology or method described in the preceding paragraph, the Testator and both of the undersigned witnesses were able to clearly observe the execution of the will by the Testator and by each witness, respectively;

(5) That each of the two witnesses positively verified the identity of the Testator by _____ [*specify identity proofing method used, such as viewing the Testator's government-issued photo I.D. or hearing the testator's correct answers to questions based on personal information about the Testator*];

(6) That while being continuously viewed by both of the two witnesses using the technology or other method described above in Paragraph (3) above, the Testator signed the hard copy original of the will on paper [*optional text follows*] or directed another individual, _____, who is not one of the witnesses, to sign for the Testator in the Testator's presence;

(7) That after the Testator signed the hard copy original of the Will as described in Paragraph (6), a person (_____) who supervised or facilitated signing process physically transported that hard copy original to the other room or separate space in which the two witnesses were located and from which the witnesses observed and participated in the signing process;

(8) That the Testator signed the will as a free and voluntary act for the purposes expressed in it;

(9) That each of the witnesses, while being continuously observed by the Testator and each other using the technology or other method described in Paragraph (3) above, signed the same hard copy original of the will that contained the Testator's signature;

(10) That the Testator was of sound mind when the will was executed; and

(11) That, to the best knowledge of each attesting witness, the Testator was, at the time the will was executed, at least eighteen (18) years of age or was a member of the armed forces or of the merchant marine of the United States or its allies.

Date signed: _____ _____

[*Testator's printed name*]

Date signed: _____ _____

[*Witness 1's printed name*]
[*Witness 1 address – recommended*]

Date signed: _____ _____

[*Witness 2's printed name*]
[*Witness 2 address – recommended*]

[*Name and address of attorney, paralegal, or other person supervising the signing and witnessing – optional but recommended*]

Sample self-proving signature / witnessing block and affidavit with a single set of signatures, for "signing in counterparts" with remote witnessing [*recommended additional text is in* ***red***]:

UNDER THE PENALTIES FOR PERJURY, we, the undersigned Testator and undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument, declare the following:

(1) That the undersigned Testator and witnesses interacted with each other in real time through the use of technology, and each witness was able to observe the Testator and the other witnesses throughout the signing process.

(2) That the Testator was located in _____ and at _____ [*describe location and address*] throughout the signing process.

(3) That the first witness was located in _____ and at _____ [*describe location and address*] throughout the signing process.

(4) That the second witness was located in _____ and at _____ [*describe location and address*] throughout the signing process.

(5) That the Testator executed a complete counterpart of the instrument, in a readable form on paper, as the Testator's will.

(6) That, in the presence of both witnesses, the Testator:

(A) signed the paper counterpart of the will;

(B) acknowledged the Testator's signature already made; or

(C) directed another individual to sign the paper counterpart of the will for the Testator in the Testator's presence.

(7) That the Testator executed the will as a free and voluntary act for the purpose expressed in the will.

(8) That each of the witnesses, in the presence of the Testator and of each other, signed one (1) or more other complete paper counterparts of the will as a witness.

(9) That each paper counterpart of the will that was signed by the witness was complete, in readable form, and with content identical to the paper counterpart signed by the Testator.

(10) That the Testator was of sound mind when the will was executed.

(11) That, to the best knowledge of each witness, the Testator was at least eighteen (18) years of age at the time the will was executed or was a member of the armed forces or of the merchant marine of the United States or its allies.".

Date signed: _____ _____

[*Testator's printed name*]

Date signed: _____ _____

[*Witness 1's printed name*]
[*Witness 1 address – recommended*]

Date signed: _____ _____

[*Witness 2's printed name*]
[*Witness 2 address – recommended*]

[*Name, address and telephone number of attorney or directed paralegal who supervises the signing and witnessing – strongly recommended*]

Sample "affidavit of compliance" to be signed by the supervising attorney or directed paralegal under I.C. § 29-1-5-3(c) through (e), for a traditional Will signed on paper "in counterparts" with remote witnessing:

[*Add case caption later for petition to probate will and/or to appoint personal representative*]

Affidavit of Compliance under I.C. § 29-1-5-3(d)
For Remotely-Witnessed Will Signed in Counterparts

The undersigned individual affirms, under the penalties for perjury, that all the following information is true and accurate:

[*Choose 1 version of ¶ 1*]

1. The undersigned individual is an attorney currently licensed to practice law in the State of Indiana and has Attorney I.D. number _____.

1. The undersigned individual is a [*choose one of the following identifiers*] paralegal / nonlawyer assistant who is employed or retained by or associated with ____ _____ [*name of licensed Indiana attorney*] and who works directly under the supervision of that licensed attorney.

2. Under the undersigned individual's supervision and on _____, 20____, the Testator, _____, signed an original counterpart of h__ will on paper, while in the presence (as defined in I.C. § 29-1-1-3(a)(16)) of two adult Witnesses identified below.

3. The residential address of the Testator, _____, is _____ _____.

4. The name and the residential address or business address of each of the two Witnesses to the will are as follows:

	Witness 1	**Witness 2**
Witness Name:	_____	_____
Witness's residential or business address:	_____ _____	_____ _____

5. Throughout the signing process described in this affidavit, the Testator was physically located in [*describe location and address*] _____ at _____ _____, and the above-named witnesses were physically located in [*describe location(s) and city/cities and state(s))*] _____ at _____ _____, [respectively].

6. Throughout the signing process described in this affidavit, the undersigned individual was physically located in [*describe location and address*] _____ at _____.

7. Throughout the signing process described in this affidavit, the following audiovisual technology or other method was used to establish and maintain two-way, real time interaction between and among the Testator, the two Witnesses, and the undersigned individual and to satisfy the "presence" requirement as defined in I.C. § 29-1-1-3(a)(16) [*describe software application and/or technology used*]: _____ _____.

8. Before the Testator signed an original counterpart of h___ will on paper, the following method and form of identification were used to confirm the Testator's identity to the undersigned individual and to the two Witnesses [*check and fill in one*]:

_____ Visual display of the Testator's government-issued photo I.D. [*describe type of I.D.*] _____

_____ Private personal identifying information for the Testator, accurately recited by the Testator [*specify type of identifying information*]

_____ Other method [*specify, such as other knowledge-based authentication or Testator's repetition of a prearranged password*]

9. [*OPTIONAL*] The following method was used to confirm or establish the Testator's soundness of mind, freedom from duress, and capacity to sign a valid will, to the satisfaction of the two Witnesses: [*specify details*] _____.

10. While remaining in real-time, two-way interaction with the Testator and with each other as described in Paragraph 7 above, each of the two Witnesses signed a paper

counterpart of the will, which was identical in content to the paper counterpart signed by the Testator.

11. The Testator's will, including the signature blocks and the self-proving clause or affidavit (if any), comprise a total of _____ pages, and the signatures of the Testator and the two Witnesses appear on page(s) _____ and _____ of paper counterparts of the will.

12. With the assistance and supervision of the undersigned individual, and before they signed counterparts of the will on paper, the Testator and the two Witnesses used the following method to identify the location of each page break within the text of the will and to confirm that the separate paper counterparts of the will were identical in content: [*describe*] _____

13. On _____, 20____, the undersigned individual received physical delivery and possession of all the original paper counterparts of the Testator's will, as separately signed by the Testator and the two Witnesses.

14. On _____, 20____ [*date within 5 business days after the date in ¶ 13*], the undersigned individual combined all of the separately signed paper counterparts of the Testator's will into a single composite paper document containing all pages and all text of the will and the signatures of the Testator and of both / all the Witnesses. The undersigned individual also produced a complete electronic copy of that single composite paper document in _____ format, suitable for electronic filing under Indiana Trial Rules 86 and 87.

_____

[*Signature of attorney or paralegal*]
Printed name of attorney or paralegal
Business or residence address [*required*]
Telephone number [*required*]
E-mail address [*recommended*]

(4) Excerpts from HEA 1255's changes to the Probate Code for electronic Wills *and* sample form provisions.

The following Probate Code provisions, as added or amended by House Enrolled Act 1255, apply to electronic wills signed with "remote witnessing" on or after the date of enactment (April 29, 2021). Text added by HEA 1255 is shown in **bold**.

SECTION 6. IC 29-1-21-3, AS AMENDED BY P.L.231-2019, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following terms are defined for this chapter:

~~(1) "Actual presence" means that:~~

~~(A) a witness; or~~

~~(B) another individual who observes the execution of the electronic will;~~

~~is physically present in the same physical location as the testator. The term does not include any form of observation or interaction that is conducted by means of audio, visual, or audiovisual telecommunication or similar technological means.~~

. . . .

(5) "Directed paralegal" means a nonlawyer assistant who is employed, retained, or otherwise associated with a licensed attorney or law firm and whose work is directly supervised by a licensed attorney, as required by Rule 5.3 of the Rules of Professional Conduct.

. . . .

(14) "Observe" means to perceive another's actions or expressions of intent through the senses of eyesight or hearing, or both. The term includes perceptions involving the use of technology or learned skills to:

(A) assist the person's capabilities of eyesight or hearing, or both; or

(B) compensate for an impairment of the person's capabilities of eyesight or hearing, or both.

(15) "Observing" has the meaning set forth in subdivision (14).

(16) "In the presence of" has the meaning set forth in subdivision (17).

(17) "Presence" means a process of signing and witnessing a will in which:

(A) the testator and the witnesses:

(i) are directly present with each other in the same physical space; or

(ii) are able to interact with each other in real time through the use of audiovisual technology now known or later developed;

(B) the testator and witnesses are able to positively identify each other; and

(C) each witness is able to interact with the testator and with each other by observing:

(i) the testator's expression of intent to execute the electronic will;

(ii) the testator's actions in executing or directing the execution of the testator's electronic will; and

(iii) the actions of every other witness in signing the will.

The term includes the use of technology or learned skills for the purpose of assisting with hearing, eyesight, and speech, or for the purpose of compensating for a hearing, eyesight, or speech impairment.

. . . .

SECTION 7. IC 29-1-21-4, AS ADDED BY P.L.40-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To be valid as a will under this article, an electronic will must be executed by the electronic signature of the testator and attested to by the electronic signatures of at least two (2) witnesses in the following manner:

(1) ~~The testator and the attesting witnesses must be in each other's actual presence when the electronic signatures are made in or on the electronic will. The testator and witnesses must directly observe one another as the electronic will is being signed by the parties.~~ **The testator, the attesting witnesses, and any individual who signs for the testator under subdivision (4)(B) must be in each other's presence when the electronic signatures are made in or on the electronic will. A person, including an attorney or directed paralegal, who supervises the execution of the electronic will may act and sign as one (1) of the attesting witnesses if the person does not sign the electronic will at the testator's direction under subdivision (4)(B). The testator and witnesses must be able to interact with each other and the witnesses must be able to observe the testator and each other as the electronic will is being signed.**

(2) The testator and attesting witnesses must comply with:

(A) the prompts, if any, issued by the software being used to perform the electronic signing; or

(B) the instructions by the person, if any, responsible for supervising the execution of the electronic will.

(3) The testator must state, in the ~~actual~~ presence of the attesting witnesses, that the instrument to be electronically signed is the testator's will.

(4) The testator must:

(A) electronically sign the electronic will in the ~~actual~~ presence of the attesting witnesses; or

(B) direct another adult individual who is not an attesting witness to sign the electronic will on the testator's behalf in the ~~actual~~ presence of the testator and the attesting witnesses.

(5) The attesting witnesses must electronically sign the electronic will in the ~~actual~~ presence of:

(A) the testator; and

(B) ~~one another~~; **each other;**

after the testator has electronically signed the electronic will.

(6) The:

(A) testator; or

(B) other adult individual who is:

(i) not an attesting witness; and

(ii) acting on behalf of the testator;

must command the software application or user interface to finalize the electronically signed electronic will as an electronic record.

The process described in this section may include as part of the electronic record for the electronic will any identity verification evidence pertaining to the testator or any document integrity evidence for the electronic will.

(b) If the testator and the witnesses are not in each other's physical presence when the electronic will is signed and witnessed and if the testator and the witnesses use audiovisual technology to satisfy the presence requirement in subsection (a) and section 3(17) of this chapter, an attorney or a directed paralegal must supervise the signing and the witnessing of the electronic will.

(c) Within a reasonable time after an attorney or a directed paralegal supervises the signing and witnessing of an electronic will in the manner described in subsection (b), the attorney or directed paralegal must sign an affidavit of compliance. An affidavit of compliance under this subsection must be sworn to or affirmed by the signing attorney or directed paralegal under the penalties of perjury and must contain:

(1) the name and residential address of the testator;

(2) the name and:

(A) residential address; or

(B) business address; for each witness who signs the electronic will;

(3) the address, city, and state in which the testator is physically located at the time the testator signs the electronic will;

(4) the city and state in which each attesting witness is physically located when the witness signs the electronic will as a witness;

(5) a description of the method and form of identification used to confirm the identity of the testator to the witnesses and supervising attorney or directed paralegal;

(6) a description of the method used by the supervising attorney or paralegal, testator, and the witnesses for the purpose of interacting with each other in real time during the signing process;

(7) a brief description of the method used to add or capture the electronic signature of the testator and the witnesses;

(8) the name, business or residential address, and telephone number of the attorney or directed paralegal who supervised the execution of the electronic will; and

(9) any other information that the supervising attorney or directed paralegal considers to be material to:

(A) the testator's capacity to sign a valid will; and

(B) the testator's and witnesses' compliance with subsection (a).

(d) When a party files a petition under IC 29-1-7 to probate an electronic will that was executed and witnessed in the manner described in subsection (b), the party shall file a true copy of the affidavit of compliance under subsection (c) with the petition or at any time ordered by the court. A party who files a copy of the affidavit of compliance may redact private information from the affidavit in a manner consistent with Rule 5 of the Rules on Access to Court Records. If an electronic will is executed and witnessed under subsection (c) but without the supervision of an attorney or directed paralegal and that will is later offered for probate under IC 29-1-7, the will is voidable in the discretion of the court, upon objection to probate filed under IC 29-1-7-16, or upon a timely filed will contest under IC 29-1-7-17.

~~(b)~~ **(e)** An electronic will may be self-proved:

(1) at the time that it is electronically signed; and

(2) before it is electronically finalized;

by incorporating into the electronic record of the electronic will a self-proving clause described under subsection ~~(c).~~ **(f).** An electronic will is not required to contain an attestation clause or a self-proving clause in order to be a valid electronic will.

~~(c)~~ **(f)** A self-proving clause under subsection ~~(b)~~ **(e)** must substantially be in the following form:

"We, the undersigned testator and the undersigned witnesses, whose names are signed to the attached or foregoing instrument, declare:

(1) That the testator executed the instrument as the testator's will;

(2) That, in the ~~actual and direct physical~~ presence of both witnesses, the testator signed the will or directed another individual who is not one of the witnesses to sign for the testator in the testator's presence and in the witnesses' ~~actual and direct physical~~ presence;

(3) That the testator executed the will as a free and voluntary act for the purposes expressed in it;

(4) That each of the witnesses, in the ~~actual and direct physical~~ presence of the testator and each other, signed the will as a witness;

(5) That the testator was of sound mind when the will was executed; and

(6) That, to the best knowledge of each attesting witness, the testator was, at the time the will was executed, at least eighteen (18) years of age or was a member of the armed forces or of the merchant marine of the United States or its allies.

_____	_____
(insert date)	(insert signature of testator)
_____	_____
(insert date)	(insert signature of witness)
_____	_____
(insert date)	(insert signature of witness)".

A single signature from the testator and from each attesting witness may be provided for any electronic will bearing or containing a self-proving clause.

~~(d)~~ **(g)** An electronic will that is executed in compliance with subsection (a) shall not be rendered invalid by the existence of any of the following attributes:

(1) An attestation clause.

(2) Additional signatures.

(3) A self-proving clause that differs in form from the exemplar provided in subsection ~~(c).~~ **(f).**

(4) Any additional language that refers to the circumstances or manner in which the electronic will was executed.

~~(e)~~ **(h)** This section shall be construed in a manner that gives effect to the testator's intent to execute a valid will.

SECTION 8. IC 29-1-21-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. (a) This section applies to a will or codicil that is electronically signed and witnessed:**

(1) on or after March 31, 2020;

(2) before January 1, 2021; and

(3) in reliance on the Indiana supreme court's order signed and filed on March 31, 2020, under case number 20S-MS-237, as supplemented or extended by the supreme court's order signed and filed on May 1, 2020, under case number 20S-MS-237, and by the supreme court's orders signed and filed on May 29, 2020, and November 10, 2020, under case number 20S-CB-123.

(b) Notwithstanding any other law or provision, a will or codicil described in subsection (a) that was electronically signed and witnessed in compliance with:

(1) the procedures and requirements set forth in the Indiana supreme court's order signed and filed on March 31, 2020, under case number 20S-MS-237 and as supplemented or extended by the supreme court's order signed and filed on May 1, 2020, under case number 20S-MS-237 and by the supreme court's order signed and filed on November 10, 2020, under case number 20S-CB-123; or

(2) the procedures and requirements set forth in section 4 of this chapter;

does not need to be reexecuted or reratified in compliance with the witnessing procedures specified under section 4 of this chapter or IC 29-1-5-3 as they existed on June 30, 2020.

(c) A proponent who offers an electronic will for probate may demonstrate prima facie compliance with subsection (b) by relying on the contents of a self-proving clause or by describing compliance in a verified petition under IC 29-1-7-4. A person contesting the validity of an electronic will described in subsection (b) has the burden of proving noncompliance with subsection (b).

Sample self-proving signature / witnessing block and affidavit for an electronic will signed and witnessed with remote witnessing (NOTE that under I.C. § 29-1-21-4(g), an electronic will or its self-proving clause may contain "additional language that refers to the circumstances or manner in which the electronic will was executed."):

Optional but recommended wording appears in **red**.

UNDER THE PENALTIES FOR PERJURY, we, the undersigned Testator and undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument, declare the following:

(1) That throughout the signing process described below, the undersigned Testator and witnesses interacted with each other in real time through the use of technology; the Testator was able to observe each witness; and each witness was able to observe the Testator and the other witness.

(2) That the Testator was located in _____ and at _____ [*describe location and address*] throughout the signing process.

(3) That the first witness was located in _____ and at _____ [*describe location and address*] throughout the signing process.

(4) That the second witness was located in _____ and at _____ [*describe location and address*] throughout the signing process.

(5) That in the presence of both witnesses, the Testator signed the will or directed another individual who is not one of the witnesses to sign for the Testator in the Testator's presence and in the witnesses' presence.

(6) That the Testator executed the will as a free and voluntary act for the purposes expressed in the will.

(7) That each of the witnesses, in the presence of the Testator and of each other, signed the will as a witness.

(8) That the Testator was of sound mind when the will was executed.

(9) That, to the best knowledge of each witness, the Testator was at least eighteen (18) years of age at the time the will was executed or was a member of the armed forces or of the merchant marine of the United States or its allies.".

Date signed: _____ _____

[*Testator's printed name*]

Date signed: _____ _____

[*Witness 1's printed name*]
[*Witness 1 address – recommended*]

Date signed: _____ _____

[*Witness 2's printed name*]
[*Witness 2 address – recommended*]

[*Name, address and telephone number of attorney or directed paralegal who supervises the signing and witnessing – strongly recommended*]

Sample "affidavit of compliance" to be signed by the supervising attorney or directed paralegal under I.C. § 29-1-21-4(b) through (d), for a will that is electronically signed with remote witnessing:

[*Add case caption later for petition to probate will and/or to appoint personal representative*]

Affidavit of Compliance under I.C. § 29-1-21-4(c)
For Remotely-Witnessed Will Signed Electronically

The undersigned individual affirms, under the penalties for perjury, that all the following information is true and accurate:

[*Choose 1 version of ¶ 1*]

1. The undersigned individual is an attorney currently licensed to practice law in the State of Indiana and has Attorney I.D. number _____.

1. The undersigned individual is a [*choose one of the following identifiers*] paralegal / nonlawyer assistant who is employed or retained by or associated with ____ _____ [*name of licensed Indiana attorney*] and who works directly under the supervision of that licensed attorney.

2. Under the undersigned individual's supervision and on _____, 20____, the Testator, _____, signed h__ will as an electronic record, while in the presence (as defined in I.C. § 29-1-21-3(17)) of two adult Witnesses identified below.

3. The residential address of the Testator, _____, is _____ _____.

4. The name and the residential address or business address of each of the two Witnesses to the will are as follows:

	Witness 1	**Witness 2**
Witness Name:	_____	_____
Witness's residential or business address:	_____ _____	_____ _____

5. Throughout the signing process described in this affidavit, the Testator was physically located in [*describe location and address*] _____ at _____ _____, and the above-named witnesses were physically located in [*describe location(s) and city/cities and state(s)*] _____ at _____ _____, [respectively].

6. Throughout the signing process described in this affidavit, the undersigned individual was physically located in [*describe location and address*] _____ at _____.

7. Throughout the signing process described in this affidavit, the following audiovisual technology or other method was used to establish and maintain two-way, real time interaction between and among the Testator, the two Witnesses, and the

undersigned individual and to satisfy the "presence" requirement as defined in I.C. § 29-1-21-3(17) [*describe software application and/or technology used*]: _____ _____.

8. Before the Testator electronically signed h___ will, the following method and form of identification were used to confirm the Testator's identity to the undersigned individual and to the two Witnesses [*check and fill in one*]:

_____ Visual display of the Testator's government-issued photo I.D. [*describe type of I.D.*] _____

_____ Private personal identifying information for the Testator, accurately recited by the Testator [*specify type of identifying information*]

_____ Other method [*specify, such as other knowledge-based authentication or Testator's repetition of a prearranged password*]

9. [*OPTIONAL*] The following method was used to confirm or establish the Testator's soundness of mind, freedom from duress, and capacity to sign a valid will, to the satisfaction of the two Witnesses: [*specify details*] _____.

10. While remaining in real-time, two-way interaction with the Testator and with each other as described in Paragraph 7 above, each of the two Witnesses electronically signed the electronic record for the Testator's will.

11. The electronic signatures of the Testator and the Witnesses were captured or added to the electronic record for the will in the following manner [*describe user interface, software or other method used*]: _____.

12. The electronic record for the Testator's will, including the signature spaces and the self-proving clause or affidavit (if any), but excluding any document integrity evidence, comprise a total of _____ pages, and the signatures of the Testator and the two Witnesses appear on page(s) _____ and _____ of the electronic record for the will.

13. On _____, 20____, the undersigned individual used the fully-signed electronic record for the will to generate a complete converted copy (as defined in I.C. § 29-1-21-3(2)) of the will, in _____ format, suitable for electronic filing under Indiana Trial Rules 86 and 87.

_____

[*Signature of attorney or paralegal*]
Printed name of attorney or paralegal
Business or residence address [*required*]
Telephone number [*required*]
E-mail address [*recommended*]

(5) The comprehensive overhaul of three of Indiana's health care advance directive statutes in Senate Enrolled Act 204.

The provisions of Senate Enrolled Act 204 (P.L. 50-2021) will become effective on July 1, 2021. It creates a new single type of health care advance directive that Hoosiers can sign and use anytime on or after July 1, for the purpose of (1) appointing one or more health care representatives and/or (2) stating specific instructions, wishes, and/or treatment preferences. SEA 204 was signed by the Governor on April 15, 2021. The full text is at http://iga.in.gov/legislative/2021/bills/senate/204#document-da83451c.[5]

After a 1.5-year transition period ends on December 31, 2022, the new-style advance directive will *replace* three documents used under current law:

- The durable POA for health care under I.C. § 30-5-5-16;
- The "appointment of health care representative"(HCRA) under I.C. § 16-36-1-7; and
- The "living will declaration" under I.C. § 16-36-4-10.

Those are the three statutes that will eventually be mostly superseded. During the 1.5-year transition period, any Hoosier could sign any one or more of those three documents *OR* the new-style advance directive, and the latest signed document will control over earlier-signed documents. If a Hoosier signs any one or more of the three documents (health care POA, HCRA, living will) during the transition period *and does not replace them*, those documents will remain valid and enforceable under SEA 204.

However, after the end of the transition period on December 31, 2022, if a Hoosier wants to sign a *new* health care advance directive to replace old ones or to perform any of the "functions" served by the above three documents under current law, that Hoosier will have to use and sign the new-style advance directive. For example, if a Hoosier signs a new general POA after December 31, 2022 which contains health care powers, the health care powers will be void, but the rest of the powers in the POA will be valid and enforceable. *See* Section 74 of SEA 204, adding new subsection (c) to I.C. § 30-5-5-16.

As enacted, SEA 204 runs 75 pages, and it inserts numerous cross-references into a large number of Indiana statutes, mostly in title 16. But the core content of SEA 204 is found in the 26 pages that start on page 28 of the Enrolled Act, and which adds a new, consolidated chapter 7 to IC 16-36, to state all the signing requirements, procedures,

---

[5] As enacted, SEA 204 contained an error on the last line of page 35, in I.C. § 16-36-7-28(c)(1): The words "Signed in the declarant's direct physical presence" should have read "Signed in the declarant's presence." This error was fixed in the Conference Committee Report for House Bill 1436 (P.L. 199-2021), which was approved by the House and Senate on April 22nd and signed by Gov. Holcomb on April 29, 2021.

presumptions, default settings, and other rules that will apply to the new-style advance directive and to related issues of patient capacity and consent to health care.

Between 80 and 90 percent of the content in new chapter 16-36-7 was reproduced verbatim or adapted from statutory rules that have long existed in I.C. 16-36-1 (the "Health Care Consent Act" which dates back to 1987) or in various sections of Indiana's durable POA statute (which dates back to 1991). In consolidating existing rules and adding new rules in new chapter 16-36-7, the working group followed five top-priority principles:

- To preserve all of the design and drafting flexibility that Hoosiers and their lawyers have under current law when creating durable powers of attorney that confer health care powers;
- To avoid prescribing an inflexible *official* form of advance directive, which would have stifled innovation and excessively limited individuals' choices;
- To put the list of permitted optional provisions and the list of presumptions and default settings (if the advance directive is silent on an issue) in a pair of easy-to-find sections within new chapter 16-36-7;
- To eliminate confusing inconsistencies between the POA statute and the Health Care Consent Act and to state clear rules that apply to determinations of patient capacity or incapacity and to the revocation or amendment of health care advance directives; and
- To remove the restrictions (from the living will statute) on what kinds of wishes, instructions and treatment preferences a competent individual can express about requesting, refusing or discontinuing life-prolonging procedures.

Generally, when a new-style health care advance directive is signed and in place and when the individual signer does not have capacity to personally consent to health care or issue new instructions, heath care providers will have the same responsibilities, the same "good faith" standard of conduct, and the same protection from liability as providers do now with respect to health care POAs and HCRAs under current law. The rules are just stated more clearly in new chapter 16-36-7.

The lettered paragraphs below refer to many (but not all) of the important new or amended provisions included in SEA 204:

(a) A competent individual who signs a new-style advance directive ("AD") is a "declarant" under new chapter 16-36-7, and the surrogate decision maker who is named in an AD is a "health care representative." *See* new §§ 16-36-7-4 and 16-36-4-13.

(b) New § 16-36-7-28 specifies the permitted content and functions of the single new-style advance directive. It can combine the appointment of one or more

health care representatives ("HCRs") with statements of specific instructions, wishes and treatment preferences, or the AD can include either type of content but exclude the others. *See* new § 16-36-7-2 and 16-36-7-28(a). Anything that can currently be accomplished in a health care POA, living will declaration, or HCRA can be accomplished in a new-style AD.

(c) For the first time in title 16, new chapter 16-36-7 includes explicit definitions of "best interests," "incapacitated," "informed consent," "observe," "presence," "presence," and "writing."

(d) If an individual declarant signs a new-style AD and retains the capacity to consent to health care (has not become incapacitated), instructions, orders and consents issued by that competent declarant will always supersede and control over (1) the instructions of a health care representative named in the AD *and* (2) any specific treatment preferences or instructions stated in the AD. *See* new §§ 16-36-7-27(e), 16-36-7-32(a), 16-36-7-34(11), 16-36-7-35(b), and 16-36-7-36(a).

(e) A later signed AD will supersede and revoke an earlier-signed AD by the same declarant, unless the later-signed AD explicitly says that the earlier AD remains in effect. *See* new §§ 16-36-7-32(a)(1) and 16-36-7-34(4).

(f) A specific treatment preference or instruction stated within an AD will supersede all oral statements by the declarant on the same specific subject. *See* new § 16-36-7-27(g).

(g) The signing formalities for the new-style advance directive (AD) are stated in new § 16-36-7-28. The AD can be signed electronically or on paper, and the declarant can sign the AD personally or can direct some other adult (not one of the witnesses and not one of the named health care representatives) to sign for the declarant. Regardless of the format (paper or electronic), proper completion of the AD requires *either one* of the following, in addition to the signature of the declarant:

- The signatures of two adult witnesses, at least one of whom is not the spouse or other relative of the declarant (*see* new § 16-36-7-28(b)(1) and (c)(1)); or
- Signing or acknowledgement by the declarant in the presence of a notarial officer, including any method of remote on-line notarization (RON) that satisfies the requirements for remote notarial acts under IC 33-42-17 (*see* new § 16-36-7-28(b)(1) and (c)(2)).

(h) New § 16-36-7-28 explicitly permits a competent declarant to accomplish the signing and witnessing of a valid AD using two other methods, if the declarant does not have access to or cannot use technology for electronic or digital signing of the AD with remote witnessing or remote notarization:

- Subsection 28(d) allows the declarant and the witnesses or the notarial officer sign and complete the AD on paper in separate counterparts, so long as the signing process is properly supervised and the separate signed counterparts are combined into a complete, fully signed document within 10 business days after the supervisor or organizer of the signing receives all the signed counterparts. *See also* **Part 6** starting on page 36 below.

- Subsections (e) through (i) of new section 28 permits a declarant and the witnesses to sign and complete an AD using "telephonic [audio only] interaction between the declarant and the witnesses, IF it is not possible for the declarant to sign the AD with direct physical presence or with signing in counterparts or with remote witnessing technology, *AND IF* all witnesses satisfy themselves that they have verified the declarant's identity and that the declarant is of sound mind and has capacity to consent. No person can be compelled to act as a witness for an AD signed through telephonic interaction. *See also* pages 38, 39, and 45-46 below.

(i) A non-exclusive list of optional provisions, which *can* be included in a new-style advance directive (AD), is stated in new § 16-36-7-29. These are based closely on rules found in the current durable POA statute or on rules that can be inferred from the current POA statute and the Health Care Consent Act.

(j) If a new-style AD is silent on an issue, the governing presumption or default setting can be found in new § 16-36-7-34.

(k) New § 16-36-7-35 states the rules and procedures for determining whether a declarant who has signed an AD (or an individual who has no effective AD in place) has become incapacitated or has recovered from a period of incapacity. In a dispute, the authority of the probate court to make such determinations remains paramount.

(l) New § 16-36-70-36 states the general authority, responsibility, and standard of conduct for each health care representative who is appointed and acting under a new AD.

(m) New § 16-36-7-37 states the general responsibilities, compliance duties and standard of conduct for health care providers in response to instructions stated in a valid AD or instructions by a health care representative who is appointed and acting under a valid AD. The duties of health care representatives are essentially the same as under I.C. § 30-5-7-4 (in the current POA statute).

(n) New § 16-36-7-30(a) requires the Indiana State Health Department (ISDH) to maintain on its web site an updated list of advance directive resources, including links to sample forms of AD that comply with new chapter 16-37-7. In or about 2014, and without being asked or ordered to do so, ISDH

developed and published a sample form and 1-page instruction sheet for the Appointment of Health Care Representative (HCRA) under I.C. § 16-36-1-7. The introduced version of Senate Bill 204 originally required ISDH to develop and publish a sample form of new-style advance directive. ISDH's in-house attorneys balked at doing this, even after they were shown how easy it would be (*see* **Appendix 3** on page 57). So, the compromise was that ISDH would publish clickable links to other web sites offering sample AD forms.

(o) New § 16-36-7-30(b) states that a "declarant is not required to use any official or unofficial form to prepare and sign a valid advance directive." The working group behind SEA 204 anticipates that larger hospital chains, bar associations, patient advocacy and health care choice groups, and social welfare organizations will engage in friendly competition to offer advance directive forms that comply with the new statutory requirements.

(6) Additional details of signing methods and optional provisions for the new-style advance directive for health care under SEA 204.

A new-style advance directive can be signed in a variety of ways on or after July 1, 2021, depending on the factual circumstances of the signer (declarant) and on how if at all the declarant is limited in his or her ability to interact in person with witnesses and to get access to and use technology.

A. The Declarant IS able to interact face-to-face with 2 witnesses or a notary, and IS able to sign with a pen and to pass paper documents back and forth:

- The Declarant can sign the advance directive on paper in the direct presence of 2 witnesses or a notary public, and have the witnesses sign or the notary complete the notarial certificate on each signed paper original of the advance directive. I.C. § 16-36-7-28(b)(1).

B. The Declarant IS able to interact face-to-face with 2 witnesses or a notary BUT cannot hold a pen to physically sign an Advance Directive:

- *Alternative 1*: The Declarant can direct some adult third person (not one of the witnesses and not one of the named health care representatives) to sign the advance directive for the declarant in the declarant's presence, and have the witnesses sign or the notary complete the notarial certificate on each signed paper original of the advance directive. I.C. § 16-36-7-28(b)(2).
- *Alternative 2*: The Declarant can use an electronic or digital method to add his or her electronic signature to the advance directive, and the two witnesses can sign electronically OR the notary public can complete an electronic notarial certificate. I.C. § 16-36-7-28(b).

C. The Declarant is NOT able to interact face-to-face and in the same space with 2 witnesses or a notary, and Declarant is NOT permitted to pass paper documents back and forth, BUT the Declarant IS able to maintain line-of-sight contact with

the witnesses or a notary through a glass window or using real-time A-V technology:

- *Alternative 3*: In their separate physical locations, and while maintaining line-of-sight contact, the Declarant and the 2 witnesses can sign the advance directive on paper in 2 or 3 separate counterparts. Some person must combine the separately signed counterparts into a single composite document (containing all signatures) within 10 business days after receiving the signed counterparts. I.C. § 16-36-7-28(d).
- *Alternative 4*: In their separate physical locations, and while maintaining line of sight contact, the Declarant and a notary public can sign separate paper counterparts of the advance directive. If the declarant and the notary can see each other through a glass window and can speak and hear each other by telephone, a notary public holding a regular notary commission can complete the notarial certificate on one of the paper counterparts. If the declarant and the notary are able to maintain line-of-sight contact only by using two-way A-V technology, the notary public should have a "remote notary public" commission and should use a technology platform from one of the approved vendors[6] to verify the Declarant's identity and to complete a remote notarial certificate. In any event, some person must combine the separately signed paper counterparts into a single composite document within 10 business days after receiving all of the separately signed counterparts.
- *Alternative 5*: In their separate physical locations, and while maintaining line of sight contact through a glass window or by using 2-way A-V technology, both the Declarant and 2 witnesses can electronically sign the advance directive. I.C. § 16-36-7-28(c).
- *Alternative 6:* In their separate physical locations, and while maintaining line of sight contact through a glass window or by using 2-way A-V technology, both the Declarant and a notary public can electronically sign the advance directive. If A-V technology is used to maintain contact between the Declarant and the notary and to satisfy the "presence" requirement, an Indiana notary should have a commission as a remote notary public and should use a technology platform from one of the approved vendors to verify the Declarant's identity and to complete a remote notarial certificate. I.C. § 16-36-7-28(c)(2).

---

[6] As of April 10, 2021, the Indiana Secretary of State had approved eight (8) vendors' technologies for use by Indiana remote notaries public in performing remote online notarizations. *See* https://inbiz.in.gov/certification/notary#verticalTab5. For an example of one vendor's remote notarization platform, which accommodates a broader range of documents than deeds and other real property documents, *see* www.docverify.com.

D. The Declarant is NOT able to interact face-to-face with 2 witnesses or a notary, and is NOT able to use electronic or signing technology, AND is not able to use or does not have access to 2-way A-V technology to have line-of-sight visual interaction with 2 witnesses or a notary:

- *Alternative 7*: The Declarant and two witnesses can **interact solely by telephone call** to confirm the Declarant's identity and capacity and to accomplish the signing of the advance directive on paper, either in counterparts or with quick successive signing by the Declarant and the witnesses. I.C. § 16-36-7-28(e) through (h).

Alternative 7 (using telephonic interaction alone) is consistent with long-standing clinical practice under which a patient's informed consents to treatment *and* designation of a health care surrogate decision maker have been accomplished through the use of telephone calls, without face-to-face visual interaction between the patient and witnesses. New I.C. § 16-36-7-24 defines "telephonic interaction."

When a competent patient (declarant) has nothing more complicated or advanced than a flip phone and when that patient is living under "lockdown" conditions and cannot receive and see visitors for the purpose of handling and signing documents on paper, there are obvious practical challenges involved in verifying the identity of a patient / declarant who can only be *heard* and *spoken to* by phone, without visual interaction.

Under subsection (e) of I.C. § 16-36-7-28, the use of telephonic interaction *alone* to accomplish the signing of an advance directive is an extraordinary alternative, and should be used only if it is "impossible or impractical for the declarant to use audiovisual technology to interact with the two (2) witnesses and to satisfy the presence requirement under section 19 of this chapter . . . ."

This part of new I.C. § 16-36-7-28 encountered some serious opposition in the Senate Judiciary Committee. Sen. Mike Young's concern was that with telephone-only interaction between the declarant and the witnesses, the witnesses could not view the declarant's government-issued photo I.D. during the signing process. The compromise solution, in two Senate Amendments, was to add a sentence to subsection 28(e) and to add what is now subsection (f). These amendments have created the following additional constraints on the use of telephonic interaction:

- When telephonic interaction is used, the advance directive must be signed by two witnesses. The alternative of notarization is not available, because under IC 33-42, an Indiana notarial officer needs to have some sort of line-of-sight visual interaction with the signer (declarant).
- Potential witnesses cannot be compelled to participate in the signing of an advance directive using telephonic interaction. *See* the second sentence of I.C. § 16-36-7-28((e). If a potential witness is not comfortable with the process, the

declarant and his or her advisors or caregivers will have to keep trying until two willing witnesses can be found.

- Under I.C. § 16-36-7-28(f), each witness who participates in the signing using purely telephonic interaction must be able to positively identify the declarant and to conclude, to the satisfaction of the witness, that the declarant is of sound mind and has capacity to sign the advance directive.

- "Knowledge-based authentication" methods can be used to satisfy the witnesses that the declarant has been positively identified and is not an impostor and is not signing the advance directive under the duress of some undisclosed silent person sitting at the declarant's elbow or bedside, at the other end of the phone call.

    - If the declarant has a government-issued photo I.D., the declarant's lawyer or other advisor could arrange to obtain a copy of that photo I.D. *before* the phone call and provide that copy to each witness. During the phone call, the declarant can be asked to accurately repeat information that appears on the photo I.D.

    - During the phone call, the witnesses or a person supervising the signing can ask "unique personal information" questions, to which only the declarant would have the correct answers.

    - Before the phone call and the signing ceremony, the declarant and his or her lawyer or other advisor can agree on a code word or phrase that the declarant can easily remember, and which the declarant can repeat at the request of the lawyer or advisor at the time the advance directive is signed. If the declarant feels under duress during the phone call, the declarant could intentionally fail to state the correct code word or phrase.

    - If a trustworthy caregiver or bystander with a separate smart phone can be in the same room with the declarant during the phone call and the signing ceremony, that caregiver or bystander can call the lawyer or other person during or just before the phone call to confirm that the declarant is not an impostor and is not acting under duress.

(7) Text of key provisions from Senate Enrolled Act 204, stating definitions, content, and signing formalities for the new-style advance directive under the Act.

NOTE: The following excerpts from Senate Enrolled Act 204 (P.L. 50-2021) are effective July 1, 2021 and state the relevant definitions, contents, and signing requirements for the "new-style" advance directive under I.C. § 16-36-7-28. A copy of the entire text of SEA 204 in Word format is available from Jeff Dible upon e-mailed request.

SECTION 63. IC 16-36-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 7. Health Care Advance Directives

IC 16-36-7-1

Sec. 1. (a) A death as a result of the withholding or withdrawal of life prolonging procedures in accordance with:

(1) a declarant's advance directive; or

(2) any provision of this chapter;

does not constitute a suicide.

(b) This chapter does not authorize euthanasia or any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

(c) This chapter does not establish the only legal means that an individual may use to:

(1) communicate or confirm the individual's desires or preferences to receive or refuse life prolonging treatment or other health care; or

(2) give one (1) or more other persons authority to consent to health care or make health care decisions on the individual's behalf.

(d) This chapter does not affect the consent provisions set forth in:

(1) IC 16-34; or

(2) IC 16-36-1-3.5.

(e) This chapter does not modify any requirements or procedures under IC 33-42 concerning the performance of valid notarial acts.

(f) Nothing in this chapter prohibits a health care provider from relying on a document that:

(1) is signed by an adult who has not been determined to be incapacitated; and

(2) in the context of the relevant circumstances, clearly communicates the individual's intention to give one (1) or more specified persons authority to consent to health care or make health care decisions on the individual's behalf.

IC 16-36-7-2

Sec. 2. As used in this chapter, "advance directive" means a written declaration of a declarant who:

(1) gives instructions or expresses preferences or desires concerning any aspect of the declarant's health care or health information, including the designation of a health care representative, a living will declaration made under IC 16-36-4-10, or an anatomical gift made under IC 29-2-16.1; and

(2) complies with the requirements of this chapter.

. . .

IC 16-36-7-17

Sec. 17. As used in this chapter, "notarial officer" means a person who is authorized under IC 33-42-9-7 to perform a notarial act (as defined in IC 33-42-0.5-18). The term includes a notary public.

IC 16-36-7-18

Sec. 18. (a) As used in this chapter and with respect to interactions between a declarant and a witness, "observe" means to perceive another's actions or expressions of intent through the senses of eyesight or hearing, or both. A person is able to observe another's actions or expressions of intent even if the person uses technology or learned skills to:

(1) assist the person's capabilities of eyesight or hearing, or both; or

(2) compensate for an impairment of the person's capabilities of eyesight or hearing, or both.

(b) As used in this chapter and with respect to interactions between a declarant and a notarial officer, "observe" means that the notarial officer is able to see and hear, in real time, the declarant's actions and expressions of intent either in the declarant's physical presence or through audiovisual communication as defined in IC 33-42-0.5-5.

IC 16-36-7-19

Sec. 19. (a) As used in this chapter and with respect to interactions between a declarant and a witness who signs or participates in the signing of an advance directive or other document under this chapter, "presence", "present", and "to be present" means that throughout the process of signing and witnessing the advance directive or other document the following must occur:

(1) The declarant and the witness are:

(A) directly present with each other in the same physical space;

(B) able to interact with each other in real time through the use of any audiovisual technology now known or later developed; or

(C) able to speak to and hear each other in real time through telephonic interaction when:

(i) the identity of the declarant is personally known to the witness;

(ii) the witness is able to view a government issued, photographic identification of the declarant; or

(iii) the witness is able to ask any question of the declarant that authenticates the identity of the declarant and establishes the capacity and sound mind of the declarant to the satisfaction of the witness.

(2) The witnesses are able to positively identify the declarant by viewing a government issued, photographic identification of the declarant, or by receiving accurate answers from the declarant that authenticate the identity of the declarant and establish the capacity and sound mind of the declarant to the satisfaction of the witness.

(3) Each witness is able to interact with the declarant and each other witness, if any, by observing:

(A) the declarant's expression of intent to execute an advance directive or other document under this chapter;

(B) the declarant's actions in executing or directing the execution of the advance directive or other document under this chapter; and

(C) the actions of each other witness in signing the advance directive or other document.

The requirements of subdivisions (2) and (3) are satisfied even if the declarant and one (1) or all witnesses use technology to assist with one (1) or more of the capabilities of hearing, eyesight, or speech to compensate for impairments of any one (1) or more of those capabilities.

(b) As used in this chapter and with respect to interactions between a declarant and a notarial officer who signs or participates in the signing of an advance directive or other document under this chapter, "presence", "present", and "to be present" means that throughout the process of signing, acknowledging, and notarizing the advance directive or other document the following must occur:

(1) The declarant and the notarial officer are:

(A) directly present with each other in the same physical space; or

(B) able to interact with each other in real time through the use of any audiovisual technology, now known or later developed, whose use complies with IC 33-42.

(2) The notarial officer is able to positively identify the declarant by using an identity proofing method permitted under IC 33-42-0.5-16.

(3) Each witness or the notarial officer is able to interact with the declarant and each other witness, if any, by observing the declarant's:

(A) expression of intent to execute an advance directive or other document under this chapter; and

(B) actions in executing or directing the execution of the advance directive or other document under this chapter.

If the declarant appears before the notarial officer in a manner that satisfies the definitions of "appear" and "appearance" as defined in IC 33-42-0.5, then the declarant and the notarial officer satisfy the presence requirement described in this chapter. The requirements specified in subdivisions (2) and (3) are satisfied even if the testator and the notarial officer use technology to assist with one (1) or more of the capabilities of hearing, eyesight, or speech to compensate for impairments of any one (1) or more of those capabilities.

. . . .

IC 16-36-7-28

Sec. 28. (a) An advance directive signed by or for a declarant under this section may accomplish or communicate one (1) or more of the following:

(1) Designate one (1) or more competent adult individuals or other persons as a health care representative to make health care decisions for the declarant or receive health information on behalf of the declarant, or both.

(2) State specific health care decisions by the declarant.

(3) State the declarant's preferences or desires regarding the provision, continuation, termination, or refusal of life prolonging procedures, palliative care, comfort care, or assistance with activities of daily living.

(4) Specifically disqualify one (1) or more named individuals from:

(A) being appointed as a health care representative for the declarant;

(B) acting as a proxy for the declarant under section 42 of this chapter; or

(C) receiving and exercising delegated authority from the declarant's health care representative.

(b) An advance directive under this section must be signed by or for the declarant using one (1) of the following methods:

(1) Signed by the declarant in the presence of two (2) adult witnesses or in the presence of a notarial officer.

(2) Signing of the declarant's name by another adult individual at the specific direction of the declarant, in the declarant's presence, and in the presence of the two (2) adult witnesses or a notarial officer. However, an individual who signs the declarant's name on the advance directive may not be a witness, the notarial officer, or a health care representative designated in the advance directive.

(c) An advance directive signed under this section must be witnessed or acknowledged in one (1) of the following ways:

(1) Signed in the declarant's ~~direct physical~~ presence by two (2) adult witnesses, at least one (1) of whom may not be the spouse or other relative of the declarant.[7]

(2) Signed or acknowledged by the declarant in the presence of a notarial officer, who completes and signs a notarial certificate under IC 33-42-9-12 and makes it a part of the advance directive.

If the advance directive complies with either subdivision (1) or (2), but contains additional witness signatures or a notarial certificate that is not needed, the advance directive is still validly witnessed and acknowledged. A remote online notarization or electronic notarization of an advance directive that complies with IC 33-42-17 complies with subdivision (2).

(d) A competent declarant and the witnesses or a notarial officer may complete and sign an advance directive in two (2) or more counterparts in tangible paper form, with the declarant's signature placed on one (1) original counterpart and with the signatures of the witnesses, if any, or the notarial officer's signature and certificate on one (1) or more different counterparts in tangible paper form, so long as the declarant and the witnesses or notarial officer comply with the presence requirement as described in section 19 of this chapter, and so long as the text of the advance directive states that it is being signed in separate paper counterparts. If an advance directive is signed in counterparts under this subsection:

(1) the declarant;

(2) a health care representative who is designated in the advance directive;

(3) a person who supervised the signing of the advance directive in that person's presence; or

(4) any other person who was present during the signing of the advance directive;

must combine all of the separately signed paper counterparts of the advance directive into a single composite document that contains the text of the advance directive, the

---

[7] As enacted, SEA 204 erroneously said "direct physical presence" instead of "presence" in § 16-36-7-28(c)(1). This error was corrected in the Conference Committee Report for House Enrolled Act 1436, which Gov. Holcomb signed on April 29, 2021.

signature of the declarant, and the signatures of the witnesses, if any, or the notarial officer. The person who combines the separately signed counterparts into a single composite document must do so not later than ten (10) business days after the person receives all of the separately signed paper counterparts. Any scanned copy, photocopy, or other accurate copy of the composite document that contains the complete text of the advance directive and all signatures will be treated as validly signed under this section. The person who creates the signed composite document under this subsection may include information about compliance within this subsection in an optional affidavit that is signed under section 41 of this chapter.

(e) If facts and circumstances, including physical impairments or physical isolation of a competent declarant, make it impossible or impractical for the declarant to use audiovisual technology to interact with the two (2) witnesses and to satisfy the presence requirement under section 19 of this chapter, the declarant and the witnesses may use telephonic interaction throughout the signing process. A potential witness cannot be compelled to use telephonic interaction alone to accomplish the signing of an advance directive under this section. A declarant and a notarial officer may not use telephonic interaction to accomplish the signing of an advance directive or other document under this chapter.

(f) If an advance directive is signed under subsection (e), the witnesses must be able to positively identify the declarant by receiving accurate answers from the declarant that:

(1) authenticate the identity of the declarant; and

(2) establish the capacity and sound mind of the declarant to the satisfaction of the witness.

(g) The text of the advance directive signed under subsection (e) must state that the declarant and the witnesses used telephonic interaction throughout the signing process to satisfy the presence requirement.

(h) An advance directive signed under subsection (e) is presumed to be valid if it recites that the declarant and the witnesses signed the advance directive in compliance with Indiana law.

(i) A health care provider or other person who disputes the validity of an advance directive signed under subsection (e) has the burden of proving the invalidity of the advance directive or noncompliance with subsection (e) by a reasonable preponderance of the evidence.

(j) If a declarant resides in or is located in a jurisdiction other than Indiana at the time when the declarant signs a writing that communicates the information described in subsection (a), the writing must be treated as a validly signed advance directive under this chapter if the declarant was not incapacitated at the time of signing and if the writing was:

(1) signed and witnessed or acknowledged in a manner that complies with subsections (b) and (c); or

(2) signed in a manner that complies with the applicable law of the jurisdiction in which the declarant was residing or was physically located at the time of signing.

Appendix 1

Quick Reference Guide to the Indiana Advance Directive for Health Care (2021)

Source: Indiana Code, Title 16, Article 36, Chapter 7 (Part of Public Law 50-2021)

Basic elements of the new Indiana advance directive (AD)

(1) No official or mandatory form for the AD

(2) Basic permitted and typical contents:

  (a) Name 1 or more health care representatives (HCRs)

  (b) State specific health care decisions and/or treatment preferences, including preferences for life-prolonging procedures or palliative care [*The statute contains no limitations on the expression of treatment preferences]*

  (c) [*Optional*] Disqualify named individual(s) from receiving delegated authority or serving as a HCR

(3) Signing requirements:

  (a) Declarant (patient or signer) signs on paper or electronically ***OR*** directs some adult (not a health care representative and not a witness) to sign declarant's name in declarant's direct presence

  (b) Declarant signs in the "presence" of 2 adult witnesses ***OR*** signs in the "presence" of a notary public or other notarial officer [*see back page for ways to satisfy "presence' requirement*]

  (c) The 2 witnesses ***OR*** the notarial officer also sign the AD electronically or on paper

Basic presumptions and rules IF the advance directive (AD) does NOT explicitly say otherwise:

A. The AD and the authority of each named HCR is effective upon signing and remains in effect until the AD is revoked in writing (Oral revocation possible only in the direct presence of a health care provider)

B. A later-signed AD supersedes and revokes an earlier-signed AD by the same Declarant

C. Unless HCRs are listed in order of priority (primary & backup, etc.), 2 or more HCRs named in the same AD have concurrent, equal, and independently exercisable authority and are not required to act jointly

D. If Declarant still has capacity to consent to health care, orders and instructions by Declarant will control over any decisions by a HCR and any specific instructions stated in in the AD

E. Any health care representative (HCR) can delegate authority under the AD in writing to any competent adult(s) or other persons (a delegation should be signed in the same manner as an AD)

F. The HCR has authority to compete anatomical gifts, to authorize an autopsy, and to arrange for burial or cremation of the Declarant's remains after Declarant's death

G. The HCR can access Declarant's medical records & health information under HIPAA and state law

H. The HCR has authority to consent to mental health treatment for the Declarant

I. Each HCR has authority to sign a POST / POLST or an out-of-hospital DNR declaration for Declarant if Declarant is found to be a qualified [eligible] person

J. The HCR has authority to apply for public benefits (including Medicaid and CHOICE) for Declarant and to access Declarant's financial and asset records for that purpose

K. Each HCR is entitled to collect reasonable compensation and expense reimbursement for actions taken and services performed for or on behalf of Declarant

Appendix 1

Standard of conduct for each health care representative:

- Defer to Declarant's personal decisions and judgment at all times when Declarant has capacity to consent to health care and is able to communicate instructions, wishes, and treatment preferences
- Take into account Declarant's explicit or implied intentions and preferences and make only the health care decisions that Declarant would have made
- Act in good faith and in Declarant's best interests if Declarant's specific preferences are not known
- Remain reasonably available to consult with Declarant's health care providers and to provide informed consent for Declarant if Declarant does not have capacity

Optional provisions that CAN be included in an advance directive (AD) [*see I.C. §§ 16-36-7-29 and 16-36-7-34; not a complete list*]:

1. State a delayed effective date or triggering event (*e.g.*, future incapacity) and/or a specific ending date for the AD or for any HCR's authority
2. Keep an earlier-signed AD or an earlier-appointed HCR's authority in effect after a new AD is signed
3. Prohibit or restrict the delegation of authority by the HCR to other specific persons
4. Require another person to witness or approve a revocation of or amendment to the AD
5. Name 2 or more HCRs in a stated order of priority or confirm that they are authorized to act alone and independently
6. Require multiple HCRs to act jointly or on a majority vote basis to exercise some or all health care powers
7. Prohibit an HCR from collecting compensation or state an hourly rate or other standard for determining HCR's reasonable compensation
8. Designate some person other than a HCR to serve as an advocate or monitor
9. Authorize any person (proxy) who is listed in I.C. §16-36-7-42 and -43 to make a written demand that any HCR provide a written accounting or report of the HCRs actions on behalf of Declarant

Methods for signing that satisfy the "presence" requirement between Declarant and the 2 witnesses or between the Declarant and the notarial officer [*see* I.C. §§ 16-36-7-19 and -28]:

In-Person Options		Remote Options		
Declarant and 2 witnesses or Declarant and the notarial officer sign on paper in direct physical presence of each other	Declarant and 2 witnesses or Declarant and the notarial officer sign electronically in direct physical presence of each other	Sign identical counterparts on paper; Declarant & witnesses or notary interact using 2-way audiovisual technology; assemble signed counterparts within 10 business days	Declarant and 2 witnesses or Declarant and notary sign electronically while interacting using 2-way audiovisual technology	Declarant and 2 witnesses sign with audio-only interaction by telephone during signing [*Witnesses must be able to positively identify Declarant & confirm capacity*]

NOTE: An Indiana notary public must comply with Indiana law and regulations, including regulations for "remote notarial acts," if Declarant and notary interact at a distance using audiovisual technology.

Sample of a "longer" advance directive form that complies with I.C. § 16-36-7-28:

ADVANCE DIRECTIVE
for Health Care Decisions

I, _____ [*insert name*] am an adult resident of _____ County, Indiana. I currently have the capacity to make my own decisions about my health care. Under Indiana Code 16-36-7, I am signing this Advance Directive in order to (a) appoint one or more Health Care Representatives who are named below *and* (b) give written instructions and state my wishes and preferences about life prolonging procedures and other treatment, if I later become terminally ill or suffer from a chronic or incurable condition and if I am unable to personally give my own instructions and make my own health care decisions.

If this Advance Directive does not specifically address a specific issue, then I intend that the rules and principles in I.C. 16-36-7 will apply and control, but in a manner consistent with my known wishes and preferences. If this Advance Directive is silent on an issue and if my wishes and preferences cannot be reliably determined, I intend that my Health Care Representative and health care providers act in a manner consistent with my best interests.

Effective Date

This Advance Directive and my Health Care Representative(s)' power and authority under it are [*choose and initial only one; if no space is initialed or checked, this document will be effective immediately upon signing*]:

_____ Effective upon signing	_____ Effective only when a licensed doctor later determines that I am incapacitated	_____ Effective on and after this date: _____

After this Advance Directive becomes effective, then unless I state a specific expiration date below, it will remain in effect even if I later become incapacitated, disabled, or incompetent.

My Health Care Representative(s)

I appoint the following person(s) as my Health Care Representative(s), with full authority to make and communicate health care decisions and give informed consent on my behalf, but subject to the conditions stated in the next section ("My Continuing Right to Act and Decide Personally") below:

Priority (if any)	Name of Representative and Telephone Number(s)	Mailing Address and e-mail address (if any)
_____		
_____		

*Initial or check **ONE** space below. If no space below is initialed, each Health Care Representative will have authority to act individually and independently.*

_____ The Representative with the lowest priority number (filled in above) and who is able and available to act has the exclusive authority to act	_____ Each Representative may act individually and independently on my behalf and has no duty to consult with my other Representatives

If I have listed 2 or more Health Care Representatives in order of priority, and if the Representative with the highest priority (lowest number) is not reasonable able or reasonably available to act, I intend that the Representative who has the next highest priority who is reasonably able and available to act will have authority to act for me.

I understand that if I am not capable of giving informed consent to health care and if no Health Care Representative listed above and no person holding validly-delegated authority is reasonably able and available to act for me, then the relatives and other individuals (proxies) who are defined or listed in Ind. Code § 16-36-7-42 will have authority, in the priority indicated, to make or issue health care decisions and instructions for me.

My Continuing Right to Act and Decide Personally

Even if I have made this Advance Directive effective immediately upon signing, I have the right and the power to act personally to make my own health care decisions, and to issue my own instructions and consents to health care providers. All health care providers must first communicate with me, unless a licensed health care provider who has treated or examined me has concluded in writing that I am not able to personally give informed consent to treatment or to make my own health care decisions. Until I have been determined to be incapacitated under the preceding sentence, I have the right to overrule, block or veto any health care decision that any Health Care Representative (named above) makes or attempts to make for me.

Decision-Making Standards for My Health Care Representative(s)

Whenever a Health Care Representative named above makes health care decisions or issues instructions or consents on my behalf, I expect my Health Care Representative to act in good faith and in my best interests, on the basis of what my Health Care Representative believes I would decide to do if I were capable of making decisions and giving consents myself and if I had all the pertinent information available to my Health Care Representative.

I understand that under applicable law, a physician or other health care provider has the right to refuse to comply with any health care decision or instruction made or issued by me personally or by my Health Care Representative if that decision or instruction requests treatment that the physician or other health care provider concludes is medically inappropriate for me.

Discontinuing or Refusing Life-Prolonging Procedures

_____ Unless I have initialed this space at the left, the following paragraph will apply.

I also authorize my Health Care Representative to make decisions in my best interests concerning withdrawal or withholding of health care. If, at any time and based on my previously expressed preferences and the diagnosis and prognosis, my Health Care Representative is satisfied that certain health care is not or would not be beneficial to me or that such health care would be excessively burdensome, then my Health Care Representative may express my will that any or all health care be discontinued or not instituted, even if death may result. My Health Care Representative must try to discuss this decision with me. However, if I am unable to communicate, my Health Care Representative may make such a decision for me, after consultation with my physician or physicians and other relevant health care givers. In his or her best judgment about what is appropriate, my Health Care Representative may (but is not required to) discuss any decision under this paragraph with members of my family who are available.

My Wishes and Preferences About Specific Life-Prolonging Procedures

[*Insert the signer's customized statement of wishes and preferences and/or specific instructions for end-of-life care, based on the signer's personal values and concepts for quality of life and dignity, etc.*]

If my treating physician or other licensed health care provider has determined with reasonable certainty that I am terminally ill or in a persistent and irreversible coma:

- If I have no pulse and if am not breathing, do not attempt resuscitation (DNR).
- Maximize my comfort through symptom management and relieve my pain and suffering through available measures, including the administration of medication to me through any route.
- Do not provide artificial nutrition or hydration (tube feeding) to me, except for the provision of fluids to the extent necessary to deliver pain medication.
- Do not transfer me from my current location to a hospital for life-sustaining treatment unless my comfort needs cannot be satisfied in my current location.

Optional Provisions and Restrictions

_____ Unless I have initialed this space at left, then after my death, each Health Care Representative is authorized to make or carry out instructions for the disposition of my remains (burial or cremation), to complete anatomical gifts, and to authorize an autopsy.

_____ I designate and appoint _____ [*name an adult individual or another person*] as my advocate, who has all the authority stated in IC 16-36-7-29(10), including the authority to monitor, audit and evaluate the actions of my Health Care Representative(s), to receive my health information, and to take remedial actions for me and in my best interests.

_____ To any friend or relative or friend of mine who could act as my proxy under IC 16-36-7-42 and -43, I give the authority to demand and to receive, from my Health Care Representative(s), a narrative description or other appropriate accounting of the actions taken and decisions made by my Health Care Representative(s).

_____ A later revocation of or amendment to this Advance Directive, even if signed personally by me, will not be valid unless the revocation or amendment contains the signed written approval of my following professional advisor or other individual [*Name the other individual who must approve a future amendment or revocation*] _____.

_____ I specifically disqualify the following individual(s): _____ _____ from later being appointed as a Health Care Representative for me, and from receiving delegated authority from any of my Health Care Representative(s), and from acting as my proxy under IC 16-36-7-42 and -43.

_____ My Health Care Representative(s) named above are **NOT** authorized to delegate authority to other persons. *If this space is NOT initialed, any Health Care Representative may delegate his or her authority to a competent adult or other person in a written document that the Representative signs in the same manner as this Advance Directive.*

_____ My Health Care Representative(s) are **NOT** authorized to consent to mental health treatment for me. *If this space is NOT initialed, each Health Care Representative will have authority to consent to mental health treatment for me if I am not capable of consenting.*

_____ My Health Care Representative(s) are **NOT** entitled to receive compensation from my money or property for the acts and services that they perform on my behalf. *If this space is NOT initialed, each Health Care Representative will be entitled to receive reasonable compensation from my money or property.*

Initial not more than one of the next two paragraphs. *If neither of the next two paragraphs is initialed, my Health Care Representative(s) will have full authority to apply for public benefits for me and to have access to the necessary financial records.*

_____ My Health Care Representative(s) are **NOT** authorized to apply for public benefits (such as Medicaid and the CHOICE program) on my behalf.

_____ My Health Care Representative(s) ARE authorized to apply for public benefits (such as Medicaid and the CHOICE program) on my behalf, but my Health Care Representative(s) are **NOT** authorized to have access to information about my income, assets and financial records unless such information is provided by me or by my attorney-in-fact acting under a separate power of attorney.

Signature

Sign below with a written signature OR an electronic signature. You may direct another adult (who is not one of your named Health Care Representatives, and not the Notary Public or one of the witnesses) to make your signature for you in your "presence." See IC § 16-36-7-19 for a definition and explanation of the "presence" requirement.

Your signature must be made in the "presence" of a Notary Public OR in the "presence" of two adult witnesses. Either the countersigning by two witnesses OR notarization is sufficient; both are not required. If you use two witnesses, at least one witness cannot be your spouse or another relative.

Please initial one space below to confirm the signing method used:

Signed on paper in direct presence of witnesses or notary public _____	Signed electronically with 2-way audio-visual interaction with witnesses _____	Signed by Declarant and witnesses or notary in 2 or more paper counterparts _____	Signed by Declarant and two witnesses with telephonic interaction _____

Signed on this _____ day of _____ 20_____.

_____
Signature of Declarant (signer)

_____
Printed name of adult (if any) who signs for Declarant

_____
Printed name of Declarant

Date of birth: _____ [*optional*]

Complete ONE of the two following blocks

Signatures of 2 Adult Witnesses

Each of the undersigned Witnesses confirms that he or she has received satisfactory proof of the identity of the Declarant and is satisfied that the Declarant is of sound mind and has the capacity to sign the above Advance Directive. **At least one of the undersigned Witnesses is not a spouse or other relative of the Declarant.**

_____
Signature of Adult Witness 1

_____
Printed Name of Adult Witness 1

_____
Signature of Adult Witness 2

_____
Printed Name of Adult Witness 2

Notarization

STATE OF INDIANA)
) SS:
COUNTY OF_____)

Before me, a Notary Public, personally appeared _____ [*name of signing Declarant*], who acknowledged the execution of the foregoing Advance Directive as his or her voluntary act, and who, having been duly sworn, stated that any representations therein are true.

Witness my hand and Notarial Seal on this _____ day of _____, 20____.

_____
Signature of Notary Public

_____
Notary's Printed Name (*if not on seal*)

_____
Commission Number (*if not on seal*)

_____
Commission Expires (*if not on seal*)

_____
Notary's County of Residence

Sample of a "short" advance directive form that complies with I.C. § 16-36-7-28:

ADVANCE DIRECTIVE
for Health Care Decisions

I, _____ [*insert name*] am an adult resident of _____ County, Indiana. I currently have the capacity to make my own decisions about my health care.

If this Advance Directive does not specifically address a specific issue, then I intend that the rules and principles in I.C. 16-36-7 will apply and control, but in a manner consistent with my known wishes and preferences. If this Advance Directive is silent on an issue and if my wishes and preferences cannot be reliably determined, I intend that my Health Care Representative and health care providers act in a manner consistent with my best interests.

Effective Immediately

This Advance Directive and my Health Care Representative(s)' power and authority under it are effective immediately and will remain in effect even if I later become incapacitated, disabled, or incompetent.

My Health Care Representative(s)

I appoint the following person(s) as my Health Care Representative(s) in decreasing order of priority, but subject to the conditions stated in the next section ("My Continuing Right to Act and Decide Personally") below.

Priority	Name of Representative and Telephone Number(s)	Mailing Address and e-mail address (if any)
First		
Second		

At all times, my Health Care Representative who has the highest priority and who is reasonably available to act has the full authority to make and communicate health care decisions and give informed consent on my behalf, but subject to my right to act personally.

My Continuing Right to Act and Decide Personally

Although I have made this Advance Directive effective immediately upon signing, I have the right and the power to act personally to make my own health care decisions, to issue my own instructions and consents to health care providers. All health care providers must first communicate with me, unless a licensed health care provider who has treated or examined me has concluded in writing that I am not able to personally give informed consent to treatment or to make my own health care decisions. Until I have been determined to be incapacitated under the preceding sentence, I have the right to overrule, block or veto any health care decision that any Health Care Representative (named above) makes or attempts to make for me.

Decision-Making Standards for My Health Care Representative(s)

Whenever a Health Care Representative named above makes health care decisions or issues instructions or consents on my behalf, I expect my Health Care Representative to act in good faith and in my best interests, on the basis of what my Health Care Representative believes I would decide to do if I were capable of making decisions and giving consents myself and if I had all the pertinent information available to my Health Care Representative.

My Wishes and Preferences About Life-Prolonging Procedures [*illustrative sample only*]

If I am competent to give my own consents and instructions for my health care, my orally-stated instructions will always supersede and control over the instructions I have stated below.

I authorize my Health Care Representative to make decisions in my best interests concerning withdrawal or withholding of health care. If, at any time and based on my previously expressed preferences and the diagnosis and prognosis, my Health Care Representative is satisfied that certain health care is not or would not be beneficial to me or that such health care would be excessively burdensome, then my Health Care Representative may

express my will that any or all health care be discontinued or not instituted, even if death may result. My Health Care Representative must try to discuss this decision with me. However, if I am unable to communicate, my Health Care Representative may make such a decision for me, after consultation with my physician and other relevant health care givers. In his or her best judgment about what is appropriate, my Health Care Representative may (but is not required to) discuss any decision under this paragraph with members of my family who are available.

If my treating physician or other licensed health care provider has determined with reasonable certainty that I am terminally ill or in a persistent and irreversible coma:

- If I have no pulse and if am not breathing, do not attempt resuscitation (DNR).
- Maximize my comfort through symptom management and relieve my pain and suffering through available measures, including the administration of medication to me through any route.
- Do not provide artificial nutrition or hydration (tube feeding) to me, except for the provision of fluids to the extent necessary to deliver pain medication.
- Do not transfer me from my current location to a hospital for life-sustaining treatment unless my comfort needs cannot be satisfied in my current location.

Signature

You may direct another adult (who is not one of your named Health Care Representatives, and not the Notary Public or one of the witnesses) to make your signature for you in your presence. See IC § 16-36-7-19 for a definition and explanation of the "presence" requirement.

Your signature must be made in the "presence" of a Notary Public OR in the "presence" of two adult witnesses. Either the countersigning by two witnesses OR notarization is sufficient; both are not required. If you use two witnesses, at least one witness cannot be your spouse or another relative.

Please initial one space below to confirm the signing method used:

Signed on paper in direct presence of witnesses or notary public _____	Signed electronically with 2-way audio-visual interaction with witnesses _____	Signed by Declarant and witnesses or notary in 2 or more paper counterparts _____	Signed by Declarant and two witnesses with telephonic interaction _____

Signed on this _____ day of _____ 20_____.

_____
Signature of Declarant (signer)

_____
Printed name of adult (if any) who signs for Declarant

_____
Printed name of Declarant

Complete ONE of the two following blocks

Signatures of 2 Adult Witnesses

Each of the undersigned Witnesses confirms that he or she has received satisfactory proof of the identity of the Declarant and is satisfied that the Declarant is of sound mind and has the capacity to sign the above Advance Directive. **At least one of the undersigned Witnesses is not a spouse or other relative of the Declarant**.

_____
Signature of Adult Witness 1

_____
Printed Name of Adult Witness 1

_____
Signature of Adult Witness 2

_____
Printed Name of Adult Witness 2

Notarization

STATE OF INDIANA)
) SS:
COUNTY OF_____)

Before me, a Notary Public, personally appeared _____ [*name of signing Declarant*], who acknowledged the execution of the foregoing Advance Directive as his or her voluntary act, and who, having been duly sworn, stated that any representations therein are true.

Witness my hand and Notarial Seal on this _____ day of _____, 20____.

_____
Signature of Notary Public

_____
Notary's Printed Name (*if not on seal*)

_____
Commission Number (*if not on seal*)

_____
Commission Expires (*if not on seal*)

_____
Notary's County of Residence

Jeff Dible provided the following "tracked changes" document to the ISDH, to illustrate how relatively easy it would be to adapt the existing State sample form for a HCRA into a sample form for the new-style advance directive under I.C. § 16-36-7-28.

INDIANA ~~HEALTH CARE REPRESENTATIVE APPOINTMENT~~ ADVANCE DIRECTIVE FOR HEALTH CARE

State Form ~~56184~~ _____ (~~11-16~~08-21)

Indiana State Department of Health — IC 16-36-~~1; IC 16-36-6~~7

INSTRUCTIONS: See instructions ~~on back~~after Page 2.

Patient / ~~Appointor~~ Declarant Information		
~~Patient~~ Declarant Last Name	~~Patient~~ Declarant First Name	~~Patient~~ Declarant Middle Initial
~~Patient~~ Declarant Birthday *(mm/dd/yyyy)*	Medical Record Number of Healthcare Facility or Provider *(optional)*	Healthcare Facility or Provider *(optional)*

Appointment of Health Care Representative

I, being at least eighteen (18) years of age, of sound mind, and capable of consenting to my health care, hereby appoint the person(s) named below as my lawful health care representative in all matters affecting my health care, including but not limited to providing consent or refusing to provide consent to medical care, surgery, and/or placement in health care facilities, including extended care facilities, unless otherwise provided in this ~~appointment~~advance directive. This ~~appointment shall become effective at such time~~advance directive is effective immediately unless I have stated a delayed effective date or other triggering condition below. ~~and from time to time as my attending physician determines that I am incapable of consenting to my health care~~. I understand that if I have previously named a health care representative, the designation below supersedes (replaces) any prior named Health Care Representative(s) in a health care power of attorney or other document.

I authorize my health care representative to make decisions in my best interest concerning withdrawal or withholding of health care if I am not capable of personally giving my own consents and instructions. If at any time based on my previously expressed preferences and the diagnosis and prognosis my health care representative is satisfied that certain health care is not or would not be beneficial or that such health care is or would be excessively burdensome, then my health care representative may express my will that such health care be withheld or withdrawn and may consent on my behalf that any or all health care be discontinued or not instituted, even if death may result. My health care representative must try to discuss this decision with me. However, if I am unable to communicate, my health care representative may make such a decision for me, after consultation with my physician or physicians and other relevant health care givers. To the extent appropriate, my health care representative may also discuss this decision with my family and others to the extent they are available.

I specify the following additional terms, ~~and~~ conditions, wishes, and treatment preferences *(if any)*:

Name of Representative Appointed	Address of Representative *(number and street, city, state, and ZIP code)*	Telephone Number of Representative
Signature of Patient / ~~Appointor~~ Declarant or Designee *(must be signed in the appointor's presence)*	Printed Name of Patient / ~~Appointor~~ Declarant or Designee	~~Date of Appointment~~Date signed *(mm/dd/yyyy)*

Signature of Witness #1	Printed Name of Witness #1	Date (mm/dd/yyyy)
Signature of Witness #2	Printed Name of Witness #2	Date (mm/dd/yyyy)
Instead of signing in the "presence" of two witnesses** (see Instructions), **the Declarant (Patient) may sign this document in the "presence" of a Notary Public.		
STATE OF INDIANA))ss: COUNTY OF)	Before me, a Notary Public, personally appeared the Declarant, , who acknowledged his or her execution of the foregoing Advance Directive as his or her voluntary act, and who, having been duly sworn, stated that any representations therein are true. Witness my hand and Notarial Seal on , 20 .	
Signature of Notary Public	Printed Name of Notary Public	Commission No. Commission Expires: Resident of County
PLACE NOTARY SEAL HERE		

INSTRUCTIONS FOR STATE FORM 56184 , INDIANA ADVANCE DIRECTIVE FOR HEALTH CARE ~~REPRESENTATIVE APPOINTMENT~~

1. There are numerous types of advance directives. The Indiana State Department of Health encourages individuals to consult with their attorney, health planner, and health care providers in completing any advance directive.

2. This state form is not required for an appointment of a health care representative. An individual may use a form designed by their attorney or other entity to specifically meet the individual's needs. To be valid, any form must comply with statutory requirements.

3. An individual is not required to complete ~~a health care representative appointment form~~an advance directive. An individual may always chose to not appoint a health care representative. If there is no appointed representative, state medical consent laws would determine who may consent to your healthcare.

4. The medical record number and health care facility or provider is not required for the appointment to be effective. It may be included as a means of assisting the health care provider in identifying the correct patient and locating the ~~appointment~~ advance directive in the correct medical record.

5. In this advance directive, ~~T~~the patient ~~/ appointor~~(declarant) may specify ~~in the appointment appropriate~~additional appropriate terms and conditions, including but not limited to the appointment of additional or alternate health care representative(s) and/or statements of additional wishes, instructions, or treatment preferences. ~~an authorization to the representative to delegate the authority to consent to another~~.¶

6. ~~The authority granted becomes effective according to the terms of the appointment.~~So long as the patient (declarant) has the ability (capacity) to give his or her own instructions and consents to health care, the patient (declarant) always has the power to give instructions that reverse or overrule any consents or instructions given by the health care representative, and to state new treatment preferences and wishes to replace what is stated in the advance directive.¶

7. ~~The appointment does not commence until the appointor becomes incapable of consenting~~This advance directive form is worded so that the authority of the named health care representative(s) is effective immediately upon signing. The patient (declarant) may add wording so that the authority of the named representative is effective after a stated date or after the patient (declarant) has been determined to be incapable of consenting to health care. ~~The authority granted in the appointment is not effective if the patient / appointor regains the capacity to consent~~.¶

8. Unless the advance directive ~~appointment~~ provides otherwise, a representative appointed under this section who is reasonably available and willing to act has priority to act in all matters of health care for the patient ~~(/ appointor~~declarant), except when the patient ~~/ appointor~~(declarant) is capable of consenting and chooses to issue his or her own health care decisions and instructions.¶

9. The ~~appointment of a health care representative~~advance directive must be ~~witnessed by an adult other than the health care representative~~signed by the declarant (patient) or by some adult other than a named representative who signs in the declarant's presence. In addition, the Advance Directive must be completed with EITHER the signatures of two (2) adult witnesses OR the certificate of a Notary Public who observes the signing of the advance directive..¶

   a. → A health care representative named in the advance directive OR a person who signs the advance directive for the declarant cannot sign as either of the two witnesses.¶

   ~~a.~~b. → The advance directive can be signed and witnessed or signed and notarized on paper or electronically, using a number of permitted methods. See IC 16-36-7-28 or consult an attorney if the declarant does not wish to sign or cannot sign in the direct physical presence of the witnesses or the Notary Public.¶

10. In making all decisions regarding the patient's / appointor's health care, the health care representative shall act:¶
   a. → In the best interest of the patient / appointor consistent with the purpose expressed in the ~~appointment~~advance directive.¶
   b. → In good faith.¶

11. A health care representative who resigns or is unwilling to comply with the ~~written appointment~~written terms of the advance directive may not exercise further power under the ~~appointment~~ advance directive and shall so inform the following:¶
   c. → The ~~patient / appointor~~patient (declarant).¶
   d. → The patient's ~~/ appointor's~~(declarant's) legal representative if one is known.¶
   e. → The health care provider if the representative knows there is one.¶

12. An individual who is capable of consenting to health care may revoke:¶
   a. → The advance directive ~~appointment~~ at any time by notifying the representative ~~orally or~~ in writing; ¶
   ~~a.~~b. → The advance directive by signing a later advance directive that does not explicitly say that the prior document remains in effect; or¶
   c. → The authority granted to the representative by notifying the health care provider ~~orally or~~ in writing.¶

Without revoking the advance directive or the authority of a named health care representative, an individual who is capable of consenting may make a health care decision or instruction that overrules a decision or instruction by the representative.¶

Section Six

Real Property Updates

Representative Christopher P. Jeter
Massillamany Jeter & Carson LLP
Fishers, Indiana

Section Six

Real Property Updates……. Representative Christopher P. Jeter

Real Property Updates Discussion Outline

SEA No. 392

SEA No. 17

SEA No. 8

Real Property Updates

SB 28: Property Tax Sales

Tax sales. Prohibits a person who is delinquent in the payment of personal property taxes or is subject to an existing personal property tax judgment from bidding on or purchasing a tract at a tax sale.

HB 1231: Lien Removal Fees

Provides that a political subdivision is required to pay a $25 fee to a county recorder for the recording of a release of a lien or liens held by the political subdivision.

HB 1314: Recorded Discriminatory Covenants

Permits a person to file a statement or notice that a recorded discriminatory covenant is invalid and unenforceable.

HB 1541: Landlord/Tenant Relations

Eliminates the general restriction on the authority of a county, city, town, or township concerning regulation of landlord-tenant relationship matters not specifically described by state statute. Prohibits the waiver of laws regarding retaliatory acts by a landlord.

- Relation to override of veto of SEA 148

First Regular Session of the 122nd General Assembly (2021)

SENATE ENROLLED ACT No. 392

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-1-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 6.5. "Excluded city" means a city or town that is located within a county having a consolidated city as described in IC 36-3-1-7.**

SECTION 2. IC 36-7-4-201, AS AMENDED BY P.L.145-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 201. (a) For purposes of IC 36-1-3-6, a unit wanting to exercise planning and zoning powers in Indiana, including the issuance of permits under IC 8-1-32.3 (except as otherwise provided in IC 8-1-32.3), must do so in the manner provided by this chapter.

(b) The purpose of this chapter is to encourage units to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end:

(1) that highway systems be carefully planned;

(2) that new communities grow only with adequate public way, utility, health, educational, and recreational facilities;

(3) that the needs of agriculture, forestry, industry, and business be recognized in future growth;

(4) that residential areas provide healthful surroundings for family life; and

(5) that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.

(c) Furthermore, municipalities and counties may cooperatively establish single and unified planning and zoning entities to carry out the purpose of this chapter on a countywide basis.

(d) METRO. Expanding urbanization in each county having a consolidated city has created problems that have made the unification of planning and zoning functions a necessity to insure the health, safety, morals, economic development, and general welfare of the county. To accomplish this unification, a single planning and zoning authority is established for the county. **However, in an excluded city (as described in IC 36-3-1-7):**

(1) the legislative body of the excluded city; and

(2) the board of zoning appeals of the excluded city, if the excluded city has a board of zoning appeals;

have exclusive territorial jurisdiction within the boundaries of the excluded city. Unless expressly provided otherwise, any reference in this chapter to the legislative body with regard to an excluded city is a reference to the legislative body of the excluded city, and any reference in this chapter to the board of zoning appeals with regard to an excluded city is a reference to the board of zoning appeals of the excluded city, if the excluded city has a board of zoning appeals.

SECTION 3. IC 36-7-4-604, AS AMENDED BY P.L.253-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 604. (a) Before the plan commission certifies a proposal to the legislative body under section 605 of this chapter, the plan commission must hold a public hearing under this section.

(b) The plan commission shall give notice of the hearing by publication under IC 5-3-1. The notice must state:

(1) the time and place of the hearing;

(2) either:

(A) in the case of a proposal under section 606 or 607 of this chapter, the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies; or

(B) in the case of a proposal under section 608 of this chapter, the geographic area that is the subject of the zone map change;

(This subdivision does not require the identification of any real property by metes and bounds.)

(3) either:

(A) in the case of a proposal under section 606 of this chapter, a summary (which the plan commission shall have prepared)

of the subject matter contained in the proposal (not the entire text of the ordinance);

(B) in the case of a proposal under section 607 of this chapter, a summary (which the plan commission shall have prepared) of the subject matter contained in the proposal (not the entire text) that describes any new or changed provisions; or

(C) in the case of a proposal under section 608 of this chapter, a description of the proposed change in the zone maps;

(4) if the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;

(5) the place where a copy of the proposal is on file for examination before the hearing;

(6) that written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered;

(7) that oral comments concerning the proposal will be heard; and

(8) that the hearing may be continued from time to time as may be found necessary.

(c) The plan commission shall also provide for due notice to interested parties at least ten (10) days before the date set for the hearing. The commission shall by rule determine who are interested parties, how notice is to be given to interested parties, and who is required to give that notice. However, if the subject matter of the proposal:

(1) references a specific parcel of real estate;

(2) is unrelated to:

(A) a zone map change to a county ordinance under section 608 of this chapter;

(B) the adoption of an initial county zoning ordinance (or adoption of a replacement county zoning ordinance after repealing the entire county zoning ordinance, including amendments and zone maps) under section 606 of this chapter; or

(C) an amendment or partial repeal of the text (not zone maps) of a county zoning ordinance under section 607 of this chapter; and

(3) abuts or includes a county line (or a county line street or road or county line body of water);

then all owners of real property to a depth of two (2) ownerships or one-eighth (1/8) of a mile into the adjacent county, whichever is less, are interested parties who must receive notice under this subsection.

(d) The hearing must be held by the plan commission at the place stated in the notice. The commission may also give notice and hold hearings at other places within the county where the distribution of population or diversity of interests of the people indicate that the hearings would be desirable. The commission shall adopt rules governing the conduct of hearings under this section.

(e) A zoning ordinance may not be held invalid on the ground that the plan commission failed to comply with the requirements of this section, if the notice and hearing substantially complied with this section.

(f) The files of the plan commission concerning proposals are public records and shall be kept available at the commission's office for inspection by any interested person.

(g) METRO. In the case of a proposal to amend a ~~zoning~~ **zone** map under section 608 of this chapter or in the case of a proposed approval of a development plan required by a zoning ordinance as a condition of development, a person may not communicate before the hearing with any hearing officer, member of the historic preservation commission, or member of the plan commission with intent to influence the officer's or member's action on the proposal. Before the hearing, the staff may submit a statement of fact concerning the physical characteristics of the area involved in the proposal, along with a recital of surrounding land use and public facilities available to serve the area. The staff may include with the statement an opinion of the proposal. The statement must be made a part of the file concerning the proposal not less than six (6) days before the proposal is scheduled to be heard. The staff shall furnish copies of the statement to persons in accordance with rules adopted by the commission.

(h) METRO. In the case of a proposal to amend a ~~zoning~~ **zone** map under section 608 or 608.7 of this chapter, this subsection applies if the proposal affects only real property within the corporate boundaries of an excluded city **(as described in IC 36-3-1-7).** Notwithstanding the other provisions of this section, the legislative body ~~may decide that the legislative body rather than the plan commission should~~ **of the excluded city, rather than the plan commission, shall** hold the public hearing prescribed by this section. Whenever the plan commission receives a proposal subject to this section, the plan commission shall refer the proposal to the legislative body of the excluded city. ~~At the legislative body's first regular meeting after receiving a referred proposal, the legislative body shall decide whether the legislative body will hold the public hearing. Within thirty (30) days after making the decision to hold the hearing,~~ **Not later than thirty (30) days after**

receiving the proposal, the legislative body shall hold the hearing, acting for purposes of this section as if the legislative body is the plan commission. The legislative body shall then make ~~a recommendation on the proposal to the plan commission. After receiving the excluded city legislative body's recommendation (or at the end of the thirty (30) day period for the public hearing if the proposal receives no recommendation), the plan commission shall meet and decide whether to make a favorable recommendation on the proposal. The favorable recommendation, the unfavorable recommendation, or no recommendation of the plan commission on the proposal shall be certified to the county legislative body as provided in section 605 of this chapter.~~ **the final determination as to the proposal.**

(i) Before a proposal involving a structure regulated under IC 8-21-10 may become effective, the plan commission must have received:

(1) a copy of:

(A) the permit for the structure issued by the Indiana department of transportation; or

(B) the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration; and

(2) evidence that notice was delivered to a public use airport as required in IC 8-21-10-3 not less than sixty (60) days before the proposal is considered.

SECTION 4. IC 36-7-4-605, AS AMENDED BY P.L.88-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 605. (a) ADVISORY–AREA. A proposed zoning ordinance shall be certified to each participating legislative body by the plan commission as follows:

(1) If the proposal is to adopt an initial zoning ordinance (or to adopt a replacement zoning ordinance after repealing the entire zoning ordinance, including amendments and zone maps) under section 606 of this chapter, it may be certified only if it receives a favorable recommendation from the commission.

(2) If the proposal is to amend or partially repeal the text (not zone maps) of the ordinance under section 607 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

(3) If the proposal is to change the zone maps incorporated by reference into the ordinance under section 608 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the

commission.

(b) METRO. Except as provided in subsection (c), a proposal shall be certified to the legislative body by the metropolitan development commission only if it receives a favorable recommendation from the commission.

(c) METRO. A proposal to change the zone maps incorporated by reference into the ordinance under section 608 of this chapter shall be certified to the legislative body **of the county or if the proposal concerns real property located within the boundaries of an excluded city (as described in IC 36-3-1-7), the legislative body of the excluded city,** ~~by the metropolitan development commission~~ regardless of whether the proposal receives a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

(d) The legislative body shall consider the recommendation (if any) of the commission before acting on the proposal under section 606, 607, or 608 of this chapter.

SECTION 5. IC 36-7-4-608.7, AS ADDED BY P.L.192-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 608.7. (a) A unit, **including an excluded city,** may adopt the alternate procedure set forth in this section to apply to a proposal, as described in section 602(c) of this chapter, to change the zone maps incorporated by reference into the zoning ordinance.

(b) The plan commission shall comply with section 608(b) of this chapter and certify a favorable recommendation, unfavorable recommendation, or no recommendation to the legislative body under section 605 of this chapter. Except as provided in subsection (c), if the plan commission makes:

(1) a favorable recommendation on the proposal, the proposal (as certified) takes effect as other ordinances:

(A) thirty (30) days after the date of the certification under section 605 of this chapter; or

(B) on a date less than thirty (30) days:

(i) after the date of the certification under section 605 of this chapter; and

(ii) that is specified in the ordinance adopting the alternate procedure; or

(2) an unfavorable recommendation or no recommendation on the proposal, the proposal is defeated:

(A) thirty (30) days after the date of the certification under section 605 of this chapter; or

(B) on a date less than thirty (30) days:

(i) after the date of the certification under section 605 of this chapter; and

(ii) that is specified in the ordinance adopting the alternate procedure.

The plan commission shall notify the legislative body not later than the next business day after a proposal takes effect under subdivision (1) or is defeated under subdivision (2).

(c) If:

(1) any aggrieved person files with the plan commission a written request to have the final determination on the proposal made by the appropriate legislative body; or

(2) the legislative body files a notice with the plan commission that the legislative body shall make the final determination on the proposal;

the legislative body shall make the final determination on the proposal to change the zone map as set forth in section 608 of this chapter. The plan commission shall notify the legislative body in writing of a request under subdivision (1) not later than the next business day after receiving the request.

(d) A request or notice under subsection (c)(1) or (c)(2) must be filed not later than:

(1) twenty-nine (29) days after the date the favorable recommendation, the unfavorable recommendation, or no recommendation of the plan commission is certified under section 605 of this chapter; or

(2) on a date that is less than twenty-nine (29) days:

(A) after the date the favorable recommendation, the unfavorable recommendation, or no recommendation of the plan commission is certified under section 605 of this chapter; and

(B) that is specified in the ordinance adopting the alternate procedure.

SECTION 6. IC 36-7-4-902 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 902. (a) ADVISORY. Each division of the advisory board of zoning appeals consists of five (5) members as follows:

(1) Three (3) citizen members appointed by the executive of the municipality or county, of whom one (1) must be a member of the plan commission and two (2) must not be members of the plan commission.

(2) One (1) citizen member appointed by the fiscal body of the municipality or county, who must not be a member of the plan

commission.

(3) One (1) member appointed by the plan commission from the plan commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

(b) ADVISORY. In each county having a metropolitan plan commission, subsection (a) does not apply. In such a county, each division of the advisory board of zoning appeals consists of five (5) members as follows:

(1) Two (2) members, of whom no more than one (1) may be of the same political party, appointed by the county legislative body.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) only of these members must be a member of the plan commission.

(c) AREA. When the area board of zoning appeals was established before January 1, 1984, as a seven (7) member board, the board consists of seven (7) members as follows:

(1) Two (2) citizen members appointed by the area plan commission from its membership, one (1) of whom must be a municipal representative and the other must be a county representative.

(2) Three (3) citizen members, who may not be members of any plan commission, appointed by the executive of the largest municipality in the county. However, if there are two (2) or more municipalities having a population of at least twenty thousand (20,000) in the county, the executive of the largest municipality shall appoint two (2) citizen members and the executive of the second largest municipality shall appoint one (1) citizen member. Furthermore, if there are no cities in the county participating in the commission, then the three (3) members appointed under this subdivision shall be appointed as follows:

(A) One (1) member appointed by the county executive.

(B) One (1) member appointed by the county fiscal body.

(C) One (1) member appointed by the legislative bodies of those towns participating in the commission.

(3) Two (2) citizen members, who may not be members of any plan commission, appointed by the county legislative body.

(d) AREA. Except as provided in subsection (c), each division of the area board of zoning appeals consists of five (5) members as follows:

(1) One (1) citizen member appointed by the area plan

commission from its membership.

(2) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the largest municipality in the county participating in the commission.

(3) Two (2) citizen members, of whom one (1) must be a member of the area plan commission and one (1) must not be a member of any plan commission, appointed by the county legislative body.

(4) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the second largest municipality in the county participating in the commission. However, if there is only one (1) municipality in the county participating in the commission, then the county legislative body shall make this appointment.

(e) METRO. Each division of the metropolitan board of zoning appeals consists of five (5) members as follows:

(1) Two (2) citizen members appointed by the executive of the consolidated city.

(2) Two (2) citizen members appointed by the legislative body of the consolidated city.

(3) One (1) citizen member, who may also be a member of the metropolitan development commission, appointed by the commission.

Not more than two (2) members appointed to each division of the board of zoning appeals may be residents of the same township. All townships must be represented across all the divisions of the board of zoning appeals. The appointing authority shall consult with the township executive before appointing a member to represent that township on the board.

(f) METRO. The municipal board of zoning appeals for an excluded city consists of five (5) members as follows:

(1) The following members for an excluded city that has a mayor:

~~(1)~~ **(A)** Three (3) citizen members appointed by the legislative body of the excluded city.

~~(2)~~ **(B)** Two (2) citizen members ~~who may also be members of the metropolitan development commission,~~ appointed by the ~~commission.~~ **mayor of the excluded city.**

(2) This subdivision applies to an excluded city that does not have a mayor. Five (5) citizen members appointed by the legislative body of the excluded city.

(g) Whenever the zoning ordinance provides for a certain division of the board of zoning appeals to have limited territorial jurisdiction,

it must also provide for that division to consist of members who are all residents of that limited territory. Those members shall be appointed in the same manner that is prescribed by subsection (a) for divisions of an advisory board of zoning appeals, but if the plan commission is unable to make its appointment in that manner, the appointment shall be made instead by the legislative body.

SECTION 7. IC 36-7-4-907, AS AMENDED BY P.L.126-2011, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 907. (a) If a vacancy occurs among the members of the board of zoning appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member it has appointed has a disqualification under section 909 of this chapter, or is otherwise unavailable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.

(b) A member of the board of zoning appeals who misses three (3) consecutive regular meetings of the board may be treated as if the member had resigned, at the discretion of the appointing authority.

(c) Members serving in any division of the board of zoning appeals may also serve as alternate members for the other divisions of the board of zoning appeals. Whenever regular and alternate members serving in a particular division are unavailable, the chairperson or vice chairperson of the affected division may select members from other divisions in order to assemble up to five (5) members to participate in any hearing or decision.

(d) METRO. If there is an absence, the board of zoning appeals must satisfy to the extent possible the township standard specified by law.

SECTION 8. IC 36-7-4-916 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 916. (a) The board of zoning appeals shall adopt rules, which may not conflict with the zoning ordinance, concerning:

(1) the filing of appeals;

(2) the application for variances, special exceptions, special uses, contingent uses, and conditional uses;

(3) the giving of notice;

(4) the conduct of hearings; and

(5) the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).

(b) The board of zoning appeals may also adopt rules providing for:

(1) **subject to section 916.5 of this chapter (in the case of a metropolitan board of zoning appeals),** the allocation of cases filed among the divisions of the board of zoning appeals; and

(2) the fixing of dates for hearings by the divisions.

(c) Rules adopted by the board of zoning appeals shall be printed and be made available to all applicants and other interested persons.

SECTION 9. IC 36-7-4-916.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 916.5. METRO. The board of zoning appeals shall allocate:**

(1) appeals; and

(2) applications for variances, special exceptions, special uses, contingent uses, and conditional uses;

to a division of the board of zoning appeals that has at least one (1) member of the board who is a resident of a township in which the property that is the subject of the appeal or application is located.

SECTION 10. IC 36-7-4-918.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 918.8. **(a) This section does not apply to a proposed ordinance for the amendment of a zoning ordinance that only affects real property located within the corporate boundaries of an excluded city.**

~~(a)~~ **(b)** METRO. In connection with its consideration of a proposed ordinance for the amendment of the zoning ordinance proposed under section 607(c)(2) of this chapter, the metropolitan development commission may exercise the powers of the metropolitan board of zoning appeals for the purpose of approving or denying:

(1) a variance from the development standards of the zoning ordinance; or

(2) a special exception, special use, contingent use, or conditional use from the terms of the zoning ordinance.

~~(b)~~ **(c)** METRO. The commission may, by rule, establish procedures so that the power of the commission to recommend amendment of zoning ordinances and the power of the commission to approve and deny these variances, exceptions, and uses may be exercised concurrently. These rules may be inconsistent with the 900 series to the extent reasonably necessary to allow the commission to exercise the power to approve or deny these variance, exception, and use petitions.

~~(c)~~ **(d)** METRO. When acting under this section, the commission may:

(1) vote on the amendment to the zoning ordinance and the variance, exception, or use petition at the same time; and

(2) condition the approval of variance, exception, or use in such a manner that it takes effect when the recommended ordinance amendment is approved by the legislative body.

~~(d)~~ **(e)** METRO. Section 922 of this chapter does not apply to variances, exceptions, and uses approved under this section.

SECTION 11. IC 36-7-4-922, AS AMENDED BY P.L.88-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 922. **(a) Subsections (b), (c), (d), and (e) do not apply to a board of zoning appeals of an excluded city.**

~~(a)~~ **(b)** METRO. Either of the following may appeal to the metropolitan development commission the following decisions of a board of zoning appeals:

(1) An official designated by the metropolitan development commission. An official may appeal any decision regarding:

(A) an administrative appeal; or

(B) approving:

(i) a special exception;

(ii) a special or conditional use; or

(iii) a variance from the terms of the zoning ordinance.

(2) A member of the legislative body of the city and county in whose district the parcel of real property under consideration is located. A legislative body member in whose district the parcel of real property under consideration is located may appeal any decision approving, denying, or otherwise concerning a variance of use from the terms of the zoning ordinance that affects only real property located outside the corporate boundaries of an excluded city.

The official or the legislative body member must file in the office of the department of metropolitan development a notice of appeal within five (5) days after the board files a copy of the decision in the office of the board. However, if a representative of the department of metropolitan development or the legislative body member appears at the hearing at which the administrative appeal is decided or the special exception, special or conditional use, or variance is approved or denied, then the official or legislative body member must file the notice of appeal within five (5) days after the board has rendered its decision. The notice must certify that the decision raises a substantial question of zoning policy appropriate for consideration by the commission. The commission shall hear the appeal at its next regular meeting held not less than five (5) days after the notice of appeal is filed.

~~(b)~~ **(c)** METRO. In hearing appeals under this section, the metropolitan development commission sits as a board of zoning

appeals and shall be treated as if it is a board for purposes of this section. The commission may accept into evidence the written record, if any, of the hearing before the board of zoning appeals, along with other evidence introduced by the staff or interested parties. The commission shall consider the matter de novo, but the decision of the board is considered affirmed unless two-thirds (2/3) of the commission members voting vote to deny the administrative appeal, exception, use, or variance.

~~(c)~~ **(d)** METRO. Although persons other than the designated official or legislative body member may not appeal a decision of a board of zoning appeals to the metropolitan development commission, they may appear as interested parties in appeals under this section. No public notice need be given of the hearing of an appeal under this section, but the official or legislative body member shall promptly mail notice of the subject of the appeal and date and place of the hearing to each adverse party. However, if the record of the board shows that more than three (3) proponents or more than three (3) remonstrators appeared, then the official or legislative body member need mail notice only to the first three (3) of each as disclosed by the record.

~~(d)~~ **(e)** The metropolitan development commission shall give strong consideration to the first continuance of an appeals hearing held under this section that is filed by a member of the legislative body of the city and county.

(f) METRO. This subsection applies only to decisions of a board of zoning appeals of an excluded city. A member of the legislative body of the excluded city in whose district the parcel of real property under consideration is located may appeal decisions of a board of zoning appeals. The legislative body member must file in the office of the excluded city legislative body a notice of appeal not later than five (5) days after the board files a copy of the decision in the office of the board. However, if the legislative body member appears at the hearing at which the administrative appeal is decided, or the special exception, special or conditional use, or variance is approved or denied, then the legislative body member must file the notice of appeal not later than five (5) days after the board has rendered its decision. The notice must certify that the decision raises a substantial question of zoning policy appropriate for consideration by the legislative body of the excluded city. The legislative body shall hear the appeal at its next regular meeting. In hearing appeals for decisions of the board of zoning appeals of an excluded city, the legislative body of the excluded city sits as the final board of appeals and shall be treated as if it is a board for

purposes of this section. The legislative body may accept into evidence the written record, if any, of the hearing before the board of zoning appeals, along with other evidence introduced by the staff or interested parties. The decision of the board is considered affirmed unless two-thirds (2/3) of the legislative body voting vote to deny the administrative appeal, exception, use, or variance.

SECTION 12. IC 36-7-4-1003, AS AMENDED BY P.L.88-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1003. (a) Each decision of the legislative body under section 918.6 of this chapter is subject to judicial review in the same manner as that provided for the appeal of a final decision of the board of zoning appeals under section 1016(a) of this chapter.

(b) METRO. **This subsection does not apply to an excluded city.** A petition for judicial review must be filed with the court after the expiration of the period within which an official designated by the metropolitan development commission or a member of the legislative body of the city and county may file an appeal under section 922 of this chapter but not later than the period provided for timely filing under section 1605 of this chapter. However, if the official, or the member of the legislative body of the city and county files an appeal, then only the decision of the metropolitan development commission sitting as a board of zoning appeals is subject to judicial review. The official, the department of metropolitan development, or the member of the legislative body of the city and county may not seek judicial review of a decision of a board of zoning appeals or the commission sitting as a board of zoning appeals.

(c) METRO. This subsection applies only to an excluded city. A petition for judicial review must be filed with the court:

(1) after the expiration of the period within which a member of the excluded city legislative body may file an appeal under section 922 of this chapter; and

(2) not later than the period provided for timely filing under section 1605 of this chapter.

However, if the member of the legislative body of the excluded city files an appeal, then only the decision of the legislative body of the excluded city sitting as a board of zoning appeals is subject to judicial review. The member of the excluded city legislative body or the excluded city legislative body may not seek judicial review of a decision of the board of zoning appeals of the excluded city or the legislative body of the excluded city sitting as a board of zoning appeals.

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 392 — Concur

First Regular Session of the 122nd General Assembly (2021)

SENATE ENROLLED ACT No. 17

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-32.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

ARTICLE 32.5. CAMPGROUNDS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Campground" means an area or tract of land, including ten (10) or more campsites, that is established, operated, and maintained for recreational, health, educational, sectarian, business, or tourist activities away from established residences.

Sec. 3. (a) "Campground owner" means the owner or operator of a campground or an agent of an owner or operator of a campground.

(b) The term does not include the department of natural resources.

Sec. 4. "Guest" means an individual who occupies a campsite in a campground under an agreement with the campground owner.

Chapter 2. Regulation of Campgrounds

Sec. 1. A campground owner may ask that an individual leave a campground if:

(1) the individual is not a registered guest or visitor of the

campground;

(2) the individual remains on the campground beyond an agreed upon departure time and date;

(3) the individual defaults in the payment of any lawfully imposed registration fee, visitor fee, or charge;

(4) the individual creates a disturbance that denies other guests their right to quiet enjoyment of the campground necessary for the preservation of peace, health, or safety; or

(5) the individual has violated any federal, state, or local law while in the campground.

Sec. 2. An individual who:

(1) remains on; or

(2) returns to;

a campground after having been asked to leave the campground under section 1 of this chapter commits criminal trespass under IC 35-43-2-2.

Sec. 3. A campground owner shall refund the unused portion of any prepaid fees, less any amount otherwise owed to the campground owner or deducted for damages, to a guest who is removed from a campground under section 1 of this chapter.

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 17 — Concur

First Regular Session of the 122nd General Assembly (2021)

SENATE ENROLLED ACT No. 8

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-21-18-1, AS AMENDED BY P.L.38-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. This chapter applies to privately owned real property on which the public is invited to travel for business or ~~before January 1, 2021,~~ residential purposes.

SECTION 2. IC 9-21-18-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 4.3. (a) As used in this section, "electronic traffic ticket" has the meaning set forth in IC 9-30-3-2.5.**

(b) As used in this section, "legislative body" has the meaning set forth in IC 36-1-2-9.

(c) As used in this section, "moving traffic ordinance" refers to an ordinance regulating the operation of a motor vehicle only while the motor vehicle is in motion.

(d) As used in this section, "residential complex traffic ordinance" refers to an ordinance adopted under subsection (e).

(e) A unit may enforce a residential complex traffic ordinance on the property of a residential complex if all the following conditions are met:

(1) The unit's legislative body adopts the ordinance under this section.

(2) The owner of the residential complex requests in writing

from the unit's executive that the unit enforce the residential complex traffic ordinance adopted under subdivision (1) on the property of the residential complex.

(3) The owner of the residential complex enters into an enforcement contract with the unit.

(f) A residential complex traffic ordinance must satisfy the following:

(1) The ordinance must be a moving traffic ordinance.

(2) The ordinance may not duplicate or conflict with Indiana law that is otherwise enforceable on the property of a residential complex.

(3) The ordinance must be reasonably consistent with other ordinances adopted by the unit.

(4) The ordinance must require the owner of the residential complex to enter into an enforcement contract with the unit as provided in subsection (h).

(5) If the unit's law enforcement agency (as defined in IC 35-47-15-2) issues electronic traffic tickets, the ordinance must require the unit's law enforcement agency to issue an electronic traffic ticket for a violation of the unit's ordinance on the property of a residential complex.

(g) A residential complex traffic ordinance may do the following:

(1) Incorporate by reference other moving traffic ordinances of the unit if those other ordinances do not conflict with this section.

(2) Define the term "residential complex" for purposes of the ordinance.

(3) Require the unit's executive to report to the legislative body regarding enforcement contracts entered into with the unit and any other information required by the legislative body regarding the residential complex traffic ordinance.

(h) An enforcement contract must satisfy the following:

(1) The contract must require the owner of the residential complex to install signs notifying residents of and visitors to the residential complex of the relevant provisions of the residential complex traffic ordinance. Signs installed under this subdivision must:

(A) be placed in a sufficient number of locations to clearly mark where the relevant provisions of the ordinance apply; and

(B) follow sign standards as prescribed in rules

promulgated by the department of transportation.

A sign placed at the entrance to the residential complex does not satisfy this subdivision.

(2) The unit may not charge the owner of the residential complex a fee for enforcing the residential complex traffic ordinance on the property of the residential complex.

(3) Enforcement of the residential complex traffic ordinance in the residential complex may not begin until both of the following have occurred:

(A) The enforcement contract is signed by the unit and the residential complex.

(B) The residential complex has complied with subdivision (1), as determined by the unit.

(i) If the owner of a residential complex enters into an enforcement contract with a unit, then neither the owner nor the residential complex is subject to or incurs any liability, sanction, or adverse legal consequence for any loss or injury resulting from the manner in which the unit's law enforcement agency discharged its duties under the enforcement contract.

(j) Neither a residential complex nor its owner is subject to or incurs any liability, sanction, or adverse legal consequence for the owner's decision not to enter into an enforcement contract with a unit. The failure to enter into an enforcement contract with a unit is not admissible in any legal proceeding brought against a residential complex or its owner.

SECTION 3. IC 33-24-6-13, AS AMENDED BY P.L.161-2018, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2021]: Sec. 13. (a) Beginning in 2018, not later than March 1 of each year, the office of judicial administration shall submit a report to the legislative council in an electronic format under IC 5-14-6 providing the following information relating to the enforcement of residential complex traffic ordinances on the property of residential complexes under contracts entered into under ~~IC 9-21-18-4.1~~ **IC 9-21-18-4.3:**

(1) The number of traffic stops.

(2) The number of citations issued.

(3) The number of traffic stops and citations issued.

(b) The report must set forth information required under subsection (a) by:

(1) each unit that has adopted a residential complex traffic ordinance:

(A) under ~~IC 9-21-18-4.1~~ **IC 9-21-18-4.3;** and

(B) through issuance of electronic traffic tickets (as defined in IC 9-30-3-2.5); and

(2) the totals for all units described in subdivision (1).

(c) The office of judicial administration must issue a report under this section for each of the following years:

(1) 2017.

(2) 2018.

(3) 2019.

(4) 2020.

(5) 2021.

(6) 2022.

(7) 2023.

(8) 2024.

(9) 2025.

(10) 2026.

~~(d) This section expires July 1, 2021.~~

SECTION 4. IC 34-30-2-28.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 28.8. IC 9-21-18-4.3 (Concerning residential complexes and enforcement contracts for enforcement of moving traffic ordinances).**

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 8 — Concur