

# SENATE BILL No. 114

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-30; IC 16-31-3-14; IC 16-42-27-2; IC 22-15-5-16; IC 25-1-1.1-2; IC 35-38-2; IC 35-46-9-6; IC 35-48-4-11.

**Synopsis:** Marijuana and THC. Removes provisions making the operation of a vehicle or motorboat with a metabolite of THC in the person's body (without proof of intoxication) an offense. Reduces the penalty for possession of marijuana, hashish, hash oil, and salvia to: (1) a Class C infraction for a first offense; (2) a Class C misdemeanor for a second or subsequent offense; and (3) a Class A misdemeanor for a second or subsequent offense if the person possesses more than a specified amount. Reduces the penalty for possession of marijuana, hashish, hash oil, or salvia packaged in a container labeled as containing low THC hemp extract to a Class C misdemeanor. Provides that a person's probation may not be revoked solely on the basis that the person tested positive for marijuana or a metabolite of marijuana. Makes conforming amendments.

**Effective:** July 1, 2020.

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January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.

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Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## SENATE BILL No. 114

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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 9-30-5-1, AS AMENDED BY P.L.63-2018,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 1. (a) A person who operates a vehicle with an  
4 alcohol concentration equivalent to at least eight-hundredths (0.08)  
5 gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol  
6 per:  
7 (1) one hundred (100) milliliters of the person's blood; or  
8 (2) two hundred ten (210) liters of the person's breath;  
9 commits a Class C misdemeanor.  
10 (b) A person who operates a vehicle with an alcohol concentration  
11 equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:  
12 (1) one hundred (100) milliliters of the person's blood; or  
13 (2) two hundred ten (210) liters of the person's breath;  
14 commits a Class A misdemeanor.  
15 (c) A person who operates a vehicle with a controlled substance  
16 listed in schedule I or II of IC 35-48-2 or its metabolite (**other than a**  
17 **metabolite of THC**) in the person's body commits a Class C



1 misdemeanor.

2 (d) It is a defense to subsection (c) that the accused person  
3 consumed the controlled substance in accordance with a valid  
4 prescription or order of a practitioner (as defined in IC 35-48-1) who  
5 acted in the course of the practitioner's professional practice.

6 SECTION 2. IC 9-30-5-4, AS AMENDED BY P.L.184-2019,  
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2020]: Sec. 4. (a) A person who causes serious bodily injury  
9 to another person when operating a vehicle:

10 (1) with an alcohol concentration equivalent to at least  
11 eight-hundredths (0.08) gram of alcohol per:

12 (A) one hundred (100) milliliters of the person's blood; or

13 (B) two hundred ten (210) liters of the person's breath;

14 (2) with a controlled substance listed in schedule I or II of  
15 IC 35-48-2 or its metabolite (**other than a metabolite of THC**)  
16 in the person's blood; or

17 (3) while intoxicated;

18 commits a Level 5 felony. However, the offense is a Level 4 felony if  
19 the person has a previous conviction of operating while intoxicated  
20 within the five (5) years preceding the commission of the offense.

21 (b) A person who violates subsection (a) commits a separate offense  
22 for each person whose serious bodily injury is caused by the violation  
23 of subsection (a).

24 (c) It is a defense under subsection (a)(2) that the accused person  
25 consumed the controlled substance in accordance with a valid  
26 prescription or order of a practitioner (as defined in IC 35-48-1) who  
27 acted in the course of the practitioner's professional practice.

28 SECTION 3. IC 9-30-5-5, AS AMENDED BY P.L.184-2019,  
29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2020]: Sec. 5. (a) A person who causes the death or  
31 catastrophic injury of another person when operating a vehicle:

32 (1) with an alcohol concentration equivalent to at least  
33 eight-hundredths (0.08) gram of alcohol per:

34 (A) one hundred (100) milliliters of the person's blood; or

35 (B) two hundred ten (210) liters of the person's breath;

36 (2) with a controlled substance listed in schedule I or II of  
37 IC 35-48-2 or its metabolite (**other than a metabolite of THC**)  
38 in the person's blood; or

39 (3) while intoxicated;

40 commits a Level 4 felony.

41 (b) A person who causes the death of a law enforcement animal (as  
42 defined in IC 35-46-3-4.5) when operating a vehicle:



1 (1) with an alcohol concentration equivalent to at least  
2 eight-hundredths (0.08) gram of alcohol per:

3 (A) one hundred (100) milliliters of the person's blood; or

4 (B) two hundred ten (210) liters of the person's breath; or

5 (2) with a controlled substance listed in schedule I or II of  
6 IC 35-48-2 or its metabolite (**other than a metabolite of THC**)  
7 in the person's blood;

8 commits a Level 6 felony.

9 (c) A person who commits an offense under subsection (a) or (b)  
10 commits a separate offense for each person or law enforcement animal  
11 whose death (or catastrophic injury, in the case of a person) is caused  
12 by the violation of subsection (a) or (b).

13 (d) It is a defense under subsection (a) or (b) that the person accused  
14 of causing the death or catastrophic injury of another person or the  
15 death of a law enforcement animal when operating a vehicle with a  
16 controlled substance listed in schedule I or II of IC 35-48-2 or its  
17 metabolite in the person's blood consumed the controlled substance in  
18 accordance with a valid prescription or order of a practitioner (as  
19 defined in IC 35-48-1) who acted in the course of the practitioner's  
20 professional practice.

21 SECTION 4. IC 9-30-15.5-1, AS AMENDED BY P.L.198-2016,  
22 SECTION 606, IS AMENDED TO READ AS FOLLOWS  
23 [EFFECTIVE JULY 1, 2020]: Sec. 1. As used in this chapter,  
24 "vehicular substance offense" means any misdemeanor or felony in  
25 which operation of a vehicle while intoxicated, operation of a vehicle  
26 in excess of the statutory limit for alcohol, or operation of a vehicle  
27 with a controlled substance or its metabolite (**other than a metabolite**  
28 **of THC**) in the person's body is a material element. The term includes  
29 an offense under IC 9-30-5, IC 9-24-6-15 (before its repeal),  
30 IC 9-24-6.1-7, and IC 9-11-2 (before its repeal).

31 SECTION 5. IC 16-31-3-14, AS AMENDED BY P.L.80-2019,  
32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2020]: Sec. 14. (a) A person holding a certificate or license  
34 issued under this article must comply with the applicable standards and  
35 rules established under this article. A certificate holder or license  
36 holder is subject to disciplinary sanctions under subsection (b) if the  
37 department of homeland security determines that the certificate holder  
38 or license holder:

39 (1) engaged in or knowingly cooperated in fraud or material  
40 deception in order to obtain a certificate or license, including  
41 cheating on a certification or licensure examination;

42 (2) engaged in fraud or material deception in the course of



- 1 professional services or activities;
- 2 (3) advertised services or goods in a false or misleading manner;
- 3 (4) falsified or knowingly allowed another person to falsify
- 4 attendance records or certificates of completion of continuing
- 5 education courses required under this article or rules adopted
- 6 under this article;
- 7 (5) is convicted of a crime, if the act that resulted in the
- 8 conviction has a direct bearing on determining if the certificate
- 9 holder or license holder should be entrusted to provide emergency
- 10 medical services;
- 11 (6) is convicted of violating IC 9-19-14.5;
- 12 (7) fails to comply and maintain compliance with or violates any
- 13 applicable provision, standard, or other requirement of this article
- 14 or rules adopted under this article;
- 15 (8) continues to practice if the certificate holder or license holder
- 16 becomes unfit to practice due to:
- 17 (A) professional incompetence that includes the undertaking
- 18 of professional activities that the certificate holder or license
- 19 holder is not qualified by training or experience to undertake;
- 20 (B) failure to keep abreast of current professional theory or
- 21 practice;
- 22 (C) physical or mental disability; or
- 23 (D) addiction to, abuse of, or dependency on alcohol or other
- 24 drugs that endanger the public by impairing the certificate
- 25 holder's or license holder's ability to practice safely;
- 26 (9) engages in a course of lewd or immoral conduct in connection
- 27 with the delivery of services to the public;
- 28 (10) allows the certificate holder's or license holder's name or a
- 29 certificate or license issued under this article to be used in
- 30 connection with a person who renders services beyond the scope
- 31 of that person's training, experience, or competence;
- 32 (11) is subjected to disciplinary action in another state or
- 33 jurisdiction on grounds similar to those contained in this chapter.
- 34 For purposes of this subdivision, a certified copy of a record of
- 35 disciplinary action constitutes prima facie evidence of a
- 36 disciplinary action in another jurisdiction;
- 37 (12) assists another person in committing an act that would
- 38 constitute a ground for disciplinary sanction under this chapter;
- 39 or
- 40 (13) allows a certificate or license issued by the commission to
- 41 be:
- 42 (A) used by another person; or



- 1 (B) displayed to the public when the certificate or license is  
2 expired, inactive, invalid, revoked, or suspended.
- 3 (b) The department of homeland security may issue an order under  
4 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if  
5 the department of homeland security determines that a certificate  
6 holder or license holder is subject to disciplinary sanctions under  
7 subsection (a):
- 8 (1) Revocation of a certificate holder's certificate or license  
9 holder's license for a period not to exceed seven (7) years.
- 10 (2) Suspension of a certificate holder's certificate or license  
11 holder's license for a period not to exceed seven (7) years.
- 12 (3) Censure of a certificate holder or license holder.
- 13 (4) Issuance of a letter of reprimand.
- 14 (5) Assessment of a civil penalty against the certificate holder or  
15 license holder in accordance with the following:
- 16 (A) The civil penalty may not exceed five hundred dollars  
17 (\$500) per day per violation.
- 18 (B) If the certificate holder or license holder fails to pay the  
19 civil penalty within the time specified by the department of  
20 homeland security, the department of homeland security may  
21 suspend the certificate holder's certificate or license holder's  
22 license without additional proceedings.
- 23 (6) Placement of a certificate holder or license holder on  
24 probation status and requirement of the certificate holder or  
25 license holder to:
- 26 (A) report regularly to the department of homeland security  
27 upon the matters that are the basis of probation;
- 28 (B) limit practice to those areas prescribed by the department  
29 of homeland security;
- 30 (C) continue or renew professional education approved by the  
31 department of homeland security until a satisfactory degree of  
32 skill has been attained in those areas that are the basis of the  
33 probation; or
- 34 (D) perform or refrain from performing any acts, including  
35 community restitution or service without compensation, that  
36 the department of homeland security considers appropriate to  
37 the public interest or to the rehabilitation or treatment of the  
38 certificate holder or license holder.
- 39 The department of homeland security may withdraw or modify  
40 this probation if the department of homeland security finds after  
41 a hearing that the deficiency that required disciplinary action is  
42 remedied or that changed circumstances warrant a modification



1 of the order.

2 (c) If an applicant or a certificate holder or license holder has  
3 engaged in or knowingly cooperated in fraud or material deception to  
4 obtain a certificate or license, including cheating on the certification or  
5 licensure examination, the department of homeland security may  
6 rescind the certificate or license if it has been granted, void the  
7 examination or other fraudulent or deceptive material, and prohibit the  
8 applicant from reapplying for the certificate or license for a length of  
9 time established by the department of homeland security.

10 (d) The department of homeland security may deny certification or  
11 licensure to an applicant who would be subject to disciplinary sanctions  
12 under subsection (b) if that person were a certificate holder or license  
13 holder, has had disciplinary action taken against the applicant or the  
14 applicant's certificate or license to practice in another state or  
15 jurisdiction, or has practiced without a certificate or license in violation  
16 of the law. A certified copy of the record of disciplinary action is  
17 conclusive evidence of the other jurisdiction's disciplinary action.

18 (e) The department of homeland security may order a certificate  
19 holder or license holder to submit to a reasonable physical or mental  
20 examination if the certificate holder's or license holder's physical or  
21 mental capacity to practice safely and competently is at issue in a  
22 disciplinary proceeding. Failure to comply with a department of  
23 homeland security order to submit to a physical or mental examination  
24 makes a certificate holder or license holder liable to temporary  
25 suspension under subsection (i).

26 (f) Except as provided under subsection (a), subsection (g), and  
27 section 14.5 of this chapter, a certificate or license may not be denied,  
28 revoked, or suspended because the applicant, certificate holder, or  
29 license holder has been convicted of an offense. The acts from which  
30 the applicant's, certificate holder's, or license holder's conviction  
31 resulted may be considered as to whether the applicant or certificate  
32 holder or license holder should be entrusted to serve the public in a  
33 specific capacity.

34 (g) The department of homeland security may deny, suspend, or  
35 revoke a certificate or license issued under this article if the individual  
36 who holds or is applying for the certificate or license is convicted of  
37 any of the following:

- 38 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.  
39 (2) Possession of methamphetamine under IC 35-48-4-6.1.  
40 (3) Possession of a controlled substance under IC 35-48-4-7(a).  
41 (4) Fraudulently obtaining a controlled substance under  
42 IC 35-48-4-7(c).



- 1 (5) Manufacture of paraphernalia as a Class D felony (for a crime  
2 committed before July 1, 2014) or Level 6 felony (for a crime  
3 committed after June 30, 2014) under IC 35-48-4-8.1(b).
- 4 (6) Dealing in paraphernalia as a Class D felony (for a crime  
5 committed before July 1, 2014) or Level 6 felony (for a crime  
6 committed after June 30, 2014) under IC 35-48-4-8.5(b).
- 7 (7) Possession of paraphernalia as a Class D felony (for a crime  
8 committed before July 1, 2014) or Level 6 felony (for a crime  
9 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before  
10 its amendment on July 1, 2015).
- 11 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class  
12 D felony (for a crime committed before July 1, 2014) or Level 6  
13 felony (for a crime committed after June 30, 2014, **and before**  
14 **July 1, 2020**) under IC 35-48-4-11.
- 15 (9) A felony offense under IC 35-48-4 involving:  
16 (A) possession of a synthetic drug (as defined in  
17 IC 35-31.5-2-321);  
18 (B) possession of a synthetic drug lookalike substance (as  
19 defined in IC 35-31.5-2-321.5 (before its repeal on July 1,  
20 2019)) as a:  
21 (i) Class D felony (for a crime committed before July 1,  
22 2014); or  
23 (ii) Level 6 felony (for a crime committed after June 30,  
24 2014);  
25 under IC 35-48-4-11.5 (before its repeal on July 1, 2019); or  
26 (C) possession of a controlled substance analog (as defined in  
27 IC 35-48-1-9.3).
- 28 (10) Maintaining a common nuisance under IC 35-48-4-13  
29 (repealed) or IC 35-45-1-5, if the common nuisance involves a  
30 controlled substance.
- 31 (11) An offense relating to registration, labeling, and prescription  
32 forms under IC 35-48-4-14.
- 33 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed  
34 in this section.
- 35 (13) Attempt under IC 35-41-5-1 to commit an offense listed in  
36 this section.
- 37 (14) An offense in any other jurisdiction in which the elements of  
38 the offense for which the conviction was entered are substantially  
39 similar to the elements of an offense described in this section.
- 40 (h) A decision of the department of homeland security under  
41 subsections (b) through (g) may be appealed to the commission under  
42 IC 4-21.5-3-7.





1 (i) The department of homeland security may temporarily suspend  
2 a certificate holder's certificate or license holder's license under  
3 IC 4-21.5-4 before a final adjudication or during the appeals process if  
4 the department of homeland security finds that a certificate holder or  
5 license holder would represent a clear and immediate danger to the  
6 public's health, safety, or property if the certificate holder or license  
7 holder were allowed to continue to practice.

8 (j) On receipt of a complaint or information alleging that a person  
9 certified or licensed under this chapter or IC 16-31-3.5 has engaged in  
10 or is engaging in a practice that is subject to disciplinary sanctions  
11 under this chapter, the department of homeland security must initiate  
12 an investigation against the person.

13 (k) The department of homeland security shall conduct a factfinding  
14 investigation as the department of homeland security considers proper  
15 in relation to the complaint.

16 (l) The department of homeland security may reinstate a certificate  
17 or license that has been suspended under this section if the department  
18 of homeland security is satisfied that the applicant is able to practice  
19 with reasonable skill, competency, and safety to the public. As a  
20 condition of reinstatement, the department of homeland security may  
21 impose disciplinary or corrective measures authorized under this  
22 chapter.

23 (m) The department of homeland security may not reinstate a  
24 certificate or license that has been revoked under this chapter.

25 (n) The department of homeland security must be consistent in the  
26 application of sanctions authorized in this chapter. Significant  
27 departures from prior decisions involving similar conduct must be  
28 explained in the department of homeland security's findings or orders.

29 (o) A certificate holder may not surrender the certificate holder's  
30 certificate, and a license holder may not surrender the license holder's  
31 license, without the written approval of the department of homeland  
32 security, and the department of homeland security may impose any  
33 conditions appropriate to the surrender or reinstatement of a  
34 surrendered certificate or license.

35 (p) For purposes of this section, "certificate holder" means a person  
36 who holds:

- 37 (1) an unlimited certificate;  
38 (2) a limited or probationary certificate; or  
39 (3) an inactive certificate.

40 (q) For purposes of this section, "license holder" means a person  
41 who holds:

- 42 (1) an unlimited license;



1 (2) a limited or probationary license; or

2 (3) an inactive license.

3 SECTION 6. IC 16-42-27-2, AS AMENDED BY P.L.80-2019,  
4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2020]: Sec. 2. (a) A prescriber may, directly or by standing  
6 order, prescribe or dispense an overdose intervention drug without  
7 examining the individual to whom it may be administered if all of the  
8 following conditions are met:

9 (1) The overdose intervention drug is dispensed or prescribed to:

10 (A) a person at risk of experiencing an opioid-related  
11 overdose; or

12 (B) a family member, a friend, or any other individual or entity  
13 in a position to assist an individual who, there is reason to  
14 believe, is at risk of experiencing an opioid-related overdose.

15 (2) The prescriber instructs the individual receiving the overdose  
16 intervention drug or prescription to summon emergency services  
17 either immediately before or immediately after administering the  
18 overdose intervention drug to an individual experiencing an  
19 opioid-related overdose.

20 (3) The prescriber provides education and training on drug  
21 overdose response and treatment, including the administration of  
22 an overdose intervention drug.

23 (4) The prescriber provides drug addiction treatment information  
24 and referrals to drug treatment programs, including programs in  
25 the local area and programs that offer medication assisted  
26 treatment that includes a federal Food and Drug Administration  
27 approved long acting, nonaddictive medication for the treatment  
28 of opioid or alcohol dependence.

29 (b) A prescriber may provide a prescription of an overdose  
30 intervention drug to an individual as a part of the individual's addiction  
31 treatment plan.

32 (c) An individual described in subsection (a)(1) may administer an  
33 overdose intervention drug to an individual who is suffering from an  
34 overdose.

35 (d) An individual described in subsection (a)(1) may not be  
36 considered to be practicing medicine without a license in violation of  
37 IC 25-22.5-8-2, if the individual, acting in good faith, does the  
38 following:

39 (1) Obtains the overdose intervention drug from a prescriber or  
40 entity acting under a standing order issued by a prescriber.

41 (2) Administers the overdose intervention drug to an individual  
42 who is experiencing an apparent opioid-related overdose.



- 1 (3) Attempts to summon emergency services either immediately  
 2 before or immediately after administering the overdose  
 3 intervention drug.
- 4 (e) An entity acting under a standing order issued by a prescriber  
 5 must do the following:
- 6 (1) Annually register with either the:
- 7 (A) state department; or  
 8 (B) local health department in the county where services will  
 9 be provided by the entity;  
 10 in a manner prescribed by the state department.
- 11 (2) Provide education and training on drug overdose response and  
 12 treatment, including the administration of an overdose  
 13 intervention drug.
- 14 (3) Provide drug addiction treatment information and referrals to  
 15 drug treatment programs, including programs in the local area and  
 16 programs that offer medication assisted treatment that includes a  
 17 federal Food and Drug Administration approved long acting,  
 18 nonaddictive medication for the treatment of opioid or alcohol  
 19 dependence.
- 20 (4) Submit an annual report to the state department containing:
- 21 (A) the number of sales of the overdose intervention drug  
 22 dispensed;  
 23 (B) the dates of sale of the overdose intervention drug  
 24 dispensed; and  
 25 (C) any additional information requested by the state  
 26 department.
- 27 (f) The state department shall ensure that a statewide standing order  
 28 for the dispensing of an overdose intervention drug in Indiana is issued  
 29 under this section. The state health commissioner or a designated  
 30 public health authority who is a licensed prescriber may, as part of the  
 31 individual's official capacity, issue a statewide standing order that may  
 32 be used for the dispensing of an overdose intervention drug under this  
 33 section. The immunity provided in IC 34-13-3-3 applies to an  
 34 individual described in this subsection.
- 35 (g) A law enforcement officer may not take an individual into  
 36 custody based solely on the commission of an offense described in  
 37 subsection (h), if the law enforcement officer, after making a  
 38 reasonable determination and considering the facts and surrounding  
 39 circumstances, reasonably believes that the individual:
- 40 (1) obtained the overdose intervention drug as described in  
 41 subsection (a)(1);  
 42 (2) complied with the provisions in subsection (d);



1 (3) administered an overdose intervention drug to an individual  
 2 who appeared to be experiencing an opioid-related overdose;

3 (4) provided:

4 (A) the individual's full name; and

5 (B) any other relevant information requested by the law  
 6 enforcement officer;

7 (5) remained at the scene with the individual who reasonably  
 8 appeared to be in need of medical assistance until emergency  
 9 medical assistance arrived;

10 (6) cooperated with emergency medical assistance personnel and  
 11 law enforcement officers at the scene; and

12 (7) came into contact with law enforcement because the  
 13 individual requested emergency medical assistance for another  
 14 individual who appeared to be experiencing an opioid-related  
 15 overdose.

16 (h) An individual who meets the criteria in subsection (g) is immune  
 17 from criminal prosecution for the following:

18 (1) IC 35-48-4-6 (possession of cocaine).

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

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

21 (4) IC 35-48-4-8.3 (possession of paraphernalia).

22 (5) IC 35-48-4-11 (possession of marijuana).

23 (6) An offense under IC 35-48-4 involving possession of a  
 24 synthetic drug (as defined in IC 35-31.5-2-321), possession of a  
 25 controlled substance analog (as defined in IC 35-48-1-9.3), or  
 26 possession of a substance represented to be a controlled substance  
 27 (as described in IC 35-48-4-4.6).

28 **(i) An individual who meets the criteria in subsection (g) is**  
 29 **immune from prosecution for an infraction for a violation of**  
 30 **IC 35-48-4-11 (possession of marijuana).**

31 SECTION 7. IC 22-15-5-16, AS AMENDED BY P.L.80-2019,  
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2020]: Sec. 16. (a) A practitioner shall comply with the  
 34 standards established under this licensing program. A practitioner is  
 35 subject to the exercise of the disciplinary sanctions under subsection  
 36 (b) if the department finds that a practitioner has:

37 (1) engaged in or knowingly cooperated in fraud or material  
 38 deception in order to obtain a license to practice, including  
 39 cheating on a licensing examination;

40 (2) engaged in fraud or material deception in the course of  
 41 professional services or activities;

42 (3) advertised services or goods in a false or misleading manner;



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



- 1 (4) Issuance of a letter of reprimand.
- 2 (5) Assessment of a civil penalty against the practitioner in  
3 accordance with the following:
- 4 (A) The civil penalty may not be more than one thousand  
5 dollars (\$1,000) for each violation listed in subsection (a),  
6 except for a finding of incompetency due to a physical or  
7 mental disability.
- 8 (B) When imposing a civil penalty, the department shall  
9 consider a practitioner's ability to pay the amount assessed. If  
10 the practitioner fails to pay the civil penalty within the time  
11 specified by the department, the department may suspend the  
12 practitioner's license without additional proceedings. However,  
13 a suspension may not be imposed if the sole basis for the  
14 suspension is the practitioner's inability to pay a civil penalty.
- 15 (6) Placement of a practitioner on probation status and  
16 requirement of the practitioner to:
- 17 (A) report regularly to the department upon the matters that  
18 are the basis of probation;
- 19 (B) limit practice to those areas prescribed by the department;
- 20 (C) continue or renew professional education approved by the  
21 department until a satisfactory degree of skill has been attained  
22 in those areas that are the basis of the probation; or
- 23 (D) perform or refrain from performing any acts, including  
24 community restitution or service without compensation, that  
25 the department considers appropriate to the public interest or  
26 to the rehabilitation or treatment of the practitioner.
- 27 The department may withdraw or modify this probation if the  
28 department finds after a hearing that the deficiency that required  
29 disciplinary action has been remedied or that changed  
30 circumstances warrant a modification of the order.
- 31 (c) If an applicant or a practitioner has engaged in or knowingly  
32 cooperated in fraud or material deception to obtain a license to  
33 practice, including cheating on the licensing examination, the  
34 department may rescind the license if it has been granted, void the  
35 examination or other fraudulent or deceptive material, and prohibit the  
36 applicant from reapplying for the license for a length of time  
37 established by the department.
- 38 (d) The department may deny licensure to an applicant who has had  
39 disciplinary action taken against the applicant or the applicant's license  
40 to practice in another state or jurisdiction or who has practiced without  
41 a license in violation of the law. A certified copy of the record of  
42 disciplinary action is conclusive evidence of the other jurisdiction's



1 disciplinary action.

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

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

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

- 17 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.  
18 (2) Possession of methamphetamine under IC 35-48-4-6.1.  
19 (3) Possession of a controlled substance under IC 35-48-4-7(a).  
20 (4) Fraudulently obtaining a controlled substance under  
21 IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or  
22 IC 35-48-4-7(c) (for a crime committed after June 30, 2014).  
23 (5) Manufacture of paraphernalia as a Class D felony (for a crime  
24 committed before July 1, 2014) or a Level 6 felony (for a crime  
25 committed after June 30, 2014) under IC 35-48-4-8.1(b).  
26 (6) Dealing in paraphernalia as a Class D felony (for a crime  
27 committed before July 1, 2014) or a Level 6 felony (for a crime  
28 committed after June 30, 2014) under IC 35-48-4-8.5(b).  
29 (7) Possession of paraphernalia as a Class D felony (for a crime  
30 committed before July 1, 2014) or a Level 6 felony (for a crime  
31 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before  
32 its amendment on July 1, 2015).  
33 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class  
34 D felony (for a crime committed before July 1, 2014) or a Level  
35 6 felony (for a crime committed after June 30, 2014, **and before**  
36 **July 1, 2020**) under IC 35-48-4-11.  
37 (9) A felony offense under IC 35-48-4 involving possession of a  
38 synthetic drug (as defined in IC 35-31.5-2-321), possession of a  
39 controlled substance analog (as defined in IC 35-48-1-9.3), or  
40 possession of a synthetic drug lookalike substance (as defined in  
41 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) as a:  
42 (A) Class D felony for a crime committed before July 1, 2014;



- 1                   or
- 2                   (B) Level 6 felony for a crime committed after June 30, 2014;
- 3                   under IC 35-48-4-11.5 (before its repeal on July 1, 2019).
- 4                   (10) Maintaining a common nuisance under IC 35-48-4-13
- 5                   (repealed) or IC 35-45-1-5, if the common nuisance involves a
- 6                   controlled substance.
- 7                   (11) An offense relating to registration, labeling, and prescription
- 8                   forms under IC 35-48-4-14.
- 9                   (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 10                  in this subsection.
- 11                  (13) Attempt under IC 35-41-5-1 to commit an offense listed in
- 12                  this subsection.
- 13                  (14) An offense in any other jurisdiction in which the elements of
- 14                  the offense for which the conviction was entered are substantially
- 15                  similar to the elements of an offense described in this subsection.
- 16                  (h) The department shall deny, revoke, or suspend a license issued
- 17                  under this chapter if the individual who holds the license is convicted
- 18                  of any of the following:
- 19                   (1) Dealing in a controlled substance resulting in death under
- 20                   IC 35-42-1-1.5.
- 21                   (2) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
- 22                   (3) Dealing in methamphetamine under IC 35-48-4-1.1.
- 23                   (4) Manufacturing methamphetamine under IC 35-48-4-1.2.
- 24                   (5) Dealing in a schedule I, II, or III controlled substance under
- 25                   IC 35-48-4-2.
- 26                   (6) Dealing in a schedule IV controlled substance under
- 27                   IC 35-48-4-3.
- 28                   (7) Dealing in a schedule V controlled substance under
- 29                   IC 35-48-4-4.
- 30                   (8) Dealing in a substance represented to be a controlled
- 31                   substance under IC 35-48-4-4.5 (repealed).
- 32                   (9) Knowingly or intentionally manufacturing, advertising,
- 33                   distributing, or possessing with intent to manufacture, advertise,
- 34                   or distribute a substance represented to be a controlled substance
- 35                   under IC 35-48-4-4.6.
- 36                   (10) Dealing in a counterfeit substance under IC 35-48-4-5.
- 37                   (11) Dealing in marijuana, hash oil, hashish, or salvia as a felony
- 38                   under IC 35-48-4-10.
- 39                   (12) An offense under IC 35-48-4 involving the manufacture or
- 40                   sale of a synthetic drug (as defined in IC 35-31.5-2-321), a
- 41                   synthetic drug lookalike substance (as defined in
- 42                   IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under





- 1 IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled  
2 substance analog (as defined in IC 35-48-1-9.3), or a substance  
3 represented to be a controlled substance (as described in  
4 IC 35-48-4-4.6).
- 5 (13) Conspiracy under IC 35-41-5-2 to commit an offense listed  
6 in this subsection.
- 7 (14) Attempt under IC 35-41-5-1 to commit an offense listed in  
8 this subsection.
- 9 (15) An offense in any other jurisdiction in which the elements of  
10 the offense for which the conviction was entered are substantially  
11 similar to the elements of an offense described in this subsection.
- 12 (16) A violation of any federal or state drug law or rule related to  
13 wholesale legend drug distributors licensed under IC 25-26-14.
- 14 (i) A decision of the department under subsections (b) through (h)  
15 may be appealed to the commission under IC 4-21.5-3-7.
- 16 (j) The department may temporarily suspend a practitioner's license  
17 under IC 4-21.5-4 before a final adjudication or during the appeals  
18 process if the department finds that a practitioner represents a clear and  
19 immediate danger to the public's health, safety, or property if the  
20 practitioner is allowed to continue to practice.
- 21 (k) On receipt of a complaint or an information alleging that a  
22 person licensed under this chapter has engaged in or is engaging in a  
23 practice that jeopardizes the public health, safety, or welfare, the  
24 department shall initiate an investigation against the person.
- 25 (l) Any complaint filed with the office of the attorney general  
26 alleging a violation of this licensing program shall be referred to the  
27 department for summary review and for its general information and any  
28 authorized action at the time of the filing.
- 29 (m) The department shall conduct a fact finding investigation as the  
30 department considers proper in relation to the complaint.
- 31 (n) The department may reinstate a license that has been suspended  
32 under this section if, after a hearing, the department is satisfied that the  
33 applicant is able to practice with reasonable skill, safety, and  
34 competency to the public. As a condition of reinstatement, the  
35 department may impose disciplinary or corrective measures authorized  
36 under this chapter.
- 37 (o) The department may not reinstate a license that has been  
38 revoked under this chapter. An individual whose license has been  
39 revoked under this chapter may not apply for a new license until seven  
40 (7) years after the date of revocation.
- 41 (p) The department shall seek to achieve consistency in the  
42 application of sanctions authorized in this chapter. Significant



1 departures from prior decisions involving similar conduct must be  
2 explained in the department's findings or orders.

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

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

- 15 (1) Court reporters.
- 16 (2) Transcripts.
- 17 (3) Certification of documents.
- 18 (4) Photo duplication.
- 19 (5) Witness attendance and mileage fees.
- 20 (6) Postage.
- 21 (7) Expert witnesses.
- 22 (8) Depositions.
- 23 (9) Notarizations.

24 SECTION 8. IC 25-1-1.1-2, AS AMENDED BY P.L.80-2019,  
25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2020]: Sec. 2. Notwithstanding IC 25-1-7, a board, a  
27 commission, or a committee may suspend, deny, or revoke a license or  
28 certificate issued under this title by the board, the commission, or the  
29 committee without an investigation by the office of the attorney general  
30 if the individual who holds the license or certificate is convicted of any  
31 of the following and the board, commission, or committee determines,  
32 after the individual has appeared in person, that the offense affects the  
33 individual's ability to perform the duties of the profession:

- 34 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 35 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 36 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 37 (4) Fraudulently obtaining a controlled substance under  
38 IC 35-48-4-7(c).
- 39 (5) Manufacture of paraphernalia as a Class D felony (for a crime  
40 committed before July 1, 2014) or a Level 6 felony (for a crime  
41 committed after June 30, 2014) under IC 35-48-4-8.1(b).
- 42 (6) Dealing in paraphernalia as a Class D felony (for a crime



- 1 committed before July 1, 2014) or a Level 6 felony (for a crime  
 2 committed after June 30, 2014) under IC 35-48-4-8.5(b).
- 3 (7) Possession of paraphernalia as a Class D felony (for a crime  
 4 committed before July 1, 2014) or a Level 6 felony (for a crime  
 5 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before  
 6 its amendment on July 1, 2015).
- 7 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class  
 8 D felony (for a crime committed before July 1, 2014) or a Level  
 9 6 felony (for a crime committed after June 30, 2014, **and before**  
 10 **July 1, 2020**) under IC 35-48-4-11.
- 11 (9) A felony offense under IC 35-48-4 involving possession of a  
 12 synthetic drug (as defined in IC 35-31.5-2-321), possession of a  
 13 controlled substance analog (as defined in IC 35-48-1-9.3), or  
 14 possession of a synthetic drug lookalike substance (as defined in  
 15 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) as a:  
 16 (A) Class D felony for a crime committed before July 1, 2014;  
 17 or  
 18 (B) Level 6 felony for a crime committed after June 30, 2014;  
 19 under IC 35-48-4-11.5 (before its repeal on July 1, 2019).
- 20 (10) Maintaining a common nuisance under IC 35-48-4-13  
 21 (repealed) or IC 35-45-1-5, if the common nuisance involves a  
 22 controlled substance.
- 23 (11) An offense relating to registration, labeling, and prescription  
 24 forms under IC 35-48-4-14.
- 25 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed  
 26 in this section.
- 27 (13) Attempt under IC 35-41-5-1 to commit an offense listed in  
 28 this section.
- 29 (14) A sex crime under IC 35-42-4.
- 30 (15) A felony that reflects adversely on the individual's fitness to  
 31 hold a professional license.
- 32 (16) An offense in any other jurisdiction in which the elements of  
 33 the offense for which the conviction was entered are substantially  
 34 similar to the elements of an offense described in this section.
- 35 SECTION 9. IC 35-38-2-2.3, AS AMENDED BY P.L.161-2018,  
 36 SECTION 123, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2020]: Sec. 2.3. (a) As a condition of probation,  
 38 the court may require a person to do a combination of the following:  
 39 (1) Work faithfully at suitable employment or faithfully pursue a  
 40 course of study or career and technical education that will equip  
 41 the person for suitable employment.  
 42 (2) Undergo available medical or psychiatric treatment and



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



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



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



1 department of correction;  
2 to provide a DNA sample as a condition of probation.

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

8 **(i) If a court imposes a condition of probation described in**  
9 **subsection (a)(20), the court may not revoke the person's probation**  
10 **solely on the basis that the person tested positive for marijuana or**  
11 **a metabolite of marijuana.**

12 SECTION 10. IC 35-38-2-3, AS AMENDED BY P.L.74-2015,  
13 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2020]: Sec. 3. (a) The court may revoke a person's probation  
15 if:

16 (1) the person has violated a condition of probation during the  
17 probationary period; and

18 (2) the petition to revoke probation is filed during the  
19 probationary period or before the earlier of the following:

20 (A) One (1) year after the termination of probation.

21 (B) Forty-five (45) days after the state receives notice of the  
22 violation.

23 (b) When a petition is filed charging a violation of a condition of  
24 probation, the court may:

25 (1) order a summons to be issued to the person to appear; or

26 (2) order a warrant for the person's arrest if there is a risk of the  
27 person's fleeing the jurisdiction or causing harm to others.

28 (c) The issuance of a summons or warrant tolls the period of  
29 probation until the final determination of the charge.

30 (d) Except as provided in subsection (e), the court shall conduct a  
31 hearing concerning the alleged violation. The court may admit the  
32 person to bail pending the hearing. A person who is not admitted to bail  
33 pending the hearing may not be held in jail for more than fifteen (15)  
34 days without a hearing on the alleged violation of probation.

35 (e) A person may admit to a violation of probation and waive the  
36 right to a probation violation hearing after being offered the  
37 opportunity to consult with an attorney. If the person admits to a  
38 violation and requests to waive the probation violation hearing, the  
39 probation officer shall advise the person that by waiving the right to a  
40 probation violation hearing the person forfeits the rights provided in  
41 subsection (f). The sanction administered must follow the schedule of  
42 progressive probation violation sanctions adopted by the judicial



1 conference of Indiana under IC 11-13-1-8.

2 (f) Except as provided in subsection (e), the state must prove the  
3 violation by a preponderance of the evidence. The evidence shall be  
4 presented in open court. The person is entitled to confrontation,  
5 cross-examination, and representation by counsel.

6 (g) Probation may not be revoked for failure to comply with  
7 conditions of a sentence that imposes financial obligations on the  
8 person unless the person recklessly, knowingly, or intentionally fails to  
9 pay.

10 (h) If the court finds that the person has violated a condition at any  
11 time before termination of the period, and the petition to revoke is filed  
12 within the probationary period, the court may impose one (1) or more  
13 of the following sanctions:

14 (1) Continue the person on probation, with or without modifying  
15 or enlarging the conditions.

16 (2) Extend the person's probationary period for not more than one  
17 (1) year beyond the original probationary period.

18 (3) Order execution of all or part of the sentence that was  
19 suspended at the time of initial sentencing.

20 (i) If the court finds that the person has violated a condition of home  
21 detention at any time before termination of the period, and the petition  
22 to revoke probation is filed within the probationary period, the court  
23 shall:

24 (1) order one (1) or more sanctions as set forth in subsection (h);  
25 and

26 (2) provide accrued time and good time credit, if applicable, as set  
27 forth under IC 35-38-2.5-5.

28 (j) If the court finds that the person has violated a condition during  
29 any time before the termination of the period, and the petition is filed  
30 under subsection (a) after the probationary period has expired, the court  
31 may:

32 (1) reinstate the person's probationary period, with or without  
33 enlarging the conditions, if the sum of the length of the original  
34 probationary period and the reinstated probationary period does  
35 not exceed the length of the maximum sentence allowable for the  
36 offense that is the basis of the probation; or

37 (2) order execution of all or part of the sentence that was  
38 suspended at the time of the initial sentencing.

39 (k) If the court finds that the person has violated a condition of  
40 home detention during any time before termination of the period, and  
41 the petition is filed under subsection (a) after the probation period has  
42 expired, the court shall:





- 1 (1) order a sanction as set forth in subsection (j); and  
 2 (2) provide accrued time and good time credit, if applicable, as set  
 3 forth under IC 35-38-2.5-5.  
 4 (l) A judgment revoking probation is a final appealable order.  
 5 (m) Failure to pay fines or costs (including fees) required as a  
 6 condition of probation may not be the sole basis for commitment to the  
 7 department of correction.  
 8 (n) Failure to pay fees or costs assessed against a person under  
 9 IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for  
 10 revocation of probation.  
 11 **(o) A positive result on a chemical test showing the presence of**  
 12 **marijuana or a metabolite of marijuana in the person's body or**  
 13 **blood may not be the sole basis for revocation of probation.**  
 14 SECTION 11. IC 35-46-9-6, AS AMENDED BY P.L.184-2019,  
 15 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2020]: Sec. 6. (a) Except as provided in subsections (b) and  
 17 (c), a person who operates a motorboat while:  
 18 (1) having an alcohol concentration equivalent (as defined in  
 19 IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol  
 20 per:  
 21 (A) one hundred (100) milliliters of the person's blood; or  
 22 (B) two hundred ten (210) liters of the person's breath;  
 23 (2) having a controlled substance listed in schedule I or II of  
 24 IC 35-48-2 or its metabolite (**other than a metabolite of THC**)  
 25 in the person's body; or  
 26 (3) intoxicated;  
 27 commits a Class C misdemeanor.  
 28 (b) The offense is a Level 6 felony if:  
 29 (1) the person has a previous conviction under:  
 30 (A) IC 14-1-5 (repealed);  
 31 (B) IC 14-15-8-8 (repealed); or  
 32 (C) this chapter; or  
 33 (2) the offense results in serious bodily injury to another person.  
 34 (c) The offense is a Level 5 felony if the offense results in the death  
 35 or catastrophic injury of another person.  
 36 (d) It is a defense to a prosecution under subsection (a)(2) that the  
 37 accused person consumed the controlled substance in accordance with  
 38 a valid prescription or order of a practitioner (as defined in  
 39 IC 35-48-1-24) who acted in the course of the practitioner's  
 40 professional practice.  
 41 SECTION 12. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,  
 42 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2020]: Sec. 11. (a) A person who:  
 2 (1) knowingly or intentionally possesses (pure or adulterated)  
 3 marijuana, hash oil, hashish, or salvia;  
 4 (2) knowingly or intentionally grows or cultivates marijuana; or  
 5 (3) knowing that marijuana is growing on the person's premises,  
 6 fails to destroy the marijuana plants;  
 7 commits possession of marijuana, hash oil, hashish, or salvia, a ~~Class~~  
 8 ~~B misdemeanor~~, **Class C infraction**, except as provided in subsections  
 9 (b) through (c).  
 10 (b) The offense described in subsection (a) is a ~~Class A~~  
 11 ~~misdemeanor~~ **Class C misdemeanor** if:  
 12 (1) the person has a prior conviction for a drug offense; or  
 13 (2) the:  
 14 (A) marijuana, hash oil, hashish, or salvia is packaged in a  
 15 manner that appears to be low THC hemp extract; and  
 16 (B) person knew or reasonably should have known that the  
 17 product was marijuana, hash oil, hashish, or salvia.  
 18 (c) The offense described in subsection (a) is a ~~Level 6 felony~~ **Class**  
 19 **A misdemeanor** if:  
 20 (1) the person has a prior conviction for a drug offense; and  
 21 (2) the person possesses:  
 22 (A) at least thirty (30) grams of marijuana; or  
 23 (B) at least five (5) grams of hash oil, hashish, or salvia.

