

# SENATE BILL No. 191

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 10-13-6; IC 31-37-19-1; IC 33-37; IC 35-33-8-5; IC 35-38.

**Synopsis:** Use of DNA evidence. Requires: (1) every individual arrested after June 30, 2016, for burglary, residential entry, a crime of violence, or a sex offense; and (2) a child found to be a delinquent child for the commission of an act that, if committed by an adult, would be burglary, residential entry, a crime of violence, or a sex offense; to provide a DNA sample. Provides for the expungement of a DNA sample taken from an individual if: (1) the individual is acquitted of all felony charges; (2) all burglary, residential entry, crime of violence, and sex offense charges are dismissed; or (3) no charges have been filed after 30 days. Requires an officer, employee, or designee who obtains a DNA sample to inform the individual of the right to DNA expungement and to provide the individual with a form that may be used for DNA expungement. Increases the DNA sample processing fee from \$2 to \$4. Allocates \$500,000 semiannually to hold harmless all funds and to provide an additional amount to the DNA processing fund. Specifies that the discovery of previously unknown crimes committed by an individual on bail may lead to revocation of bail or an increase in the amount of bail.

**Effective:** July 1, 2016.

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January 6, 2016, read first time and referred to Committee on Judiciary.

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Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# SENATE BILL No. 191

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, 2016]: 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:**  
7 **(A) burglary (IC 35-43-2-1);**  
8 **(B) residential entry (IC 35-43-2-1.5);**  
9 **(C) a crime of violence (as defined in IC 35-50-1-2); or**  
10 **(D) a sex offense (as defined in IC 11-8-8-5.2);**  
11 **(3) certain delinquent children;**  
12 ~~(4)~~ **(4) crime scene specimens;**  
13 ~~(5)~~ **(5) unidentified missing persons; and**  
14 ~~(6)~~ **(6) close biological relatives of missing persons.**  
15 (b) The superintendent shall maintain the Indiana DNA data base.  
16 (c) The superintendent may contract for services to perform DNA  
17 analysis of:



- 1           (1) convicted offenders;
- 2           (2) **other persons described in ~~under~~ section 10 of this chapter;**
- 3           **and**
- 4           (3) **certain delinquent children described in IC 31-37-19-1;**
- 5           to assist federal, state, and local criminal justice and law enforcement
- 6           agencies in the putative identification, detection, or exclusion of
- 7           individuals who are subjects of an investigation or prosecution of a sex
- 8           offense, a violent crime, or another crime in which biological evidence
- 9           is recovered from the crime scene.
- 10          (d) The superintendent:
- 11           (1) may perform or contract for performance of testing, typing, or
- 12           analysis of a DNA sample collected from a person described in
- 13           section 10 of this chapter **and certain delinquent children**
- 14           **described in IC 31-37-19-1** at any time; and
- 15           (2) shall perform or contract for the performance of testing,
- 16           typing, or analysis of a DNA sample collected from a person
- 17           described in section 10 of this chapter **and certain delinquent**
- 18           **children described in IC 31-37-19-1** if federal funds become
- 19           available for the performance of DNA testing, typing, or analysis.
- 20          (e) The superintendent shall adopt rules under IC 4-22-2 necessary
- 21          to administer and enforce the provisions and intent of this chapter.
- 22          (f) The detention, arrest, or conviction of a person based on a data
- 23          base match or data base information is not invalidated if a court
- 24          determines that the DNA sample was obtained or placed in the Indiana
- 25          DNA data base by mistake.
- 26          SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,
- 27          SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28          JULY 1, 2016]: Sec. 10. (a) This section applies to the following:
- 29           (1) **A person arrested after June 30, 2016, for burglary,**
- 30           **residential entry, a crime of violence, or a sex offense, as**
- 31           **described in section 8(a)(2) of this chapter.**
- 32           (+) (2) A person convicted of a felony under IC 35-42 (offenses
- 33           against the person) or IC 35-43-2-1 (burglary):
- 34           (A) after June 30, 1996, whether or not the person is sentenced
- 35           to a term of imprisonment; or
- 36           (B) before July 1, 1996, if the person is held in jail or prison
- 37           on or after July 1, 1996.
- 38           (±) (3) A person convicted of a criminal law in effect before
- 39           October 1, 1977, that penalized an act substantially similar to a
- 40           felony described in IC 35-42 or IC 35-43-2-1 or that would have
- 41           been an included offense of a felony described in IC 35-42 or
- 42           IC 35-43-2-1 if the felony had been in effect:



- 1 (A) after June 30, 1998, whether or not the person is sentenced  
 2 to a term of imprisonment; or  
 3 (B) before July 1, 1998, if the person is held in jail or prison  
 4 on or after July 1, 1998.
- 5 ~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a  
 6 felony, or attempt to commit a felony:  
 7 (A) after June 30, 2005, whether or not the person is sentenced  
 8 to a term of imprisonment; or  
 9 (B) before July 1, 2005, if the person is held in jail or prison  
 10 on or after July 1, 2005.
- 11 (b) A person described in subsection (a) shall provide a DNA  
 12 sample to the:  
 13 (1) department of correction or the designee of the department of  
 14 correction if the offender is committed to the department of  
 15 correction;  
 16 (2) county sheriff or the designee of the county sheriff if the  
 17 offender is held in a county jail or other county penal facility,  
 18 placed in a community corrections program (as defined in  
 19 IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;  
 20 (3) agency that supervises the person, or the agency's designee, if  
 21 the person is on conditional release in accordance with  
 22 IC 35-38-1-27; **or**  
 23 **(4) sheriff, in the case of a person arrested for burglary,**  
 24 **residential entry, a crime of violence, or a sex offense.**
- 25 **A DNA sample provided under subdivision (4) may be obtained**  
 26 **only by buccal swab.** A person is not required to submit a blood  
 27 sample if doing so would present a substantial and an unreasonable risk  
 28 to the person's health.
- 29 (c) The detention, arrest, or conviction of a person based on a data  
 30 base match or data base information is not invalidated if a court  
 31 determines that the DNA sample was obtained or placed in the Indiana  
 32 DNA data base by mistake.
- 33 **(d) The officer, employee, or designee who obtains a DNA**  
 34 **sample from a person under this section shall:**  
 35 **(1) inform the person of the person's right to DNA**  
 36 **expungement under section 18 of this chapter; and**  
 37 **(2) provide the person with a form that may be used for DNA**  
 38 **expungement.**
- 39 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) A person whose  
 41 DNA profile has been included in the Indiana DNA data base may  
 42 request expungement of the profile from the DNA data base on the



1 grounds that:

2 **(1) the conviction or adjudication as a delinquent child on**  
 3 **which the authority for inclusion in the Indiana DNA data base**  
 4 **was founded has been reversed and the case has been dismissed;**

5 **or**

6 **(2) the person was arrested for burglary, residential entry, a**  
 7 **crime of violence, or a sex offense, as described in section**  
 8 **8(a)(2) of this chapter, and:**

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

10 **(B) all burglary, residential entry, crime of violence, or sex**  
 11 **offense charges in the case have been dismissed; or**

12 **(C) thirty (30) days have passed since the person's arrest**  
 13 **and no burglary, residential entry, crime of violence, or sex**  
 14 **offense charges have been filed against the person.**

15 (b) All identifiable information in the Indiana DNA data base  
 16 pertaining to a person requesting expungement under subsection (a)  
 17 shall be expunged, and all samples from the person shall be destroyed,  
 18 upon receipt of:

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

21 (2) a certified copy of ~~the a court order or other evidence~~  
 22 **sufficient to establish or permit the superintendent to**  
 23 **establish that:**

24 **(A) all of the person's felony convictions or juvenile**  
 25 **adjudications have been reversed reversing and dismissing**  
 26 **the conviction, or dismissed, as described in subsection**

27 **(a)(1);**

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

30 **(C) all burglary, residential entry, crime of violence, or sex**  
 31 **offense charges in the case have been dismissed, as**  
 32 **described in subsection (a)(2)(B); or**

33 **(D) thirty (30) days have passed since the person's arrest**  
 34 **and no burglary, residential entry, crime of violence, or sex**  
 35 **offense charges have been filed against the person, as**  
 36 **described in subsection (a)(2)(C); and**

37 (3) any other information necessary to ascertain the validity of the  
 38 request.

39 (c) Upon expungement of a person's DNA profile from the Indiana  
 40 DNA data base, the superintendent shall request expungement of the  
 41 person's DNA profile from the national DNA data base.

42 SECTION 4. IC 10-13-6-19 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. (a) **The DNA data**  
 2 **base is confidential.** Access to the Indiana DNA data base is limited  
 3 to federal, state, and local law enforcement agencies through their  
 4 servicing forensic DNA laboratories.

5 (b) The superintendent shall take appropriate measures to ensure  
 6 that the Indiana DNA data base is protected against unauthorized  
 7 access.

8 SECTION 5. IC 10-13-6-21, AS AMENDED BY P.L.158-2013,  
 9 SECTION 167, IS AMENDED TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2016]: Sec. 21. A person who knowingly or  
 11 intentionally without lawful authority tampers with or attempts to  
 12 tamper with any DNA sample or a container collected under section 10  
 13 of this chapter **or IC 31-37-19-1** commits a Level 6 felony.

14 SECTION 6. IC 31-37-19-1, AS AMENDED BY P.L.104-2015,  
 15 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2016]: Sec. 1. (a) Subject to section 6.5 of this chapter, if a  
 17 child is a delinquent child under IC 31-37-2, the juvenile court may  
 18 enter one (1) or more of the following dispositional decrees:

- 19 (1) Order supervision of the child by the probation department.  
 20 (2) Order the child to receive outpatient treatment:  
 21 (A) at a social service agency or a psychological, a psychiatric,  
 22 a medical, or an educational facility; or  
 23 (B) from an individual practitioner.  
 24 (3) Remove the child from the child's home and place the child in  
 25 another home or a shelter care facility, child caring institution,  
 26 group home, or secure private facility. Placement under this  
 27 subdivision includes authorization to control and discipline the  
 28 child.  
 29 (4) Award wardship to a:  
 30 (A) person, other than the department; or  
 31 (B) shelter care facility.  
 32 (5) Partially or completely emancipate the child under section 27  
 33 of this chapter.  
 34 (6) Order:  
 35 (A) the child; or  
 36 (B) the child's parent, guardian, or custodian;  
 37 to receive family services.  
 38 (7) Order a person who is a party to refrain from direct or indirect  
 39 contact with the child.

40 (b) If the child is removed from the child's home and placed in a  
 41 foster family home or another facility, the juvenile court shall:

- 42 ~~(A)~~ (1) approve a permanency plan for the child;



- 1           ~~(B)~~ **(2)** find whether or not reasonable efforts were made to  
 2 prevent or eliminate the need for the removal;  
 3           ~~(C)~~ **(3)** designate responsibility for the placement and care of the  
 4 child with the probation department; and  
 5           ~~(D)~~ **(4)** find whether it:  
 6               ~~(i)~~ **(A)** serves the best interests of the child to be removed; and  
 7               ~~(ii)~~ **(B)** would be contrary to the health and welfare of the child  
 8 for the child to remain in the home.  
 9       (c) If a dispositional decree under this section:  
 10           (1) orders or approves removal of a child from the child's home or  
 11 awards wardship of the child to a:  
 12               (A) person other than the department; or  
 13               (B) shelter care facility; and  
 14           (2) is the first court order in the delinquent child proceeding that  
 15 authorizes or approves removal of the child from the child's  
 16 parent, guardian, or custodian;  
 17 the court shall include in the decree the appropriate findings and  
 18 conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).  
 19       (d) If the juvenile court orders supervision of the child by the  
 20 probation department under subsection (a)(1), the child or the child's  
 21 parent, guardian, or custodian is responsible for any costs resulting  
 22 from the participation in a rehabilitative service or educational class  
 23 provided by the probation department. Any costs collected for services  
 24 provided by the probation department shall be deposited in the county  
 25 supplemental juvenile probation services fund.  
 26       **(e) If a child is adjudicated to be a delinquent child under**  
 27 **IC 31-37-2 for the commission of an act that, if committed by an**  
 28 **adult, would be:**  
 29           **(1) burglary (IC 35-43-2-1);**  
 30           **(2) residential entry (IC 35-43-2-1.5);**  
 31           **(3) a crime of violence (as defined in IC 35-50-1-2); or**  
 32           **(4) a sex offense (as defined in IC 11-8-8-5.2);**  
 33 **the juvenile court shall order the child to provide a DNA sample to**  
 34 **the agency having supervision of the child or to the county sheriff.**  
 35 **A child is not required to submit a blood sample under this**  
 36 **subsection if doing so would present a substantial and**  
 37 **unreasonable risk to the child's health.**  
 38       **(f) If a juvenile court orders the agency having supervision of a**  
 39 **child or the county sheriff to collect a DNA sample from the child**  
 40 **under subsection (e), the agency or sheriff shall comply with:**  
 41           **(1) IC 10-13-6-12; and**  
 42           **(2) the guidelines issued by the superintendent of the state**



1           **police department under IC 10-13-6-11.**

2           **(g) The person who obtains a DNA sample from a child under**  
 3 **this section shall:**

- 4           **(1) inform the child and the child's guardian of the child's**  
 5 **right to DNA expungement under IC 10-13-6-18; and**  
 6           **(2) provide the child or the child's guardian with a form that**  
 7 **may be used for DNA expungement.**

8           SECTION 7. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006,  
 9 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2016]: Sec. 26.2. In each action in which a person is:

- 11           (1) convicted of an offense;  
 12           (2) required to pay a pretrial diversion fee;  
 13           (3) found to have committed an infraction; or  
 14           (4) found to have violated an ordinance;

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

17           SECTION 8. IC 33-37-7-9, AS AMENDED BY P.L.229-2011,  
 18 SECTION 262, IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) On June 30 and on December  
 20 31 of each year, the auditor of state shall transfer to the treasurer of  
 21 state nine million ~~two seven~~ hundred seventy-seven thousand  
 22 twenty-three dollars (~~\$9,277,023~~) **(\$9,777,023)** for distribution under  
 23 subsection (b).

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

- 26           (1) the family violence and victim assistance fund established by  
 27 IC 5-2-6.8-3 an amount equal to ~~eight and three-hundredths seven~~  
 28 **and sixty-two hundredths percent (8.03%); (7.62%);**  
 29           (2) the Indiana judges' retirement fund established by  
 30 IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five~~  
 31 **hundredths thirty-six and fifty-eight hundredths percent**  
 32 **(38.55%); (36.58%);**  
 33           (3) the law enforcement academy building fund established by  
 34 IC 5-2-1-13 an amount equal to ~~two and fifty-six hundredths two~~  
 35 **and forty-three hundredths percent (2.56%); (2.43%);**  
 36           (4) the law enforcement training fund established by IC 5-2-1-13  
 37 an amount equal to ~~ten and twenty-seven hundredths nine and~~  
 38 **seventy-five hundredths percent (10.27%); (9.75%);**  
 39           (5) the violent crime victims compensation fund established by  
 40 IC 5-2-6.1-40 an amount equal to ~~eleven and ninety-three~~  
 41 **hundredths eleven and thirty-two hundredths percent (11.93%);**  
 42 **(11.32%);**





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

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

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

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

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

20 (c) On June 30 and on December 31 of each year, the auditor of  
 21 state shall transfer to the treasurer of state for deposit into the public  
 22 defense fund established under IC 33-40-6-1 three million seven  
 23 hundred thousand dollars (\$3,700,000).

24 SECTION 9. IC 35-33-8-5 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Upon a showing  
 26 of good cause, the state or the defendant may be granted an alteration  
 27 or revocation of bail by application to the court before which the  
 28 proceeding is pending. In reviewing a motion for alteration or  
 29 revocation of bail, credible hearsay evidence is admissible to establish  
 30 good cause.

31 (b) When the state presents additional:

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

34 (2) clear and convincing evidence:

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

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

39 the court may increase bail. **If the additional evidence presented by**  
 40 **the state is DNA evidence showing that the defendant committed**  
 41 **additional crimes that were not considered at the time the**  
 42 **defendant was admitted to bail, the court may increase or revoke**



1 **bail.**

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

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

- 13 (1) while admitted to bail the defendant:
- 14 (A) or the defendant's agent threatened or intimidated a victim,  
15 prospective witnesses, or jurors concerning the pending  
16 criminal proceeding or any other matter;
  - 17 (B) or the defendant's agent attempted to conceal or destroy  
18 evidence relating to the pending criminal proceeding;
  - 19 (C) violated any condition of the defendant's current release  
20 order;
  - 21 (D) failed to appear before the court as ordered at any critical  
22 stage of the proceedings; or
  - 23 (E) committed a felony or a Class A misdemeanor that  
24 demonstrates instability and a disdain for the court's authority  
25 to bring the defendant to trial;
- 26 (2) the factors described in IC 35-40-6-6(1)(A) and  
27 IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a  
28 risk to the physical safety of another person or the community; or  
29 (3) a combination of the factors described in subdivisions (1) and  
30 (2) exists.

31 SECTION 10. IC 35-38-1-27, AS ADDED BY P.L.173-2006,  
32 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2016]: Sec. 27. (a) If a court imposes a sentence that does not  
34 involve a commitment to the department of correction, the court shall  
35 require a person:

- 36 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~  
37 **IC 10-13-6-10(a);** and  
38 (2) who has not previously provided a DNA sample in accordance  
39 with IC 10-13-6;

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

41 (b) If a person described in subsection (a) is confined at the time of  
42 sentencing, the court shall order the person to provide a DNA sample



1 immediately after sentencing.

2 (c) If a person described in subsection (a) is not confined at the time  
3 of sentencing, the agency supervising the person after sentencing shall  
4 establish the date, time, and location for the person to provide a DNA  
5 sample. However, the supervising agency must require that the DNA  
6 sample be provided not more than seven (7) days after sentencing. A  
7 supervising agency's failure to obtain a DNA sample not more than  
8 seven (7) days after sentencing does not permit a person required to  
9 provide a DNA sample to challenge the requirement that the person  
10 provide a DNA sample at a later date.

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

14 SECTION 11. IC 35-38-2-2.3, AS AMENDED BY P.L.209-2015,  
15 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2016]: Sec. 2.3. (a) As a condition of probation, the court may  
17 require a person to do a combination of the following:

18 (1) Work faithfully at suitable employment or faithfully pursue a  
19 course of study or career and technical education that will equip  
20 the person for suitable employment.

21 (2) Undergo available medical or psychiatric treatment and  
22 remain in a specified institution if required for that purpose.

23 (3) Attend or reside in a facility established for the instruction,  
24 recreation, or residence of persons on probation.

25 (4) Participate in a treatment program, educational class, or  
26 rehabilitative service provided by a probation department or by  
27 referral to an agency.

28 (5) Support the person's dependents and meet other family  
29 responsibilities.

30 (6) Make restitution or reparation to the victim of the crime for  
31 damage or injury that was sustained by the victim. When  
32 restitution or reparation is a condition of probation, the court shall  
33 fix the amount, which may not exceed an amount the person can  
34 or will be able to pay, and shall fix the manner of performance.

35 (7) Execute a repayment agreement with the appropriate  
36 governmental entity to repay the full amount of public relief or  
37 assistance wrongfully received, and make repayments according  
38 to a repayment schedule set out in the agreement.

39 (8) Pay a fine authorized by IC 35-50.

40 (9) Refrain from possessing a firearm or other deadly weapon  
41 unless granted written permission by the court or the person's  
42 probation officer.



- 1 (10) Report to a probation officer at reasonable times as directed  
2 by the court or the probation officer.
- 3 (11) Permit the person's probation officer to visit the person at  
4 reasonable times at the person's home or elsewhere.
- 5 (12) Remain within the jurisdiction of the court, unless granted  
6 permission to leave by the court or by the person's probation  
7 officer.
- 8 (13) Answer all reasonable inquiries by the court or the person's  
9 probation officer and promptly notify the court or probation  
10 officer of any change in address or employment.
- 11 (14) Perform uncompensated work that benefits the community.
- 12 (15) Satisfy other conditions reasonably related to the person's  
13 rehabilitation.
- 14 (16) Undergo home detention under IC 35-38-2.5.
- 15 (17) Undergo a laboratory test or series of tests approved by the  
16 state department of health to detect and confirm the presence of  
17 the human immunodeficiency virus (HIV) antigen or antibodies  
18 to the human immunodeficiency virus (HIV), if:
- 19 (A) the person had been convicted of an offense relating to a  
20 criminal sexual act and the offense created an  
21 epidemiologically demonstrated risk of transmission of the  
22 human immunodeficiency virus (HIV); or
- 23 (B) the person had been convicted of an offense relating to a  
24 controlled substance and the offense involved:
- 25 (i) the delivery by any person to another person; or
- 26 (ii) the use by any person on another person;
- 27 of a contaminated sharp (as defined in IC 16-41-16-2) or other  
28 paraphernalia that creates an epidemiologically demonstrated  
29 risk of transmission of HIV by involving percutaneous contact.
- 30 (18) Refrain from any direct or indirect contact with an individual  
31 and, if convicted of an offense under IC 35-46-3, any animal  
32 belonging to the individual.
- 33 (19) Execute a repayment agreement with the appropriate  
34 governmental entity or with a person for reasonable costs incurred  
35 because of the taking, detention, or return of a missing child (as  
36 defined in IC 10-13-5-4).
- 37 (20) Periodically undergo a laboratory chemical test (as defined  
38 in IC 9-13-2-22) or series of chemical tests as specified by the  
39 court to detect and confirm the presence of a controlled substance  
40 (as defined in IC 35-48-1-9). The person on probation is  
41 responsible for any charges resulting from a test and shall have  
42 the results of any test under this subdivision reported to the



1 person's probation officer by the laboratory.

2 (21) If the person was confined in a penal facility, execute a  
3 reimbursement plan as directed by the court and make repayments  
4 under the plan to the authority that operates the penal facility for  
5 all or part of the costs of the person's confinement in the penal  
6 facility. The court shall fix an amount that:

7 (A) may not exceed an amount the person can or will be able  
8 to pay;

9 (B) does not harm the person's ability to reasonably be self  
10 supporting or to reasonably support any dependent of the  
11 person; and

12 (C) takes into consideration and gives priority to any other  
13 restitution, reparation, repayment, or fine the person is  
14 required to pay under this section.

15 (22) Refrain from owning, harboring, or training an animal.

16 (23) Participate in a reentry court program.

17 (24) Receive:

18 (A) addiction counseling;

19 (B) mental health counseling;

20 (C) inpatient detoxification; and

21 (D) medication assisted treatment, including a federal Food  
22 and Drug Administration approved long acting, nonaddictive  
23 medication for the treatment of opioid or alcohol dependence.

24 (b) When a person is placed on probation, the person shall be given  
25 a written statement specifying:

26 (1) the conditions of probation; and

27 (2) that if the person violates a condition of probation during the  
28 probationary period, a petition to revoke probation may be filed  
29 before the earlier of the following:

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

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

33 (c) As a condition of probation, the court may require that the  
34 person serve a term of imprisonment in an appropriate facility at the  
35 time or intervals (consecutive or intermittent) within the period of  
36 probation the court determines.

37 (d) Intermittent service may be required only for a term of not more  
38 than sixty (60) days and must be served in the county or local penal  
39 facility. The intermittent term is computed on the basis of the actual  
40 days spent in confinement and shall be completed within one (1) year.  
41 A person does not earn good time credit while serving an intermittent  
42 term of imprisonment under this subsection. When the court orders



1 intermittent service, the court shall state:

- 2 (1) the term of imprisonment;  
 3 (2) the days or parts of days during which a person is to be  
 4 confined; and  
 5 (3) the conditions.

6 (e) Supervision of a person may be transferred from the court that  
 7 placed the person on probation to a court of another jurisdiction, with  
 8 the concurrence of both courts. Retransfers of supervision may occur  
 9 in the same manner. This subsection does not apply to transfers made  
 10 under IC 11-13-4 or IC 11-13-5.

11 (f) When a court imposes a condition of probation described in  
 12 subsection (a)(18):

- 13 (1) the clerk of the court shall comply with IC 5-2-9; and  
 14 (2) the prosecuting attorney shall file a confidential form  
 15 prescribed or approved by the division of state court  
 16 administration with the clerk.

17 (g) As a condition of probation, a court shall require a person:

- 18 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~  
 19 **IC 10-13-6-10(a);**  
 20 (2) who has not previously provided a DNA sample in accordance  
 21 with IC 10-13-6; and  
 22 (3) whose sentence does not involve a commitment to the  
 23 department of correction;

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

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

30 SECTION 12. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012,  
 31 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2016]: Sec. 6. An order for home detention of an offender  
 33 under section 5 of this chapter must include the following:

- 34 (1) A requirement that the offender be confined to the offender's  
 35 home at all times except when the offender is:  
 36 (A) working at employment approved by the court or traveling  
 37 to or from approved employment;  
 38 (B) unemployed and seeking employment approved for the  
 39 offender by the court;  
 40 (C) undergoing medical, psychiatric, mental health treatment,  
 41 counseling, or other treatment programs approved for the  
 42 offender by the court;



- 1 (D) attending an educational institution or a program approved  
 2 for the offender by the court;  
 3 (E) attending a regularly scheduled religious service at a place  
 4 of worship; or  
 5 (F) participating in a community work release or community  
 6 restitution or service program approved for the offender by the  
 7 court.
- 8 (2) Notice to the offender that violation of the order for home  
 9 detention may subject the offender to prosecution for the crime of  
 10 escape under IC 35-44.1-3-4.
- 11 (3) A requirement that the offender abide by a schedule prepared  
 12 by the probation department, or by a community corrections  
 13 program ordered to provide supervision of the offender's home  
 14 detention, specifically setting forth the times when the offender  
 15 may be absent from the offender's home and the locations the  
 16 offender is allowed to be during the scheduled absences.
- 17 (4) A requirement that the offender is not to commit another  
 18 crime during the period of home detention ordered by the court.
- 19 (5) A requirement that the offender obtain approval from the  
 20 probation department or from a community corrections program  
 21 ordered to provide supervision of the offender's home detention  
 22 before the offender changes residence or the schedule described  
 23 in subdivision (3).
- 24 (6) A requirement that the offender maintain:  
 25 (A) a working telephone in the offender's home; and  
 26 (B) if ordered by the court, a monitoring device in the  
 27 offender's home or on the offender's person, or both.
- 28 (7) A requirement that the offender pay a home detention fee set  
 29 by the court in addition to the probation user's fee required under  
 30 IC 35-38-2-1 or IC 31-40. However, the fee set under this  
 31 subdivision may not exceed the maximum fee specified by the  
 32 department of correction under IC 11-12-2-12.
- 33 (8) A requirement that the offender abide by other conditions of  
 34 probation set by the court under IC 35-38-2-2.3.
- 35 (9) A requirement that an offender:  
 36 (A) who is ~~convicted of an offense described in IC 10-13-6-10;~~  
 37 **IC 10-13-6-10(a);**  
 38 (B) who has not previously provided a DNA sample in  
 39 accordance with IC 10-13-6; and  
 40 (C) whose sentence does not involve a commitment to the  
 41 department of correction;  
 42 provide a DNA sample.



1 SECTION 13. IC 35-38-2.6-3, AS AMENDED BY P.L.179-2015,  
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: Sec. 3. (a) The court may, at the time of sentencing,  
4 suspend the sentence and order a person to be placed in a community  
5 corrections program as an alternative to commitment to the department  
6 of correction. The court may impose reasonable terms on the placement  
7 or require the director of the community corrections program to impose  
8 reasonable terms on the placement. A court shall require a person:

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

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

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

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

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

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

21 (d) Placement under this chapter is subject to the community  
22 corrections program receiving a written presentence report or  
23 memorandum from a county probation agency.

