

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1359

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 16-31-3-14.5, AS AMENDED BY P.L.252-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 14.5. The department of homeland security may issue an order under IC 4-21.5-3-6 to deny an applicant's request for certification or licensure or permanently revoke a certificate or license under procedures provided by section 14 of this chapter if the individual who holds the certificate or license issued under this title is convicted of any of the following:

(1) Dealing in a controlled substance resulting in death under IC 35-42-1-1.5.

~~(+)~~ **(2)** Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.

~~(=)~~ **(3)** Dealing in methamphetamine under IC 35-48-4-1.1.

~~(-)~~ **(4)** Manufacturing methamphetamine under IC 35-48-4-1.2.

~~(+)~~ **(5)** Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

~~(=)~~ **(6)** Dealing in a schedule IV controlled substance under IC 35-48-4-3.

~~(-)~~ **(7)** Dealing in a schedule V controlled substance under IC 35-48-4-4.

~~(+)~~ **(8)** Dealing in a substance represented to be a controlled

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substance under IC 35-48-4-4.5.

~~(8)~~ **(9)** Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

~~(9)~~ **(10)** Dealing in a counterfeit substance under IC 35-48-4-5.

~~(10)~~ **(11)** Dealing in marijuana, hash oil, hashish, or salvia as a felony under IC 35-48-4-10.

~~(11)~~ **(12)** Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

~~(12)~~ **(13)** Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

~~(13)~~ **(14)** Attempt under IC 35-41-5-1 to commit an offense listed in this section.

~~(14)~~ **(15)** A crime of violence (as defined in IC 35-50-1-2(a)).

~~(15)~~ **(16)** An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under this section.

SECTION 2. IC 20-28-5-8, AS AMENDED BY P.L.252-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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 state superintendent.

(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 state superintendent 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

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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 (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) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its amendment in 2013).
- (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).

~~(32)~~ **(33)** Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

~~(33)~~ **(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 state superintendent 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 division of state court 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 division of state court 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 3. IC 22-15-5-16, AS AMENDED BY P.L.252-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2018]: Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

- (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
- (2) engaged in fraud or material deception in the course of professional services or activities;
- (3) advertised services or goods in a false or misleading manner;
- (4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;
- (5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
- (6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;
- (7) continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;
- (10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;
- (11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or
- (12) allowed a license issued by the department to be:
 - (A) used by another person; or
 - (B) displayed to the public when the license has expired, is

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inactive, is invalid, or has been revoked or suspended. For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

- (1) Permanent revocation of a practitioner's license.
- (2) Suspension of a practitioner's license.
- (3) Censure of a practitioner.
- (4) Issuance of a letter of reprimand.
- (5) Assessment of a civil penalty against the practitioner in accordance with the following:

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

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

(6) Placement of a practitioner on probation status and requirement of the practitioner to:

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

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

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

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

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

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to



practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

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

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

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

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

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
- (5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b) (before its amendment on July 1, 2015).

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

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

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

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

(ii) IC 35-48-4-11.5; or

(B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.

(10) Maintaining a common nuisance under IC 35-48-4-13 (repealed) or IC 35-45-1-5, if the common nuisance involves a controlled substance.

(11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Dealing in a controlled substance resulting in death under IC 35-42-1-1.5.

~~(1)~~ **(2) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.**

~~(2)~~ **(3) Dealing in methamphetamine under IC 35-48-4-1.1.**

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

~~(4)~~ **(5) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.**

~~(5)~~ **(6) Dealing in a schedule IV controlled substance under IC 35-48-4-3.**

~~(6)~~ **(7) Dealing in a schedule V controlled substance under IC 35-48-4-4.**

~~(7)~~ **(8) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.**

~~(8)~~ **(9) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise,**

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or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

~~(9)~~ **(10)** Dealing in a counterfeit substance under IC 35-48-4-5.

~~(10)~~ **(11)** Dealing in marijuana, hash oil, hashish, or salvia as a felony under IC 35-48-4-10.

~~(11)~~ **(12)** Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

~~(12)~~ **(13)** Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

~~(13)~~ **(14)** Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

~~(14)~~ **(15)** An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

~~(15)~~ **(16)** A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

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

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

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

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

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

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

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

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

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

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

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

SECTION 4. IC 25-1-1.1-3, AS AMENDED BY P.L.252-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. A board, a commission, or a committee shall revoke or suspend a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

(1) Dealing in a controlled substance resulting in death under IC 35-42-1-1.5.

~~(1)~~ **(2) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.**

~~(2)~~ **(3) Dealing in methamphetamine under IC 35-48-4-1.1.**

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

~~(4)~~ **(5) Dealing in a schedule I, II, or III controlled substance**

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under IC 35-48-4-2.

~~(5)~~ **(6)** Dealing in a schedule IV controlled substance under IC 35-48-4-3.

~~(6)~~ **(7)** Dealing in a schedule V controlled substance under IC 35-48-4-4.

~~(7)~~ **(8)** Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

~~(8)~~ **(9)** Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

~~(9)~~ **(10)** Dealing in a counterfeit substance under IC 35-48-4-5.

~~(10)~~ **(11)** Dealing in marijuana, hash oil, hashish, or salvia as a felony under IC 35-48-4-10.

~~(11)~~ **(12)** Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

~~(12)~~ **(13)** Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

~~(13)~~ **(14)** Attempt under IC 35-41-5-1 to commit an offense listed in this section.

~~(14)~~ **(15)** An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

~~(15)~~ **(16)** A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

SECTION 5. IC 34-24-1-1, AS AMENDED BY P.L.252-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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).

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- (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) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).
- (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 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 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;

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- (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 or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).
 - (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).
- (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.

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(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:

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

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

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

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

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) 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 (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).

~~(2)~~ **(3)** IC 35-48-4-1.1 (dealing in methamphetamine).

~~(3)~~ **(4)** IC 35-48-4-1.2 (manufacturing methamphetamine).

~~(4)~~ **(5)** IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

~~(5)~~ **(6)** IC 35-48-4-3 (dealing in a schedule IV controlled

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substance).

~~(6)~~ (7) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.

~~(7)~~ (8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.

~~(8)~~ (9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.

~~(9)~~ (10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.

~~(10)~~ (11) IC 35-48-4-10.5 (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 6. IC 35-31.5-2-217, AS AMENDED BY P.L.252-2017, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 217. "Offense relating to controlled substances" means the following:

(1) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).

~~(1)~~ (2) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

~~(2)~~ (3) Dealing in methamphetamine (IC 35-48-4-1.1).

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

~~(4)~~ (5) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

~~(5)~~ (6) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

~~(6)~~ (7) Dealing in a schedule V controlled substance (IC 35-48-4-4).

~~(7)~~ (8) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

~~(8)~~ (9) Possession of methamphetamine (IC 35-48-4-6.1).

~~(9)~~ (10) Possession of a controlled substance (IC 35-48-4-7).

~~(10)~~ (11) Possession of paraphernalia (IC 35-48-4-8.3).

~~(11)~~ (12) Dealing in paraphernalia (IC 35-48-4-8.5).

~~(12)~~ (13) Offenses relating to registration (IC 35-48-4-14).

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SECTION 7. IC 35-42-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1.5. (a) A person who knowingly or intentionally manufactures or delivers a controlled substance or controlled substance analog, in violation of:**

- (1) IC 35-48-4-1 (dealing in cocaine or a narcotic drug);**
- (2) IC 35-48-4-1.1 (dealing in methamphetamine);**
- (3) IC 35-48-4-1.2 (manufacturing methamphetamine); or**
- (4) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance);**

that, when the controlled substance is used, injected, inhaled, absorbed, or ingested, results in the death of a human being who used the controlled substance, commits dealing in a controlled substance resulting in death, a Level 1 felony.

(b) A person who knowingly or intentionally manufactures or delivers a controlled substance, in violation of IC 35-48-4-3, that, when the controlled substance is used, injected, inhaled, absorbed, or ingested, results in the death of a human being who used the controlled substance, commits dealing in a controlled substance resulting in death, a Level 2 felony.

(c) A person who knowingly or intentionally manufactures or delivers a controlled substance, in violation of IC 35-48-4-4 or IC 35-48-4-10.5, that, when the controlled substance is used, injected, inhaled, absorbed, or ingested, results in the death of a human being who used the controlled substance, commits dealing in a controlled substance resulting in death, a Level 3 felony.

(d) It is not a defense to an offense described in this section that the human being died:

- (1) after voluntarily using, injecting, inhaling, absorbing, or ingesting a controlled substance or controlled substance analog; or**
- (2) as a result of using the controlled substance or controlled substance analog in combination with alcohol or another controlled substance or with any other compound, mixture, diluent, or substance.**

SECTION 8. IC 35-45-6-1, AS AMENDED BY P.L.252-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1. (a) The definitions in this section apply throughout this chapter.**

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

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usable form.

(c) "Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

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

- (1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony before July 1, 2014, or a Level 5 felony after June 30, 2014 (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- (9) Child exploitation (IC 35-42-4-4).
- (10) Robbery (IC 35-42-5-1).
- (11) Carjacking (IC 35-42-5-2) (before its repeal).
- (12) Arson (IC 35-43-1-1).
- (13) Burglary (IC 35-43-2-1).
- (14) Theft (IC 35-43-4-2).
- (15) Receiving stolen property (IC 35-43-4-2).
- (16) Forgery (IC 35-43-5-2).
- (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- (18) Bribery (IC 35-44.1-1-2).
- (19) Official misconduct (IC 35-44.1-1-1).
- (20) Conflict of interest (IC 35-44.1-1-4).
- (21) Perjury (IC 35-44.1-2-1).
- (22) Obstruction of justice (IC 35-44.1-2-2).
- (23) Intimidation (IC 35-45-2-1).

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- (24) Promoting prostitution (IC 35-45-4-4).
- (25) Professional gambling (IC 35-45-5-3).
- (26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
- (27) Promoting professional gambling (IC 35-45-5-4).
- (28) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (29) Dealing in methamphetamine (IC 35-48-4-1.1).
- (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
- (31) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (32) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (34) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).
- (35) Money laundering (IC 35-45-15-5).
- (36) A violation of IC 35-47.5-5.
- (37) A violation of any of the following:
 - (A) IC 23-14-48-9.
 - (B) IC 30-2-9-7(b).
 - (C) IC 30-2-10-9(b).
 - (D) IC 30-2-13-38(f).
- (38) Practice of law by a person who is not an attorney (IC 33-43-2-1).
- (39) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).
- (40) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).**

SECTION 9. IC 35-47-4-5, AS AMENDED BY P.L.252-2017, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

- (1) committing a serious violent felony in:
 - (A) Indiana; or
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or
- (2) attempting to commit or conspiring to commit a serious violent felony in:
 - (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;

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or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

- (1) murder (IC 35-42-1-1);
- (2) voluntary manslaughter (IC 35-42-1-3);
- (3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
- (4) battery (IC 35-42-2-1) as a:
 - (A) Class A felony, Class B felony, or Class C felony, for a crime committed before July 1, 2014; or
 - (B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony, for a crime committed after June 30, 2014;
- (5) domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony;
- (6) aggravated battery (IC 35-42-2-1.5);
- (7) kidnapping (IC 35-42-3-2);
- (8) criminal confinement (IC 35-42-3-3);
- (9) rape (IC 35-42-4-1);
- (10) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
- (11) child molesting (IC 35-42-4-3);
- (12) sexual battery (IC 35-42-4-8) as a:
 - (A) Class C felony, for a crime committed before July 1, 2014; or
 - (B) Level 5 felony, for a crime committed after June 30, 2014;
- (13) robbery (IC 35-42-5-1);
- (14) carjacking (IC 35-42-5-2) (before its repeal);
- (15) arson (IC 35-43-1-1(a)) as a:
 - (A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or
 - (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;
- (16) burglary (IC 35-43-2-1) as a:
 - (A) Class A felony or Class B felony, for a crime committed before July 1, 2014; or
 - (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony, for a crime committed after June 30, 2014;
- (17) assisting a criminal (IC 35-44.1-2-5) as a:
 - (A) Class C felony, for a crime committed before July 1, 2014; or

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- (B) Level 5 felony, for a crime committed after June 30, 2014;
- (18) resisting law enforcement (IC 35-44.1-3-1) as a:
- (A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or
- (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a crime committed after June 30, 2014;
- (19) escape (IC 35-44.1-3-4) as a:
- (A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or
- (B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;
- (20) trafficking with an inmate (IC 35-44.1-3-5) as a:
- (A) Class C felony, for a crime committed before July 1, 2014;
- or
- (B) Level 5 felony, for a crime committed after June 30, 2014;
- (21) criminal organization intimidation (IC 35-45-9-4);
- (22) stalking (IC 35-45-10-5) as a:
- (A) Class B felony or Class C felony, for a crime committed before July 1, 2014; or
- (B) Level 4 felony or Level 5 felony, for a crime committed after June 30, 2014;
- (23) incest (IC 35-46-1-3);
- (24) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
- (25) dealing in methamphetamine (IC 35-48-4-1.1) or manufacturing methamphetamine (IC 35-48-4-1.2);
- (26) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (27) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- or
- (28) dealing in a schedule V controlled substance (IC 35-48-4-4);
- or
- (29) dealing in a controlled substance resulting in death (IC 35-42-1-1.5).**
- (c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Level 4 felony.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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