

SENATE BILL No. 104

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-6; IC 33-37; IC 35-33-8-5; IC 35-38.

Synopsis: DNA sample from felony arrestees. Requires every person arrested for a felony after June 30, 2017, to submit a DNA sample, and specifies that the sample may be taken only by buccal swab. Provides for the expungement of a DNA sample taken from the person if the person is acquitted of all felony charges, all felony charges are dismissed, or no charges have been filed after 30 days. Requires the officer who obtains a DNA sample from a person to inform the person of the right to DNA expungement and to provide the person with a form that may be used for DNA expungement, and permits the use of evidence other than a court order for expungement. Increases the DNA sample processing fee from \$2 to \$4. Allocates an additional \$500,000 semiannually to: (1) hold harmless all funds that receive distributions from the state share of collected court fees; and (2) provide an additional amount to the DNA processing fund. Specifies that the discovery of DNA evidence tending to show previously unknown crimes committed by a person on bail may lead to revocation of bail or an increase in the amount of bail.

Effective: July 1, 2017.

Zakas

January 3, 2017, read first time and referred to Committee on Judiciary.



First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE BILL No. 104

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

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

1 SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 8. (a) The superintendent may establish a data
4 base of DNA identification records of:
5 (1) convicted criminals;
6 **(2) persons arrested for a felony;**
7 ~~(2)~~ **(3)** crime scene specimens;
8 ~~(3)~~ **(4)** unidentified missing persons; and
9 ~~(4)~~ **(5)** close biological relatives of missing persons.
10 (b) The superintendent shall maintain the Indiana DNA data base.
11 (c) The superintendent may contract for services to perform DNA
12 analysis of:
13 **(1) convicted offenders; and**
14 **(2) persons arrested for a felony;**
15 under section 10 of this chapter to assist federal, state, and local
16 criminal justice and law enforcement agencies in the putative
17 identification, detection, or exclusion of individuals who are subjects



1 of an investigation or prosecution of a sex offense, a violent crime, or
 2 another crime in which biological evidence is recovered from the crime
 3 scene.

4 (d) The superintendent:

5 (1) may perform or contract for performance of testing, typing, or
 6 analysis of a DNA sample collected from a person described in
 7 section 10 of this chapter at any time; and

8 (2) shall perform or contract for the performance of testing,
 9 typing, or analysis of a DNA sample collected from a person
 10 described in section 10 of this chapter if federal funds become
 11 available for the performance of DNA testing, typing, or analysis.

12 (e) The superintendent shall adopt rules under IC 4-22-2 necessary
 13 to administer and enforce the provisions and intent of this chapter.

14 (f) The detention, arrest, or conviction of a person based on a data
 15 base match or data base information is not invalidated if a court
 16 determines that the DNA sample was obtained or placed in the Indiana
 17 DNA data base by mistake.

18 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,
 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2017]: Sec. 10. (a) This section applies to the following:

21 **(1) A person arrested for a felony after June 30, 2017.**

22 ~~(+)~~ **(2)** A person convicted of a felony under IC 35-42 (offenses
 23 against the person) or IC 35-43-2-1 (burglary):

24 (A) after June 30, 1996, whether or not the person is sentenced
 25 to a term of imprisonment; or

26 (B) before July 1, 1996, if the person is held in jail or prison
 27 on or after July 1, 1996.

28 ~~(2)~~ **(3)** A person convicted of a criminal law in effect before
 29 October 1, 1977, that penalized an act substantially similar to a
 30 felony described in IC 35-42 or IC 35-43-2-1 or that would have
 31 been an included offense of a felony described in IC 35-42 or
 32 IC 35-43-2-1 if the felony had been in effect:

33 (A) after June 30, 1998, whether or not the person is sentenced
 34 to a term of imprisonment; or

35 (B) before July 1, 1998, if the person is held in jail or prison
 36 on or after July 1, 1998.

37 ~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a
 38 felony, or attempt to commit a felony:

39 (A) after June 30, 2005, whether or not the person is sentenced
 40 to a term of imprisonment; or

41 (B) before July 1, 2005, if the person is held in jail or prison
 42 on or after July 1, 2005.



1 (b) A person described in subsection (a) shall provide a DNA
2 sample to the:

3 (1) department of correction or the designee of the department of
4 correction if the offender is committed to the department of
5 correction;

6 (2) county sheriff or the designee of the county sheriff if the
7 offender is held in a county jail or other county penal facility,
8 placed in a community corrections program (as defined in
9 IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;

10 (3) agency that supervises the person, or the agency's designee, if
11 the person is on conditional release in accordance with
12 IC 35-38-1-27; or

13 **(4) sheriff, in the case of a person arrested for a felony.**

14 **A DNA sample provided under subdivision (4) may be obtained**
15 **only by buccal swab.** A person is not required to submit a blood
16 sample if doing so would present a substantial and an unreasonable risk
17 to the person's health.

18 (c) The detention, arrest, or conviction of a person based on a data
19 base match or data base information is not invalidated if a court
20 determines that the DNA sample was obtained or placed in the Indiana
21 DNA data base by mistake.

22 **(d) The officer, employee, or designee who obtains a DNA**
23 **sample from a person under this section shall:**

24 **(1) inform the person of the person's right to DNA**
25 **expungement under section 18 of this chapter; and**

26 **(2) provide the person with a form that may be used for DNA**
27 **expungement.**

28 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) A person whose
30 DNA profile has been included in the Indiana DNA data base may
31 request expungement of the profile from the DNA data base on the
32 grounds that:

33 **(1) the conviction on which the authority for inclusion in the**
34 **Indiana DNA data base was founded has been reversed and the**
35 **case has been dismissed; or**

36 **(2) the person was arrested for a felony, and:**

37 **(A) the person was acquitted of all felony charges;**

38 **(B) all felony charges have been dismissed; or**

39 **(C) thirty (30) days have passed since the person's arrest**
40 **and no felony charges have been filed against the person.**

41 (b) All identifiable information in the Indiana DNA data base
42 pertaining to a person requesting expungement under subsection (a)



1 shall be expunged, and all samples from the person shall be destroyed,
2 upon receipt of:

3 (1) a ~~written request for letter or form requesting~~ expungement
4 under subsection (a);

5 (2) a certified copy of ~~the a court order reversing and dismissing~~
6 ~~the conviction, or other evidence sufficient to establish or~~
7 **permit the superintendent to establish that:**

8 **(A) all of the person's felony convictions have been**
9 **reversed or the cases dismissed, as described in subsection**
10 **(a)(1);**

11 **(B) the person has been acquitted of all felony charges, as**
12 **described in subsection (a)(2)(A);**

13 **(C) all felony charges for which the person was arrested**
14 **have been dismissed, as described in subsection (a)(2)(B);**
15 **or**

16 **(D) thirty (30) days have passed since the person's arrest**
17 **and no felony charges have been filed against the person,**
18 **as described in subsection (a)(2)(C); and**

19 (3) any other information necessary to ascertain the validity of the
20 request.

21 (c) Upon expungement of a person's DNA profile from the Indiana
22 DNA data base, the superintendent shall request expungement of the
23 person's DNA profile from the national DNA data base.

24 SECTION 4. IC 10-13-6-19 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) **The DNA data**
26 **base is confidential.** Access to the Indiana DNA data base is limited
27 to federal, state, and local law enforcement agencies through their
28 servicing forensic DNA laboratories.

29 (b) The superintendent shall take appropriate measures to ensure
30 that the Indiana DNA data base is protected against unauthorized
31 access.

32 SECTION 5. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006,
33 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: Sec. 26.2. In each action in which a person is:

35 (1) convicted of an offense;

36 (2) required to pay a pretrial diversion fee;

37 (3) found to have committed an infraction; or

38 (4) found to have violated an ordinance;

39 the clerk shall collect a DNA sample processing fee of ~~two~~ **four** dollars
40 ~~(\$2).~~ **(\$4).**

41 SECTION 6. IC 33-37-7-9, AS AMENDED BY P.L.229-2011,
42 SECTION 262, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) On June 30 and on December
 2 31 of each year, the auditor of state shall transfer to the treasurer of
 3 state nine million ~~two seven~~ hundred seventy-seven thousand
 4 twenty-three dollars (~~\$9,277,023~~) (**\$9,777,023**) for distribution under
 5 subsection (b).

6 (b) On June 30 and on December 31 of each year, the treasurer of
 7 state shall deposit into:

8 (1) the family violence and victim assistance fund established by
 9 IC 5-2-6.8-3 an amount equal to ~~eight and three hundredths seven~~
 10 **and sixty-two hundredths** percent (~~8.03%~~); (**7.62%**);

11 (2) the Indiana judges' retirement fund established by
 12 IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five~~
 13 **hundredths thirty-six and fifty-eight hundredths** percent
 14 (~~38.55%~~); (**36.58%**);

15 (3) the law enforcement academy building fund established by
 16 IC 5-2-1-13 an amount equal to two and ~~fifty-six hundredths~~
 17 **forty-three hundredths** percent (~~2.56%~~); (**2.43%**);

18 (4) the law enforcement training fund established by IC 5-2-1-13
 19 an amount equal to ~~ten and twenty-seven hundredths nine and~~
 20 **seventy-five hundredths** percent (~~10.27%~~); (**9.75%**);

21 (5) the violent crime victims compensation fund established by
 22 IC 5-2-6.1-40 an amount equal to eleven and ~~ninety-three~~
 23 **hundredths thirty-two hundredths** percent (~~11.93%~~); (**11.32%**);

24 (6) the motor vehicle highway account an amount equal to
 25 ~~nineteen and forty-nine hundredths eighteen and five-tenths~~
 26 **percent** (~~19.49%~~); (**18.5%**);

27 (7) the fish and wildlife fund established by IC 14-22-3-2 an
 28 amount equal to ~~twenty-five hundredths~~ **twenty-four hundredths**
 29 **percent** (~~0.25%~~); (**0.24%**);

30 (8) the Indiana judicial center drug and alcohol programs fund
 31 established by IC 12-23-14-17 for the administration,
 32 certification, and support of alcohol and drug services programs
 33 under IC 12-23-14 an amount equal to one and ~~sixty-three~~
 34 **hundredths fifty-five hundredths** percent (~~1.63%~~); (**1.55%**); and

35 (9) the DNA sample processing fund established under
 36 IC 10-13-6-9.5 for the funding of the collection, shipment,
 37 analysis, and preservation of DNA samples and the conduct of a
 38 DNA data base program under IC 10-13-6 an amount equal to
 39 ~~seven and twenty-nine hundredths twelve and one hundredth~~
 40 **percent** (~~7.29%~~); (**12.01%**);

41 of the amount transferred by the auditor of state under subsection (a).

42 (c) On June 30 and on December 31 of each year, the auditor of



1 state shall transfer to the treasurer of state for deposit into the public
 2 defense fund established under IC 33-40-6-1 three million seven
 3 hundred thousand dollars (\$3,700,000).

4 SECTION 7. IC 35-33-8-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Upon a showing
 6 of good cause, the state or the defendant may be granted an alteration
 7 or revocation of bail by application to the court before which the
 8 proceeding is pending. In reviewing a motion for alteration or
 9 revocation of bail, credible hearsay evidence is admissible to establish
 10 good cause.

11 (b) When the state presents additional:

12 (1) evidence relevant to a high risk of nonappearance, based on
 13 the factors set forth in section 4(b) of this chapter; or

14 (2) clear and convincing evidence:

15 (A) of the factors described in IC 35-40-6-6(1)(A) and
 16 IC 35-40-6-6(1)(B); or

17 (B) that the defendant otherwise poses a risk to the physical
 18 safety of another person or the community;

19 the court may increase bail. **If the additional evidence presented by**
 20 **the state is DNA evidence tending to show that the defendant**
 21 **committed additional crimes that were not considered at the time**
 22 **the defendant was admitted to bail, the court may increase or**
 23 **revoke bail.**

24 (c) When the defendant presents additional evidence of substantial
 25 mitigating factors, based on the factors set forth in section 4(b) of this
 26 chapter, which reasonably suggests that the defendant recognizes the
 27 court's authority to bring the defendant to trial, the court may reduce
 28 bail. However, the court may not reduce bail if the court finds by clear
 29 and convincing evidence that the factors described in
 30 IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant
 31 otherwise poses a risk to the physical safety of another person or the
 32 community.

33 (d) The court may revoke bail or an order for release on personal
 34 recognizance upon clear and convincing proof by the state that:

35 (1) while admitted to bail the defendant:

36 (A) or the defendant's agent threatened or intimidated a victim,
 37 prospective witnesses, or jurors concerning the pending
 38 criminal proceeding or any other matter;

39 (B) or the defendant's agent attempted to conceal or destroy
 40 evidence relating to the pending criminal proceeding;

41 (C) violated any condition of the defendant's current release
 42 order;



- 1 (D) failed to appear before the court as ordered at any critical
 2 stage of the proceedings; or
 3 (E) committed a felony or a Class A misdemeanor that
 4 demonstrates instability and a disdain for the court's authority
 5 to bring the defendant to trial;
 6 (2) the factors described in IC 35-40-6-6(1)(A) and
 7 IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a
 8 risk to the physical safety of another person or the community; or
 9 (3) a combination of the factors described in subdivisions (1) and
 10 (2) exists.

11 SECTION 8. IC 35-38-1-27, AS ADDED BY P.L.173-2006,
 12 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2017]: Sec. 27. (a) If a court imposes a sentence that does not
 14 involve a commitment to the department of correction, the court shall
 15 require a person:

- 16 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
 17 **IC 10-13-6-10(a)**; and
 18 (2) who has not previously provided a DNA sample in accordance
 19 with IC 10-13-6;

20 to provide a DNA sample as a condition of the sentence.

- 21 (b) If a person described in subsection (a) is confined at the time of
 22 sentencing, the court shall order the person to provide a DNA sample
 23 immediately after sentencing.

- 24 (c) If a person described in subsection (a) is not confined at the time
 25 of sentencing, the agency supervising the person after sentencing shall
 26 establish the date, time, and location for the person to provide a DNA
 27 sample. However, the supervising agency must require that the DNA
 28 sample be provided not more than seven (7) days after sentencing. A
 29 supervising agency's failure to obtain a DNA sample not more than
 30 seven (7) days after sentencing does not permit a person required to
 31 provide a DNA sample to challenge the requirement that the person
 32 provide a DNA sample at a later date.

- 33 (d) A person's failure to provide a DNA sample is grounds for
 34 revocation of the person's probation, community corrections placement,
 35 or other conditional release.

36 SECTION 9. IC 35-38-2-2.3, AS AMENDED BY P.L.209-2015,
 37 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2017]: Sec. 2.3. (a) As a condition of probation, the court may
 39 require a person to do a combination of the following:

- 40 (1) Work faithfully at suitable employment or faithfully pursue a
 41 course of study or career and technical education that will equip
 42 the person for suitable employment.



- 1 (2) Undergo available medical or psychiatric treatment and
2 remain in a specified institution if required for that purpose.
- 3 (3) Attend or reside in a facility established for the instruction,
4 recreation, or residence of persons on probation.
- 5 (4) Participate in a treatment program, educational class, or
6 rehabilitative service provided by a probation department or by
7 referral to an agency.
- 8 (5) Support the person's dependents and meet other family
9 responsibilities.
- 10 (6) Make restitution or reparation to the victim of the crime for
11 damage or injury that was sustained by the victim. When
12 restitution or reparation is a condition of probation, the court shall
13 fix the amount, which may not exceed an amount the person can
14 or will be able to pay, and shall fix the manner of performance.
- 15 (7) Execute a repayment agreement with the appropriate
16 governmental entity to repay the full amount of public relief or
17 assistance wrongfully received, and make repayments according
18 to a repayment schedule set out in the agreement.
- 19 (8) Pay a fine authorized by IC 35-50.
- 20 (9) Refrain from possessing a firearm or other deadly weapon
21 unless granted written permission by the court or the person's
22 probation officer.
- 23 (10) Report to a probation officer at reasonable times as directed
24 by the court or the probation officer.
- 25 (11) Permit the person's probation officer to visit the person at
26 reasonable times at the person's home or elsewhere.
- 27 (12) Remain within the jurisdiction of the court, unless granted
28 permission to leave by the court or by the person's probation
29 officer.
- 30 (13) Answer all reasonable inquiries by the court or the person's
31 probation officer and promptly notify the court or probation
32 officer of any change in address or employment.
- 33 (14) Perform uncompensated work that benefits the community.
- 34 (15) Satisfy other conditions reasonably related to the person's
35 rehabilitation.
- 36 (16) Undergo home detention under IC 35-38-2.5.
- 37 (17) Undergo a laboratory test or series of tests approved by the
38 state department of health to detect and confirm the presence of
39 the human immunodeficiency virus (HIV) antigen or antibodies
40 to the human immunodeficiency virus (HIV), if:
41 (A) the person had been convicted of an offense relating to a
42 criminal sexual act and the offense created an



- 1 epidemiologically demonstrated risk of transmission of the
 2 human immunodeficiency virus (HIV); or
 3 (B) the person had been convicted of an offense relating to a
 4 controlled substance and the offense involved:
 5 (i) the delivery by any person to another person; or
 6 (ii) the use by any person on another person;
 7 of a contaminated sharp (as defined in IC 16-41-16-2) or other
 8 paraphernalia that creates an epidemiologically demonstrated
 9 risk of transmission of HIV by involving percutaneous contact.
 10 (18) Refrain from any direct or indirect contact with an individual
 11 and, if convicted of an offense under IC 35-46-3, any animal
 12 belonging to the individual.
 13 (19) Execute a repayment agreement with the appropriate
 14 governmental entity or with a person for reasonable costs incurred
 15 because of the taking, detention, or return of a missing child (as
 16 defined in IC 10-13-5-4).
 17 (20) Periodically undergo a laboratory chemical test (as defined
 18 in IC 9-13-2-22) or series of chemical tests as specified by the
 19 court to detect and confirm the presence of a controlled substance
 20 (as defined in IC 35-48-1-9). The person on probation is
 21 responsible for any charges resulting from a test and shall have
 22 the results of any test under this subdivision reported to the
 23 person's probation officer by the laboratory.
 24 (21) If the person was confined in a penal facility, execute a
 25 reimbursement plan as directed by the court and make repayments
 26 under the plan to the authority that operates the penal facility for
 27 all or part of the costs of the person's confinement in the penal
 28 facility. The court shall fix an amount that:
 29 (A) may not exceed an amount the person can or will be able
 30 to pay;
 31 (B) does not harm the person's ability to reasonably be self
 32 supporting or to reasonably support any dependent of the
 33 person; and
 34 (C) takes into consideration and gives priority to any other
 35 restitution, reparation, repayment, or fine the person is
 36 required to pay under this section.
 37 (22) Refrain from owning, harboring, or training an animal.
 38 (23) Participate in a reentry court program.
 39 (24) Receive:
 40 (A) addiction counseling;
 41 (B) mental health counseling;
 42 (C) inpatient detoxification; and



- 1 (D) medication assisted treatment, including a federal Food
 2 and Drug Administration approved long acting, nonaddictive
 3 medication for the treatment of opioid or alcohol dependence.
- 4 (b) When a person is placed on probation, the person shall be given
 5 a written statement specifying:
- 6 (1) the conditions of probation; and
 7 (2) that if the person violates a condition of probation during the
 8 probationary period, a petition to revoke probation may be filed
 9 before the earlier of the following:
- 10 (A) One (1) year after the termination of probation.
 11 (B) Forty-five (45) days after the state receives notice of the
 12 violation.
- 13 (c) As a condition of probation, the court may require that the
 14 person serve a term of imprisonment in an appropriate facility at the
 15 time or intervals (consecutive or intermittent) within the period of
 16 probation the court determines.
- 17 (d) Intermittent service may be required only for a term of not more
 18 than sixty (60) days and must be served in the county or local penal
 19 facility. The intermittent term is computed on the basis of the actual
 20 days spent in confinement and shall be completed within one (1) year.
 21 A person does not earn good time credit while serving an intermittent
 22 term of imprisonment under this subsection. When the court orders
 23 intermittent service, the court shall state:
- 24 (1) the term of imprisonment;
 25 (2) the days or parts of days during which a person is to be
 26 confined; and
 27 (3) the conditions.
- 28 (e) Supervision of a person may be transferred from the court that
 29 placed the person on probation to a court of another jurisdiction, with
 30 the concurrence of both courts. Retransfers of supervision may occur
 31 in the same manner. This subsection does not apply to transfers made
 32 under IC 11-13-4 or IC 11-13-5.
- 33 (f) When a court imposes a condition of probation described in
 34 subsection (a)(18):
- 35 (1) the clerk of the court shall comply with IC 5-2-9; and
 36 (2) the prosecuting attorney shall file a confidential form
 37 prescribed or approved by the division of state court
 38 administration with the clerk.
- 39 (g) As a condition of probation, a court shall require a person:
- 40 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
 41 **IC 10-13-6-10(a);**
 42 (2) who has not previously provided a DNA sample in accordance



1 with IC 10-13-6; and

2 (3) whose sentence does not involve a commitment to the
3 department of correction;

4 to provide a DNA sample as a condition of probation.

5 (h) If a court imposes a condition of probation described in
6 subsection (a)(4), the person on probation is responsible for any costs
7 resulting from the participation in a program, class, or service. Any
8 costs collected for services provided by the probation department shall
9 be deposited in the county or local supplemental adult services fund.

10 SECTION 10. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012,
11 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2017]: Sec. 6. An order for home detention of an offender
13 under section 5 of this chapter must include the following:

14 (1) A requirement that the offender be confined to the offender's
15 home at all times except when the offender is:

16 (A) working at employment approved by the court or traveling
17 to or from approved employment;

18 (B) unemployed and seeking employment approved for the
19 offender by the court;

20 (C) undergoing medical, psychiatric, mental health treatment,
21 counseling, or other treatment programs approved for the
22 offender by the court;

23 (D) attending an educational institution or a program approved
24 for the offender by the court;

25 (E) attending a regularly scheduled religious service at a place
26 of worship; or

27 (F) participating in a community work release or community
28 restitution or service program approved for the offender by the
29 court.

30 (2) Notice to the offender that violation of the order for home
31 detention may subject the offender to prosecution for the crime of
32 escape under IC 35-44.1-3-4.

33 (3) A requirement that the offender abide by a schedule prepared
34 by the probation department, or by a community corrections
35 program ordered to provide supervision of the offender's home
36 detention, specifically setting forth the times when the offender
37 may be absent from the offender's home and the locations the
38 offender is allowed to be during the scheduled absences.

39 (4) A requirement that the offender is not to commit another
40 crime during the period of home detention ordered by the court.

41 (5) A requirement that the offender obtain approval from the
42 probation department or from a community corrections program



1 ordered to provide supervision of the offender's home detention
2 before the offender changes residence or the schedule described
3 in subdivision (3).

4 (6) A requirement that the offender maintain:

5 (A) a working telephone in the offender's home; and

6 (B) if ordered by the court, a monitoring device in the
7 offender's home or on the offender's person, or both.

8 (7) A requirement that the offender pay a home detention fee set
9 by the court in addition to the probation user's fee required under
10 IC 35-38-2-1 or IC 31-40. However, the fee set under this
11 subdivision may not exceed the maximum fee specified by the
12 department of correction under IC 11-12-2-12.

13 (8) A requirement that the offender abide by other conditions of
14 probation set by the court under IC 35-38-2-2.3.

15 (9) A requirement that an offender:

16 (A) who is ~~convicted of an offense described in IC 10-13-6-10;~~
17 **IC 10-13-6-10(a);**

18 (B) who has not previously provided a DNA sample in
19 accordance with IC 10-13-6; and

20 (C) whose sentence does not involve a commitment to the
21 department of correction;

22 provide a DNA sample.

23 SECTION 11. IC 35-38-2.6-3, AS AMENDED BY P.L.179-2015,
24 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2017]: Sec. 3. (a) The court may, at the time of sentencing,
26 suspend the sentence and order a person to be placed in a community
27 corrections program as an alternative to commitment to the department
28 of correction. The court may impose reasonable terms on the placement
29 or require the director of the community corrections program to impose
30 reasonable terms on the placement. A court shall require a person:

31 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
32 **IC 10-13-6-10(a);**

33 (2) who has not previously provided a DNA sample in accordance
34 with IC 10-13-6; and

35 (3) whose sentence does not involve a commitment to the
36 department of correction;

37 to provide a DNA sample as a term of placement.

38 (b) Placement in a community corrections program under this
39 chapter is subject to the availability of residential beds or home
40 detention units in a community corrections program.

41 (c) A person placed under this chapter is responsible for the person's
42 own medical care while in the placement program.



- 1 (d) Placement under this chapter is subject to the community
- 2 corrections program receiving a written presentence report or
- 3 memorandum from a county probation agency.

