

SENATE BILL No. 207

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-12-3.7-3; IC 16-31-3-14.5; IC 20-28-5-8; IC 22-15-5-16; IC 25-1-1.1-3; IC 34-24-1-1; IC 35-31.5-2-217; IC 35-46-1-4; IC 35-47-4-5; IC 35-48; IC 35-50.

Synopsis: Dealing in cocaine and methamphetamine. Provides that a person who possesses at least 10 grams of cocaine, a narcotic drug, or methamphetamine may be convicted of possession with intent to deliver without additional evidence of intent. Makes dealing in cocaine, a narcotic drug, or methamphetamine a Level 2 felony if: (1) an enhancing circumstance applies; or (2) the drug, alone or in combination with alcohol or another drug, results in the death of any person. Makes Level 2 and Level 3 controlled substance offenses nonsuspendible if the person has a prior felony conviction. Creates a separate crime of manufacturing methamphetamine. Increases the penalty for manufacturing methamphetamine if the manufacture results in serious bodily injury to another person. (Under current law, the penalty increases only if the serious bodily injury is caused by an explosion.)

Effective: July 1, 2016.

Miller Patricia

January 6, 2016, read first time and referred to Committee on Corrections & Criminal Law.



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. 207

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 11-12-3.7-3, AS AMENDED BY P.L.182-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 3. As used in this chapter, "drug dealing offense"
4 means one (1) or more of the following offenses:
5 (1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1), unless
6 the person received only minimal consideration as a result of the
7 drug transaction.
8 (2) Dealing in **or manufacturing** methamphetamine
9 (IC 35-48-4-1.1), unless the person received only minimal
10 consideration as a result of the drug transaction.
11 (3) Dealing in a schedule I, II, III, IV, or V controlled substance
12 (IC 35-48-4-2 through IC 35-48-4-4), unless the person received
13 only minimal consideration as a result of the drug transaction.
14 (4) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
15 cannabinoid (IC 35-48-4-10), unless the person received only
16 minimal consideration as a result of the drug transaction.
17 SECTION 2. IC 16-31-3-14.5, AS AMENDED BY P.L.238-2015,



1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2016]: Sec. 14.5. The department of homeland security may
3 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
4 certification or licensure or permanently revoke a certificate or license
5 under procedures provided by section 14 of this chapter if the
6 individual who holds the certificate or license issued under this title is
7 convicted of any of the following:

8 (1) Dealing in or manufacturing cocaine or a narcotic drug under
9 IC 35-48-4-1.

10 (2) Dealing in **or manufacturing** methamphetamine under
11 IC 35-48-4-1.1.

12 (3) Dealing in a schedule I, II, or III controlled substance under
13 IC 35-48-4-2.

14 (4) Dealing in a schedule IV controlled substance under
15 IC 35-48-4-3.

16 (5) Dealing in a schedule V controlled substance under
17 IC 35-48-4-4.

18 (6) Dealing in a substance represented to be a controlled
19 substance under IC 35-48-4-4.5.

20 (7) Knowingly or intentionally manufacturing, advertising,
21 distributing, or possessing with intent to manufacture, advertise,
22 or distribute a substance represented to be a controlled substance
23 under IC 35-48-4-4.6.

24 (8) Dealing in a counterfeit substance under IC 35-48-4-5.

25 (9) Dealing in marijuana, hash oil, hashish, or salvia as a felony
26 under IC 35-48-4-10.

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

30 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
31 in this section.

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

34 (13) A crime of violence (as defined in IC 35-50-1-2(a)).

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

38 SECTION 3. IC 20-28-5-8, AS AMENDED BY P.L.238-2015,
39 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2016]: Sec. 8. (a) This section applies when a prosecuting
41 attorney knows that a licensed employee of a public school or a
42 nonpublic school has been convicted of an offense listed in subsection



1 (c). The prosecuting attorney shall immediately give written notice of
2 the conviction to the following:

3 (1) The state superintendent.

4 (2) Except as provided in subdivision (3), the superintendent of
5 the school corporation that employs the licensed employee or the
6 equivalent authority if a nonpublic school employs the licensed
7 employee.

8 (3) The presiding officer of the governing body of the school
9 corporation that employs the licensed employee, if the convicted
10 licensed employee is the superintendent of the school corporation.

11 (b) The superintendent of a school corporation, presiding officer of
12 the governing body, or equivalent authority for a nonpublic school shall
13 immediately notify the state superintendent when the individual knows
14 that a current or former licensed employee of the public school or
15 nonpublic school has been convicted of an offense listed in subsection
16 (c), or when the governing body or equivalent authority for a nonpublic
17 school takes any final action in relation to an employee who engaged
18 in any offense listed in subsection (c).

19 (c) The department, after holding a hearing on the matter, shall
20 permanently revoke the license of a person who is known by the
21 department to have been convicted of any of the following felonies:

22 (1) Kidnapping (IC 35-42-3-2).

23 (2) Criminal confinement (IC 35-42-3-3).

24 (3) Rape (IC 35-42-4-1).

25 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

26 (5) Child molesting (IC 35-42-4-3).

27 (6) Child exploitation (IC 35-42-4-4(b)).

28 (7) Vicarious sexual gratification (IC 35-42-4-5).

29 (8) Child solicitation (IC 35-42-4-6).

30 (9) Child seduction (IC 35-42-4-7).

31 (10) Sexual misconduct with a minor (IC 35-42-4-9).

32 (11) Incest (IC 35-46-1-3).

33 (12) Dealing in or manufacturing cocaine or a narcotic drug
34 (IC 35-48-4-1).

35 (13) Dealing in **or manufacturing** methamphetamine
36 (IC 35-48-4-1.1).

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

39 (15) Dealing in a schedule IV controlled substance
40 (IC 35-48-4-3).

41 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).

42 (17) Dealing in a counterfeit substance (IC 35-48-4-5).



- 1 (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony
2 (IC 35-48-4-10).
- 3 (19) Dealing in a synthetic drug or synthetic drug lookalike
4 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
5 amendment in 2013).
- 6 (20) Possession of child pornography (IC 35-42-4-4(c)).
- 7 (21) Homicide (IC 35-42-1).
- 8 (22) Voluntary manslaughter (IC 35-42-1-3).
- 9 (23) Reckless homicide (IC 35-42-1-5).
- 10 (24) Battery as any of the following:
- 11 (A) A Class A felony (for a crime committed before July 1,
12 2014) or a Level 2 felony (for a crime committed after June
13 30, 2014).
- 14 (B) A Class B felony (for a crime committed before July 1,
15 2014) or a Level 3 felony (for a crime committed after June
16 30, 2014).
- 17 (C) A Class C felony (for a crime committed before July 1,
18 2014) or a Level 5 felony (for a crime committed after June
19 30, 2014).
- 20 (25) Aggravated battery (IC 35-42-2-1.5).
- 21 (26) Robbery (IC 35-42-5-1).
- 22 (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 23 (28) Arson as a Class A felony or Class B felony (for a crime
24 committed before July 1, 2014) or as a Level 2, Level 3, or Level
25 4 felony (for a crime committed after June 30, 2014)
26 (IC 35-43-1-1(a)).
- 27 (29) Burglary as a Class A felony or Class B felony (for a crime
28 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
29 or Level 4 felony (for a crime committed after June 30, 2014)
30 (IC 35-43-2-1).
- 31 (30) Attempt under IC 35-41-5-1 to commit an offense listed in
32 this subsection.
- 33 (31) Conspiracy under IC 35-41-5-2 to commit an offense listed
34 in this subsection.
- 35 (d) The department, after holding a hearing on the matter, shall
36 permanently revoke the license of a person who is known by the
37 department to have been convicted of a federal offense or an offense in
38 another state that is comparable to a felony listed in subsection (c).
- 39 (e) A license may be suspended by the state superintendent as
40 specified in IC 20-28-7.5.
- 41 (f) The department shall develop a data base of information on
42 school corporation employees who have been reported to the



1 department under this section.

2 SECTION 4. IC 22-15-5-16, AS AMENDED BY P.L.238-2015,
 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2016]: Sec. 16. (a) A practitioner shall comply with the
 5 standards established under this licensing program. A practitioner is
 6 subject to the exercise of the disciplinary sanctions under subsection
 7 (b) if the department finds that a practitioner has:

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



1 (12) allowed a license issued by the department to be:

2 (A) used by another person; or

3 (B) displayed to the public when the license has expired, is
4 inactive, is invalid, or has been revoked or suspended.

5 For purposes of subdivision (10), a certified copy of a record of
6 disciplinary action constitutes prima facie evidence of a disciplinary
7 action in another jurisdiction.

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

11 (1) Permanent revocation of a practitioner's license.

12 (2) Suspension of a practitioner's license.

13 (3) Censure of a practitioner.

14 (4) Issuance of a letter of reprimand.

15 (5) Assess a civil penalty against the practitioner in accordance
16 with the following:

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

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

28 (6) Place a practitioner on probation status and require the
29 practitioner to:

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

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

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

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

40 The department may withdraw or modify this probation if the
41 department finds after a hearing that the deficiency that required
42 disciplinary action has been remedied or that changed



1 circumstances warrant a modification of the order.

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

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

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

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

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

- 30 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
31 (2) Possession of methamphetamine under IC 35-48-4-6.1.
32 (3) Possession of a controlled substance under IC 35-48-4-7(a).
33 (4) Fraudulently obtaining a controlled substance under
34 IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or
35 IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
36 (5) Manufacture of paraphernalia as a Class D felony (for a crime
37 committed before July 1, 2014) or a Level 6 felony (for a crime
38 committed after June 30, 2014) under IC 35-48-4-8.1(b).
39 (6) Dealing in 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 35-48-4-8.5(b).
42 (7) Possession of 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 35-48-4-8.3(b).
- 3 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
 4 D felony (for a crime committed before July 1, 2014) or a Level
 5 6 felony (for a crime committed after June 30, 2014) under
 6 IC 35-48-4-11.
- 7 (9) Possession of a synthetic drug or synthetic drug lookalike
 8 substance as a:
- 9 (A) Class D felony for a crime committed before July 1, 2014,
 10 under:
- 11 (i) IC 35-48-4-11, before its amendment in 2013; or
 12 (ii) IC 35-48-4-11.5; or
- 13 (B) Level 6 felony for a crime committed after June 30, 2014,
 14 under IC 35-48-4-11.5.
- 15 (10) Maintaining a common nuisance under IC 35-48-4-13.
- 16 (11) An offense relating to registration, labeling, and prescription
 17 forms under IC 35-48-4-14.
- 18 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 19 in this subsection.
- 20 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 21 this subsection.
- 22 (14) An offense in any other jurisdiction in which the elements of
 23 the offense for which the conviction was entered are substantially
 24 similar to the elements of an offense described in this subsection.
- 25 (h) The department shall deny, revoke, or suspend a license issued
 26 under this chapter if the individual who holds the license is convicted
 27 of any of the following:
- 28 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
 29 (2) Dealing in **or manufacturing** methamphetamine under
 30 IC 35-48-4-1.1.
 31 (3) Dealing in a schedule I, II, or III controlled substance under
 32 IC 35-48-4-2.
 33 (4) Dealing in a schedule IV controlled substance under
 34 IC 35-48-4-3.
 35 (5) Dealing in a schedule V controlled substance under
 36 IC 35-48-4-4.
 37 (6) Dealing in a substance represented to be a controlled
 38 substance under IC 35-48-4-4.5.
 39 (7) Knowingly or intentionally manufacturing, advertising,
 40 distributing, or possessing with intent to manufacture, advertise,
 41 or distribute a substance represented to be a controlled substance
 42 under IC 35-48-4-4.6.



- 1 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
2 (9) Dealing in marijuana, hash oil, hashish, or salvia as a felony
3 under IC 35-48-4-10.
4 (10) Dealing in a synthetic drug or synthetic drug lookalike
5 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
6 before its amendment in 2013).
7 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
8 in this subsection.
9 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
10 this subsection.
11 (13) An offense in any other jurisdiction in which the elements of
12 the offense for which the conviction was entered are substantially
13 similar to the elements of an offense described in this subsection.
14 (14) A violation of any federal or state drug law or rule related to
15 wholesale legend drug distributors licensed under IC 25-26-14.
16 (i) A decision of the department under subsections (b) through (h)
17 may be appealed to the commission under IC 4-21.5-3-7.
18 (j) The department may temporarily suspend a practitioner's license
19 under IC 4-21.5-4 before a final adjudication or during the appeals
20 process if the department finds that a practitioner represents a clear and
21 immediate danger to the public's health, safety, or property if the
22 practitioner is allowed to continue to practice.
23 (k) On receipt of a complaint or an information alleging that a
24 person licensed under this chapter has engaged in or is engaging in a
25 practice that jeopardizes the public health, safety, or welfare, the
26 department shall initiate an investigation against the person.
27 (l) Any complaint filed with the office of the attorney general
28 alleging a violation of this licensing program shall be referred to the
29 department for summary review and for its general information and any
30 authorized action at the time of the filing.
31 (m) The department shall conduct a fact finding investigation as the
32 department considers proper in relation to the complaint.
33 (n) The department may reinstate a license that has been suspended
34 under this section if, after a hearing, the department is satisfied that the
35 applicant is able to practice with reasonable skill, safety, and
36 competency to the public. As a condition of reinstatement, the
37 department may impose disciplinary or corrective measures authorized
38 under this chapter.
39 (o) The department may not reinstate a license that has been
40 revoked under this chapter. An individual whose license has been
41 revoked under this chapter may not apply for a new license until seven
42 (7) years after the date of revocation.



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

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

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

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

26 SECTION 5. IC 25-1-1.1-3, AS AMENDED BY P.L.238-2015,
 27 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2016]: Sec. 3. A board, a commission, or a committee shall
 29 revoke or suspend a license or certificate issued under this title by the
 30 board, the commission, or the committee if the individual who holds
 31 the license or certificate is convicted of any of the following:

- 32 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 33 IC 35-48-4-1.
- 34 (2) Dealing in **or manufacturing** methamphetamine under
 35 IC 35-48-4-1.1.
- 36 (3) Dealing in a schedule I, II, or III controlled substance under
 37 IC 35-48-4-2.
- 38 (4) Dealing in a schedule IV controlled substance under
 39 IC 35-48-4-3.
- 40 (5) Dealing in a schedule V controlled substance under
 41 IC 35-48-4-4.
- 42 (6) Dealing in a substance represented to be a controlled



- 1 substance under IC 35-48-4-4.5.
 2 (7) Knowingly or intentionally manufacturing, advertising,
 3 distributing, or possessing with intent to manufacture, advertise,
 4 or distribute a substance represented to be a controlled substance
 5 under IC 35-48-4-4.6.
 6 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 7 (9) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 8 under IC 35-48-4-10.
 9 (10) Dealing in a synthetic drug or synthetic drug lookalike
 10 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
 11 before its amendment in 2013).
 12 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
 13 in this section.
 14 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
 15 this section.
 16 (13) An offense in any other jurisdiction in which the elements of
 17 the offense for which the conviction was entered are substantially
 18 similar to the elements of an offense described in this section.
 19 (14) A violation of any federal or state drug law or rule related to
 20 wholesale legend drug distributors licensed under IC 25-26-14.
 21 SECTION 6. IC 34-24-1-1, AS AMENDED BY P.L.237-2015,
 22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 1. (a) The following may be seized:
 24 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
 25 or are intended for use by the person or persons in possession of
 26 them to transport or in any manner to facilitate the transportation
 27 of the following:
 28 (A) A controlled substance for the purpose of committing,
 29 attempting to commit, or conspiring to commit any of the
 30 following:
 31 (i) Dealing in or manufacturing cocaine or a narcotic drug
 32 (IC 35-48-4-1).
 33 (ii) Dealing in **or manufacturing** methamphetamine
 34 (IC 35-48-4-1.1).
 35 (iii) Dealing in a schedule I, II, or III controlled substance
 36 (IC 35-48-4-2).
 37 (iv) Dealing in a schedule IV controlled substance
 38 (IC 35-48-4-3).
 39 (v) Dealing in a schedule V controlled substance
 40 (IC 35-48-4-4).
 41 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
 42 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).



- 1 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
 2 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
 3 (x) Dealing in marijuana, hash oil, hashish, or salvia
 4 (IC 35-48-4-10).
 5 (xi) Dealing in a synthetic drug or synthetic drug lookalike
 6 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 7 amendment in 2013).
 8 (B) Any stolen (IC 35-43-4-2) or converted property
 9 (IC 35-43-4-3) if the retail or repurchase value of that property
 10 is one hundred dollars (\$100) or more.
 11 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
 12 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 13 mass destruction (as defined in IC 35-31.5-2-354) used to
 14 commit, used in an attempt to commit, or used in a conspiracy
 15 to commit an offense under IC 35-47 as part of or in
 16 furtherance of an act of terrorism (as defined by
 17 IC 35-31.5-2-329).
 18 (2) All money, negotiable instruments, securities, weapons,
 19 communications devices, or any property used to commit, used in
 20 an attempt to commit, or used in a conspiracy to commit an
 21 offense under IC 35-47 as part of or in furtherance of an act of
 22 terrorism or commonly used as consideration for a violation of
 23 IC 35-48-4 (other than items subject to forfeiture under
 24 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
 25 (A) furnished or intended to be furnished by any person in
 26 exchange for an act that is in violation of a criminal statute;
 27 (B) used to facilitate any violation of a criminal statute; or
 28 (C) traceable as proceeds of the violation of a criminal statute.
 29 (3) Any portion of real or personal property purchased with
 30 money that is traceable as a proceed of a violation of a criminal
 31 statute.
 32 (4) A vehicle that is used by a person to:
 33 (A) commit, attempt to commit, or conspire to commit;
 34 (B) facilitate the commission of; or
 35 (C) escape from the commission of;
 36 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 37 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 38 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 39 under IC 35-47 as part of or in furtherance of an act of terrorism.
 40 (5) Real property owned by a person who uses it to commit any of
 41 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
 42 felony:



- 1 (A) Dealing in or manufacturing cocaine or a narcotic drug
 2 (IC 35-48-4-1).
 3 (B) Dealing in **or manufacturing** methamphetamine
 4 (IC 35-48-4-1.1).
 5 (C) Dealing in a schedule I, II, or III controlled substance
 6 (IC 35-48-4-2).
 7 (D) Dealing in a schedule IV controlled substance
 8 (IC 35-48-4-3).
 9 (E) Dealing in marijuana, hash oil, hashish, or salvia
 10 (IC 35-48-4-10).
 11 (F) Dealing in a synthetic drug or synthetic drug lookalike
 12 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 13 amendment in 2013).
 14 (6) Equipment and recordings used by a person to commit fraud
 15 under IC 35-43-5-4(10).
 16 (7) Recordings sold, rented, transported, or possessed by a person
 17 in violation of IC 24-4-10.
 18 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
 19 defined by IC 35-45-6-1) that is the object of a corrupt business
 20 influence violation (IC 35-45-6-2).
 21 (9) Unlawful telecommunications devices (as defined in
 22 IC 35-45-13-6) and plans, instructions, or publications used to
 23 commit an offense under IC 35-45-13.
 24 (10) Any equipment, including computer equipment and cellular
 25 telephones, used for or intended for use in preparing,
 26 photographing, recording, videotaping, digitizing, printing,
 27 copying, or disseminating matter in violation of IC 35-42-4.
 28 (11) Destructive devices used, possessed, transported, or sold in
 29 violation of IC 35-47.5.
 30 (12) Tobacco products that are sold in violation of IC 24-3-5,
 31 tobacco products that a person attempts to sell in violation of
 32 IC 24-3-5, and other personal property owned and used by a
 33 person to facilitate a violation of IC 24-3-5.
 34 (13) Property used by a person to commit counterfeiting or
 35 forgery in violation of IC 35-43-5-2.
 36 (14) After December 31, 2005, if a person is convicted of an
 37 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 38 following real or personal property:
 39 (A) Property used or intended to be used to commit, facilitate,
 40 or promote the commission of the offense.
 41 (B) Property constituting, derived from, or traceable to the
 42 gross proceeds that the person obtained directly or indirectly



- 1 as a result of the offense.
- 2 (15) Except as provided in subsection (e), a vehicle used by a
- 3 person who operates the vehicle:
- 4 (A) while intoxicated, in violation of IC 9-30-5-1 through
- 5 IC 9-30-5-5, if in the previous five (5) years the person has two
- 6 (2) or more prior unrelated convictions:
- 7 (i) for operating a motor vehicle while intoxicated in
- 8 violation of IC 9-30-5-1 through IC 9-30-5-5; or
- 9 (ii) for an offense that is substantially similar to IC 9-30-5-1
- 10 through IC 9-30-5-5 in another jurisdiction; or
- 11 (B) on a highway while the person's driving privileges are
- 12 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
- 13 if in the previous five (5) years the person has two (2) or more
- 14 prior unrelated convictions:
- 15 (i) for operating a vehicle while intoxicated in violation of
- 16 IC 9-30-5-1 through IC 9-30-5-5; or
- 17 (ii) for an offense that is substantially similar to IC 9-30-5-1
- 18 through IC 9-30-5-5 in another jurisdiction.
- 19 If a court orders the seizure of a vehicle under this subdivision,
- 20 the court shall transmit an order to the bureau of motor vehicles
- 21 recommending that the bureau not permit a vehicle to be
- 22 registered in the name of the person whose vehicle was seized
- 23 until the person possesses a current driving license (as defined in
- 24 IC 9-13-2-41).
- 25 (16) The following real or personal property:
- 26 (A) Property used or intended to be used to commit, facilitate,
- 27 or promote the commission of an offense specified in
- 28 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
- 29 IC 30-2-13-38(f).
- 30 (B) Property constituting, derived from, or traceable to the
- 31 gross proceeds that a person obtains directly or indirectly as a
- 32 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
- 33 IC 30-2-10-9(b), or IC 30-2-13-38(f).
- 34 (17) An automated sales suppression device (as defined in
- 35 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in
- 36 IC 35-43-5-4.6(a)(3)).
- 37 (18) Real or personal property, including a vehicle, that is used by
- 38 a person to:
- 39 (A) commit, attempt to commit, or conspire to commit;
- 40 (B) facilitate the commission of; or
- 41 (C) escape from the commission of;
- 42 a violation of IC 35-42-3.5-1 (human trafficking) or IC 35-45-4-4



- 1 (promoting prostitution).
- 2 (b) A vehicle used by any person as a common or contract carrier in
 3 the transaction of business as a common or contract carrier is not
 4 subject to seizure under this section, unless it can be proven by a
 5 preponderance of the evidence that the owner of the vehicle knowingly
 6 permitted the vehicle to be used to engage in conduct that subjects it to
 7 seizure under subsection (a).
- 8 (c) Equipment under subsection (a)(10) may not be seized unless it
 9 can be proven by a preponderance of the evidence that the owner of the
 10 equipment knowingly permitted the equipment to be used to engage in
 11 conduct that subjects it to seizure under subsection (a)(10).
- 12 (d) Money, negotiable instruments, securities, weapons,
 13 communications devices, or any property commonly used as
 14 consideration for a violation of IC 35-48-4 found near or on a person
 15 who is committing, attempting to commit, or conspiring to commit any
 16 of the following offenses shall be admitted into evidence in an action
 17 under this chapter as prima facie evidence that the money, negotiable
 18 instrument, security, or other thing of value is property that has been
 19 used or was to have been used to facilitate the violation of a criminal
 20 statute or is the proceeds of the violation of a criminal statute:
- 21 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 22 narcotic drug).
- 23 (2) IC 35-48-4-1.1 (dealing in **or manufacturing**
 24 methamphetamine).
- 25 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 26 substance).
- 27 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- 28 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 29 as a Level 4 felony.
- 30 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 31 Level 3, Level 4, or Level 5 felony.
- 32 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Level
 33 3, Level 4, or Level 5 felony.
- 34 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
 35 salvia) as a Level 5 felony.
- 36 (9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug
 37 lookalike substance) as a Level 5 felony or Level 6 felony (or as
 38 a Class C felony or Class D felony under IC 35-48-4-10 before its
 39 amendment in 2013).
- 40 (e) A vehicle operated by a person who is not:
- 41 (1) an owner of the vehicle; or
 42 (2) the spouse of the person who owns the vehicle;



1 is not subject to seizure under subsection (a)(15) unless it can be
 2 proven by a preponderance of the evidence that the owner of the
 3 vehicle knowingly permitted the vehicle to be used to engage in
 4 conduct that subjects it to seizure under subsection (a)(15).

5 SECTION 7. IC 35-31.5-2-217, AS ADDED BY P.L.114-2012,
 6 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2016]: Sec. 217. "Offense relating to controlled substances"
 8 means the following:

- 9 (1) Dealing in or manufacturing cocaine or a narcotic drug
 10 (IC 35-48-4-1).
 11 (2) Dealing in **or manufacturing** methamphetamine
 12 (IC 35-48-4-1.1).
 13 (3) Dealing in a schedule I, II, or III controlled substance
 14 (IC 35-48-4-2).
 15 (4) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
 16 (5) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 17 (6) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
 18 (7) Possession of methamphetamine (IC 35-48-4-6.1).
 19 (8) Possession of a controlled substance (IC 35-48-4-7).
 20 (9) Possession of paraphernalia (IC 35-48-4-8.3).
 21 (10) Dealing in paraphernalia (IC 35-48-4-8.5).
 22 (11) Offenses relating to registration (IC 35-48-4-14).

23 SECTION 8. IC 35-46-1-4, AS AMENDED BY P.L.168-2014,
 24 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 4. (a) A person having the care of a dependent,
 26 whether assumed voluntarily or because of a legal obligation, who
 27 knowingly or intentionally:

- 28 (1) places the dependent in a situation that endangers the
 29 dependent's life or health;
 30 (2) abandons or cruelly confines the dependent;
 31 (3) deprives the dependent of necessary support; or
 32 (4) deprives the dependent of education as required by law;
 33 commits neglect of a dependent, a Level 6 felony.

34 (b) However, the offense is:

- 35 (1) a Level 5 felony if it is committed under subsection (a)(1),
 36 (a)(2), or (a)(3) and:
 37 (A) results in bodily injury; or
 38 (B) is:
 39 (i) committed in a location where a person is violating
 40 IC 35-48-4-1 (dealing in cocaine or a narcotic drug) or
 41 IC 35-48-4-1.1 (dealing in **or manufacturing**
 42 methamphetamine); or



- 1 (ii) the result of a violation of IC 35-48-4-1 (dealing in
2 cocaine or a narcotic drug) or IC 35-48-4-1.1 (dealing in
3 methamphetamine);
- 4 (2) a Level 3 felony if it is committed under subsection (a)(1),
5 (a)(2), or (a)(3) and results in serious bodily injury;
- 6 (3) a Level 1 felony if it is committed under subsection (a)(1),
7 (a)(2), or (a)(3) by a person at least eighteen (18) years of age and
8 results in the death of a dependent who is less than fourteen (14)
9 years of age; and
- 10 (4) a Level 5 felony if it is committed under subsection (a)(2) and
11 consists of cruel confinement or abandonment that:
- 12 (A) deprives a dependent of necessary food, water, or sanitary
13 facilities;
- 14 (B) consists of confinement in an area not intended for human
15 habitation; or
- 16 (C) involves the unlawful use of handcuffs, a rope, a cord,
17 tape, or a similar device to physically restrain a dependent.
- 18 (c) It is a defense to a prosecution based on an alleged act under this
19 section that:
- 20 (1) the accused person left a dependent child who was, at the time
21 the alleged act occurred, not more than thirty (30) days of age
22 with an emergency medical provider who took custody of the
23 child under IC 31-34-2.5 when:
- 24 (A) the prosecution is based solely on the alleged act of
25 leaving the child with the emergency medical services
26 provider; and
- 27 (B) the alleged act did not result in bodily injury or serious
28 bodily injury to the child; or
- 29 (2) the accused person, in the legitimate practice of the accused
30 person's religious belief, provided treatment by spiritual means
31 through prayer, in lieu of medical care, to the accused person's
32 dependent.
- 33 (d) Except for property transferred or received:
- 34 (1) under a court order made in connection with a proceeding
35 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
36 or IC 31-6-5 before their repeal); or
- 37 (2) under section 9(b) of this chapter;
- 38 a person who transfers or receives any property in consideration for the
39 termination of the care, custody, or control of a person's dependent
40 child commits child selling, a Level 6 felony.
- 41 SECTION 9. IC 35-47-4-5, AS AMENDED BY P.L.168-2014,
42 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2016]: Sec. 5. (a) As used in this section, "serious violent
 2 felon" means a person who has been convicted of:
 3 (1) committing a serious violent felony in:
 4 (A) Indiana; or
 5 (B) any other jurisdiction in which the elements of the crime
 6 for which the conviction was entered are substantially similar
 7 to the elements of a serious violent felony; or
 8 (2) attempting to commit or conspiring to commit a serious
 9 violent felony in:
 10 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
 11 or
 12 (B) any other jurisdiction in which the elements of the crime
 13 for which the conviction was entered are substantially similar
 14 to the elements of attempting to commit or conspiring to
 15 commit a serious violent felony.
 16 (b) As used in this section, "serious violent felony" means:
 17 (1) murder (IC 35-42-1-1);
 18 (2) voluntary manslaughter (IC 35-42-1-3);
 19 (3) reckless homicide not committed by means of a vehicle
 20 (IC 35-42-1-5);
 21 (4) battery (IC 35-42-2-1) as a:
 22 (A) Class A felony, Class B felony, or Class C felony, for a
 23 crime committed before July 1, 2014; or
 24 (B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5
 25 felony, for a crime committed after June 30, 2014;
 26 (5) aggravated battery (IC 35-42-2-1.5);
 27 (6) kidnapping (IC 35-42-3-2);
 28 (7) criminal confinement (IC 35-42-3-3);
 29 (8) rape (IC 35-42-4-1);
 30 (9) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
 31 (10) child molesting (IC 35-42-4-3);
 32 (11) sexual battery (IC 35-42-4-8) as a:
 33 (A) Class C felony, for a crime committed before July 1, 2014;
 34 or
 35 (B) Level 5 felony, for a crime committed after June 30, 2014;
 36 (12) robbery (IC 35-42-5-1);
 37 (13) carjacking (IC 35-42-5-2) (before its repeal);
 38 (14) arson (IC 35-43-1-1(a)) as a:
 39 (A) Class A felony or Class B felony, for a crime committed
 40 before July 1, 2014; or
 41 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
 42 crime committed after June 30, 2014;



- 1 (15) burglary (IC 35-43-2-1) as a:
 2 (A) Class A felony or Class B felony, for a crime committed
 3 before July 1, 2014; or
 4 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
 5 felony, for a crime committed after June 30, 2014;
 6 (16) assisting a criminal (IC 35-44.1-2-5) as a:
 7 (A) Class C felony, for a crime committed before July 1, 2014;
 8 or
 9 (B) Level 5 felony, for a crime committed after June 30, 2014;
 10 (17) resisting law enforcement (IC 35-44.1-3-1) as a:
 11 (A) Class B felony or Class C felony, for a crime committed
 12 before July 1, 2014; or
 13 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
 14 crime committed after June 30, 2014;
 15 (18) escape (IC 35-44.1-3-4) as a:
 16 (A) Class B felony or Class C felony, for a crime committed
 17 before July 1, 2014; or
 18 (B) Level 4 felony or Level 5 felony, for a crime committed
 19 after June 30, 2014;
 20 (19) trafficking with an inmate (IC 35-44.1-3-5) as a:
 21 (A) Class C felony, for a crime committed before July 1, 2014;
 22 or
 23 (B) Level 5 felony, for a crime committed after June 30, 2014;
 24 (20) criminal gang intimidation (IC 35-45-9-4);
 25 (21) stalking (IC 35-45-10-5) as a:
 26 (A) Class B felony or Class C felony, for a crime committed
 27 before July 1, 2014; or
 28 (B) Level 4 felony or Level 5 felony, for a crime committed
 29 after June 30, 2014;
 30 (22) incest (IC 35-46-1-3);
 31 (23) dealing in or manufacturing cocaine or a narcotic drug
 32 (IC 35-48-4-1);
 33 (24) dealing in **or manufacturing** methamphetamine
 34 (IC 35-48-4-1.1);
 35 (25) dealing in a schedule I, II, or III controlled substance
 36 (IC 35-48-4-2);
 37 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
 38 or
 39 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).
 40 (c) A serious violent felon who knowingly or intentionally possesses
 41 a firearm commits unlawful possession of a firearm by a serious violent
 42 felon, a Level 4 felony.



1 SECTION 10. IC 35-48-1-16.5, AS AMENDED BY P.L.168-2014,
 2 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2016]: Sec. 16.5. "Enhancing circumstance" means one (1) or
 4 more of the following:

5 (1) The person has a prior conviction, in any jurisdiction, for
 6 dealing in a controlled substance that is not marijuana, hashish,
 7 hash oil, salvia divinorum, or a synthetic drug, including an
 8 attempt or conspiracy to commit the offense.

9 (2) The person committed the offense while in possession of a
 10 firearm.

11 (3) The person committed the offense:

12 (A) on a school bus; or

13 (B) in, on, or within five hundred (500) feet of:

14 (i) school property while a person under eighteen (18) years
 15 of age was reasonably expected to be present; or

16 (ii) a public park while a person under eighteen (18) years
 17 of age was reasonably expected to be present.

18 (4) The person delivered or financed the delivery of the drug to a
 19 person under eighteen (18) years of age at least three (3) years
 20 junior to the person.

21 (5) **Except for a person who commits manufacturing**
 22 **methamphetamine (IC 35-48-4-1.1(f))**, the person manufactured
 23 or financed the manufacture of the drug.

24 (6) The person committed the offense in the physical presence of
 25 a child less than eighteen (18) years of age, knowing that the child
 26 was present and might be able to see or hear the offense.

27 SECTION 11. IC 35-48-4-1, AS AMENDED BY P.L.226-2014(ts),
 28 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2016]: Sec. 1. (a) A person who:

30 (1) knowingly or intentionally:

31 (A) manufactures;

32 (B) finances the manufacture of;

33 (C) delivers; or

34 (D) finances the delivery of;

35 cocaine or a narcotic drug, pure or adulterated, classified in
 36 schedule I or II; or

37 (2) possesses, with intent to:

38 (A) manufacture;

39 (B) finance the manufacture of;

40 (C) deliver; or

41 (D) finance the delivery of;

42 cocaine or a narcotic drug, pure or adulterated, classified in



1 schedule I or II;
 2 commits dealing in cocaine or a narcotic drug, a Level 5 felony, except
 3 as provided in subsections (b) through (e).

4 (b) A person may be convicted of an offense under subsection (a)(2)
 5 only if:

6 (1) there is evidence in addition to the weight of the drug that the
 7 person intended to manufacture, finance the manufacture of,
 8 deliver, or finance the delivery of the drug; **or**

9 **(2) the amount of the drug involved is at least ten (10) grams.**

10 (c) The offense is a Level 4 felony if

11 ~~(1)~~ the amount of the drug involved is at least one (1) gram but
 12 less than five (5) grams. ~~or~~

13 ~~(2) the amount of the drug involved is less than one (1) gram and~~
 14 ~~an enhancing circumstance applies.~~

15 (d) The offense is a Level 3 felony if

16 ~~(1)~~ the amount of the drug involved is at least five (5) but less
 17 than ten (10) grams. ~~or~~

18 ~~(2) the amount of the drug involved is at least one (1) gram but~~
 19 ~~less than five (5) grams and an enhancing circumstance applies.~~

20 (e) The offense is a Level 2 felony if:

21 (1) the amount of the drug involved is at least ten (10) grams; ~~or~~

22 ~~(2) the amount of the drug involved is at least five (5) but less~~
 23 ~~than ten (10) grams and an enhancing circumstance applies; **or**~~

24 **(3) the manufacture or delivery of the drug, alone or in**
 25 **combination with alcohol or another drug, results in the death**
 26 **of another person.**

27 SECTION 12. IC 35-48-4-1.1, AS AMENDED BY
 28 P.L.226-2014(ts), SECTION 7, IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.1. (a) A person who:

30 (1) knowingly or intentionally:

31 ~~(A) manufactures;~~

32 ~~(B) finances the manufacture of;~~

33 ~~(C) (A) delivers; or~~

34 ~~(D) (B) finances the delivery of;~~

35 methamphetamine, pure or adulterated; or

36 (2) possesses, with intent to:

37 (A) manufacture;

38 (B) finance the manufacture of;

39 (C) deliver; or

40 (D) finance the delivery of;

41 methamphetamine, pure or adulterated;

42 commits dealing in methamphetamine, a Level 5 felony, except as



1 provided in subsections (b) through (e).

2 (b) A person may be convicted of an offense under subsection (a)(2)
3 only if:

4 **(1)** there is evidence in addition to the weight of the drug that the
5 person intended to manufacture, finance the manufacture of,
6 deliver, or finance the delivery of the drug; **or**

7 **(2) the amount of the drug involved is at least ten (10) grams.**

8 (c) The offense is a Level 4 felony if

9 ~~(1)~~ the amount of the drug involved is at least one (1) gram but
10 less than five (5) grams. ~~or~~

11 ~~(2) the amount of the drug involved is less than one (1) gram and~~
12 ~~an enhancing circumstance applies.~~

13 (d) The offense is a Level 3 felony if

14 ~~(1)~~ the amount of the drug involved is at least five (5) but less
15 than ten (10) grams. ~~or~~

16 ~~(2) the amount of the drug involved is at least one (1) gram but~~
17 ~~less than five (5) grams and an enhancing circumstance applies.~~

18 (e) The offense is a Level 2 felony if:

19 (1) the amount of the drug involved is at least ten (10) grams;

20 (2) the amount of the drug involved is at least five (5) but less
21 than ten (10) grams and an enhancing circumstance applies; or

22 (3) the person is manufacturing the drug and the manufacture
23 results in an explosion causing serious bodily injury to a person
24 other than the manufacturer;

25 **(3) the delivery of the drug, alone or in combination with**
26 **alcohol or another drug, results in the death of another**
27 **person.**

28 (f) A person who knowingly or intentionally manufactures or
29 finances the manufacture of methamphetamine, pure or
30 adulterated, commits manufacturing methamphetamine, a Level
31 4 felony. However, the offense is:

32 (1) a Level 3 felony if:

33 (A) an enhancing circumstance applies; or

34 (B) the amount of the drug involved is at least five (5)
35 grams; and

36 (2) a Level 2 felony if:

37 (A) the person is manufacturing the drug and the
38 manufacture results in serious bodily injury to a person
39 other than the manufacturer; or

40 (B) a drug manufactured by the person, alone or in
41 combination with alcohol or another drug, causes the
42 death of another person.



1 SECTION 13. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014,
2 SECTION 105, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 14.5. (a) As used in this section,
4 "chemical reagents or precursors" refers to one (1) or more of the
5 following:

- 6 (1) Ephedrine.
- 7 (2) Pseudoephedrine.
- 8 (3) Phenylpropanolamine.
- 9 (4) The salts, isomers, and salts of isomers of a substance
10 identified in subdivisions (1) through (3).
- 11 (5) Anhydrous ammonia or ammonia solution (as defined in
12 IC 22-11-20-1).
- 13 (6) Organic solvents.
- 14 (7) Hydrochloric acid.
- 15 (8) Lithium metal.
- 16 (9) Sodium metal.
- 17 (10) Ether.
- 18 (11) Sulfuric acid.
- 19 (12) Red phosphorous.
- 20 (13) Iodine.
- 21 (14) Sodium hydroxide (lye).
- 22 (15) Potassium dichromate.
- 23 (16) Sodium dichromate.
- 24 (17) Potassium permanganate.
- 25 (18) Chromium trioxide.
- 26 (19) Benzyl cyanide.
- 27 (20) Phenylacetic acid and its esters or salts.
- 28 (21) Piperidine and its salts.
- 29 (22) Methylamine and its salts.
- 30 (23) Isosafrole.
- 31 (24) Safrole.
- 32 (25) Piperonal.
- 33 (26) Hydriodic acid.
- 34 (27) Benzaldehyde.
- 35 (28) Nitroethane.
- 36 (29) Gamma-butyrolactone.
- 37 (30) White phosphorus.
- 38 (31) Hypophosphorous acid and its salts.
- 39 (32) Acetic anhydride.
- 40 (33) Benzyl chloride.
- 41 (34) Ammonium nitrate.
- 42 (35) Ammonium sulfate.



- 1 (36) Hydrogen peroxide.
 2 (37) Thionyl chloride.
 3 (38) Ethyl acetate.
 4 (39) Pseudoephedrine hydrochloride.
 5 (b) A person who possesses more than ten (10) grams of ephedrine,
 6 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
 7 commits a Level 6 felony. However, the offense is a Level 5 felony if
 8 the person possessed:
 9 (1) a firearm while possessing more than ten (10) grams of
 10 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
 11 adulterated; or
 12 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
 13 phenylpropanolamine, pure or adulterated, in, on, or within five
 14 hundred (500) feet of:
 15 (A) school property while a person under eighteen (18) years
 16 of age was reasonably expected to be present; or
 17 (B) a public park while a person under eighteen (18) years of
 18 age was reasonably expected to be present.
 19 (c) A person who possesses anhydrous ammonia or ammonia
 20 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 21 methamphetamine or amphetamine, schedule II controlled substances
 22 under IC 35-48-2-6, commits a Level 6 felony. However, the offense
 23 is a Level 5 felony if the person possessed:
 24 (1) a firearm while possessing anhydrous ammonia or ammonia
 25 solution (as defined in IC 22-11-20-1) with intent to manufacture
 26 methamphetamine or amphetamine, schedule II controlled
 27 substances under IC 35-48-2-6; or
 28 (2) anhydrous ammonia or ammonia solution (as defined in
 29 IC 22-11-20-1) with intent to manufacture methamphetamine or
 30 amphetamine, schedule II controlled substances under
 31 IC 35-48-2-6, in, on, or within five hundred (500) feet of:
 32 (A) school property while a person under eighteen (18) years
 33 of age was reasonably expected to be present; or
 34 (B) a public park while a person under eighteen (18) years of
 35 age was reasonably expected to be present.
 36 (d) Subsection (b) does not apply to a:
 37 (1) licensed health care provider, pharmacist, retail distributor,
 38 wholesaler, manufacturer, warehouseman, or common carrier or
 39 an agent of any of these persons if the possession is in the regular
 40 course of lawful business activities; or
 41 (2) person who possesses more than ten (10) grams of a substance
 42 described in subsection (b) if the substance is possessed under



- 1 circumstances consistent with typical medicinal or household use,
 2 including:
- 3 (A) the location in which the substance is stored;
 - 4 (B) the possession of the substance in a variety of:
 - 5 (i) strengths;
 - 6 (ii) brands; or
 - 7 (iii) types; or
 - 8 (C) the possession of the substance:
 - 9 (i) with different expiration dates; or
 - 10 (ii) in forms used for different purposes.
- 11 (e) A person who possesses two (2) or more chemical reagents or
 12 precursors with the intent to manufacture a controlled substance
 13 commits a Level 6 felony.
- 14 (f) An offense under subsection (e) is a Level 5 felony if the person
 15 possessed:
- 16 (1) a firearm while possessing two (2) or more chemical reagents
 17 or precursors with intent to manufacture a controlled substance;
 18 or
 - 19 (2) two (2) or more chemical reagents or precursors with intent to
 20 manufacture a controlled substance in, on, or within five hundred
 21 (500) feet of:
 - 22 (A) school property while a person under eighteen (18) years
 23 of age was reasonably expected to be present; or
 - 24 (B) a public park while a person under eighteen (18) years of
 25 age was reasonably expected to be present.
- 26 (g) A person who sells, transfers, distributes, or furnishes a chemical
 27 reagent or precursor to another person with knowledge or the intent that
 28 the recipient will use the chemical reagent or precursors to manufacture
 29 a controlled substance commits unlawful sale of a precursor, a Level
 30 6 felony. However, the offense is a Level 5 felony if the person sells,
 31 transfers, distributes, or furnishes more than ten (10) grams of
 32 ephedrine, pseudoephedrine, or phenylpropanolamine.
- 33 (h) This subsection does not apply to a drug containing ephedrine,
 34 pseudoephedrine, or phenylpropanolamine that is dispensed under a
 35 prescription. A person who:
- 36 (1) has been convicted of:
 - 37 (A) dealing in **or manufacturing** methamphetamine
 38 (IC 35-48-4-1.1);
 - 39 (B) possession of more than ten (10) grams of ephedrine,
 40 pseudoephedrine, or phenylpropanolamine (subsection (b));
 - 41 (C) possession of anhydrous ammonia or ammonia solution (as
 42 defined in IC 22-11-20-1) with intent to manufacture



- 1 methamphetamine or amphetamine (subsection (c));
 2 (D) possession of two (2) or more chemical reagents or
 3 precursors with the intent to manufacture a controlled
 4 substance (subsection (e)); or
 5 (E) unlawful sale of a precursor (subsection (g)); and
 6 (2) not later than seven (7) years from the date the person was
 7 sentenced for the offense;

8 knowingly or intentionally possesses ephedrine, pseudoephedrine, or
 9 phenylpropanolamine, pure or adulterated, commits possession of a
 10 precursor by a methamphetamine offender, a Level 6 felony.

11 SECTION 14. IC 35-50-2-2.2, AS AMENDED BY P.L.168-2014,
 12 SECTION 112, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2016]: Sec. 2.2. (a) Except as provided in
 14 subsection (b) or (c) the court may suspend any part of a sentence for
 15 a felony.

16 (b) If a person is convicted of a Level 2 felony or a Level 3 felony
 17 ~~except a Level 2 felony or a Level 3 felony concerning a controlled~~
 18 ~~substance under IC 35-48-4~~, and has any prior unrelated felony
 19 conviction, the court may suspend only that part of a sentence that is in
 20 excess of the minimum sentence for the:

- 21 (1) Level 2 felony; or
 22 (2) Level 3 felony.

23 (c) The court may suspend only that part of a sentence for murder
 24 or a Level 1 felony conviction that is in excess of the minimum
 25 sentence for murder or the Level 1 felony conviction.

26 SECTION 15. IC 35-50-5-3, AS AMENDED BY P.L.180-2014,
 27 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2016]: Sec. 3. (a) Except as provided in subsection (i), (j), (l),
 29 or (m), in addition to any sentence imposed under this article for a
 30 felony or misdemeanor, the court may, as a condition of probation or
 31 without placing the person on probation, order the person to make
 32 restitution to the victim of the crime, the victim's estate, or the family
 33 of a victim who is deceased. The court shall base its restitution order
 34 upon a consideration of:

- 35 (1) property damages of the victim incurred as a result of the
 36 crime, based on the actual cost of repair (or replacement if repair
 37 is inappropriate);
 38 (2) medical and hospital costs incurred by the victim (before the
 39 date of sentencing) as a result of the crime;
 40 (3) the cost of medical laboratory tests to determine if the crime
 41 has caused the victim to contract a disease or other medical
 42 condition;



- 1 (4) earnings lost by the victim (before the date of sentencing) as
 2 a result of the crime including earnings lost while the victim was
 3 hospitalized or participating in the investigation or trial of the
 4 crime; and
 5 (5) funeral, burial, or cremation costs incurred by the family or
 6 estate of a homicide victim as a result of the crime.
- 7 (b) A restitution order under subsection (a), (i), (j), (l), or (m), is a
 8 judgment lien that:
 9 (1) attaches to the property of the person subject to the order;
 10 (2) may be perfected;
 11 (3) may be enforced to satisfy any payment that is delinquent
 12 under the restitution order by the person in whose favor the order
 13 is issued or the person's assignee; and
 14 (4) expires;
 15 in the same manner as a judgment lien created in a civil proceeding.
- 16 (c) When a restitution order is issued under subsection (a), the
 17 issuing court may order the person to pay the restitution, or part of the
 18 restitution, directly to:
 19 (1) the victim services division of the Indiana criminal justice
 20 institute in an amount not exceeding:
 21 (A) the amount of the award, if any, paid to the victim under
 22 IC 5-2-6.1; and
 23 (B) the cost of the reimbursements, if any, for emergency
 24 services provided to the victim under IC 16-10-1.5 (before its
 25 repeal) or IC 16-21-8; or
 26 (2) a probation department that shall forward restitution or part of
 27 restitution to:
 28 (A) a victim of a crime;
 29 (B) a victim's estate; or
 30 (C) the family of a victim who is deceased.
- 31 The victim services division of the Indiana criminal justice institute
 32 shall deposit the restitution it receives under this subsection in the
 33 violent crime victims compensation fund established by IC 5-2-6.1-40.
- 34 (d) When a restitution order is issued under subsection (a), (i), (j),
 35 (l), or (m), the issuing court shall send a certified copy of the order to
 36 the clerk of the circuit court in the county where the felony or
 37 misdemeanor charge was filed. The restitution order must include the
 38 following information:
 39 (1) The name and address of the person that is to receive the
 40 restitution.
 41 (2) The amount of restitution the person is to receive.
- 42 Upon receiving the order, the clerk shall enter and index the order in



1 the circuit court judgment docket in the manner prescribed by
2 IC 33-32-3-2. The clerk shall also notify the department of insurance
3 of an order of restitution under subsection (i).

4 (e) An order of restitution under subsection (a), (i), (j), (l), or (m),
5 does not bar a civil action for:

6 (1) damages that the court did not require the person to pay to the
7 victim under the restitution order but arise from an injury or
8 property damage that is the basis of restitution ordered by the
9 court; and

10 (2) other damages suffered by the victim.

11 (f) Regardless of whether restitution is required under subsection (a)
12 as a condition of probation or other sentence, the restitution order is not
13 discharged by the completion of any probationary period or other
14 sentence imposed for a felony or misdemeanor.

15 (g) A restitution order under subsection (a), (i), (j), (l), or (m), is not
16 discharged by the liquidation of a person's estate by a receiver under
17 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,
18 IC 34-1-12, or IC 34-2-7 before their repeal).

19 (h) The attorney general may pursue restitution ordered by the court
20 under subsections (a) and (c) on behalf of the victim services division
21 of the Indiana criminal justice institute established under IC 5-2-6-8.

22 (i) The court may order the person convicted of an offense under
23 IC 35-43-9 to make restitution to the victim of the crime. The court
24 shall base its restitution order upon a consideration of the amount of
25 money that the convicted person converted, misappropriated, or
26 received, or for which the convicted person conspired. The restitution
27 order issued for a violation of IC 35-43-9 must comply with
28 subsections (b), (d), (e), and (g), and is not discharged by the
29 completion of any probationary period or other sentence imposed for
30 a violation of IC 35-43-9.

31 (j) The court may order the person convicted of an offense under
32 IC 35-43-5-3.5 to make restitution to the victim of the crime, the
33 victim's estate, or the family of a victim who is deceased. The court
34 shall base its restitution order upon a consideration of the amount of
35 fraud or harm caused by the convicted person and any reasonable
36 expenses (including lost wages) incurred by the victim in correcting the
37 victim's credit report and addressing any other issues caused by the
38 commission of the offense under IC 35-43-5-3.5. If, after a person is
39 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's
40 estate, or the family of a victim discovers or incurs additional expenses
41 that result from the convicted person's commission of the offense under
42 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders



1 to require the convicted person to make restitution, even if the court
 2 issued a restitution order at the time of sentencing. For purposes of
 3 entering a restitution order after sentencing, a court has continuing
 4 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5
 5 for five (5) years after the date of sentencing. Each restitution order
 6 issued for a violation of IC 35-43-5-3.5 must comply with subsections
 7 (b), (d), (e), and (g), and is not discharged by the completion of any
 8 probationary period or other sentence imposed for an offense under
 9 IC 35-43-5-3.5.

10 (k) The court shall order a person convicted of an offense under
 11 IC 35-42-3.5 to make restitution to the victim of the crime in an amount
 12 equal to the greater of the following:

13 (1) The gross income or value to the person of the victim's labor
 14 or services.

15 (2) The value of the victim's labor as guaranteed under the
 16 minimum wage and overtime provisions of:

17 (A) the federal Fair Labor Standards Act of 1938, as amended
 18 (29 U.S.C. 201-209); or

19 (B) IC 22-2-2 (Minimum Wage);

20 whichever is greater.

21 (l) The court shall order a person who:

22 (1) is convicted of dealing in **or manufacturing**
 23 methamphetamine under IC 35-48-4-1.1; and

24 (2) manufactured the methamphetamine on property owned by
 25 another person, without the consent of the property owner;

26 to pay liquidated damages to the property owner in the amount of ten
 27 thousand dollars (\$10,000) or to pay actual damages to the property
 28 owner, including lost rent and the costs of decontamination by an
 29 inspector approved under IC 13-14-1-15.

30 (m) The court shall order a person who:

31 (1) is convicted of dealing in marijuana under
 32 IC 35-48-4-10(a)(1)(A); and

33 (2) manufactured the marijuana on property owned by another
 34 person, without the consent of the property owner;

35 to pay liquidated damages to the property owner in the amount of two
 36 thousand dollars (\$2,000).

