

SENATE BILL No. 227

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-12-3.7-6; IC 12-7-2-53.2; IC 20-28-5-8; IC 31-30; IC 31-37; IC 35-31.5-2; IC 35-38; IC 35-42-5-1.5; IC 35-45-6-1; IC 35-47-4-5; IC 35-50.

Synopsis: Robbery of a pharmacy. Makes it robbery of a pharmacy, a Level 4 felony, for a person to knowingly or intentionally take a controlled substance from a pharmacy: (1) by using force against or threatening the use of force against; or (2) by putting in fear; a person who is located on the premises of the pharmacy. Enhances the offense to: (1) a Level 3 felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than a defendant; and (2) a Level 2 felony if it results in serious bodily injury to any person other than a defendant. Provides that a juvenile court does not have jurisdiction over an individual for allegedly committing robbery of a pharmacy if: (1) the robbery of a pharmacy was committed while armed with a deadly weapon; or (2) the robbery of a pharmacy results in bodily injury or serious bodily injury; and the individual was at least 16 years of age at the time the individual allegedly committed the offense. Makes amendments to provide that references in the Indiana Code to the offense of robbery of a pharmacy correspond to references to the existing offense of robbery.

Effective: July 1, 2016.

Grooms

January 7, 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. 227

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 11-12-3.7-6, AS AMENDED BY P.L.158-2013,
2 SECTION 178, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 6. As used in this chapter, "violent
4 offense" means one (1) or more of the following offenses:
5 (1) Murder (IC 35-42-1-1).
6 (2) Attempted murder (IC 35-41-5-1).
7 (3) Voluntary manslaughter (IC 35-42-1-3).
8 (4) Involuntary manslaughter (IC 35-42-1-4).
9 (5) Reckless homicide (IC 35-42-1-5).
10 (6) Aggravated battery (IC 35-42-2-1.5).
11 (7) Battery (IC 35-42-2-1) as a:
12 (A) Class A felony, Class B felony, or Class C felony (for a
13 crime committed before July 1, 2014); or
14 (B) Level 2 felony, Level 3 felony, or Level 5 felony (for a
15 crime committed after June 30, 2014).
16 (8) Kidnapping (IC 35-42-3-2).
17 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that



- 1 is a:
- 2 (A) Class A felony, Class B felony, or Class C felony (for a
- 3 crime committed before July 1, 2014); or
- 4 (B) Level 1 felony, Level 2 felony, Level 3 felony, Level 4
- 5 felony, or Level 5 felony (for a crime committed after June 30,
- 6 2014).
- 7 (10) Sexual misconduct with a minor (IC 35-42-4-9) as a:
- 8 (A) Class A felony or Class B felony (for a crime committed
- 9 before July 1, 2014); or
- 10 (B) Level 1 felony, Level 2 felony, or Level 4 felony (for a
- 11 crime committed after June 30, 2014).
- 12 (11) Incest (IC 35-46-1-3).
- 13 (12) Robbery (IC 35-42-5-1) **or robbery of a pharmacy**
- 14 **(IC 35-42-5-1.5)** as a:
- 15 (A) Class A felony or a Class B felony (for a crime committed
- 16 before July 1, 2014); or
- 17 (B) Level 2 felony or Level 3 felony (for a crime committed
- 18 after June 30, 2014).
- 19 (13) Burglary (IC 35-43-2-1) as a:
- 20 (A) Class A felony or a Class B felony (for a crime committed
- 21 before July 1, 2014); or
- 22 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
- 23 felony (for a crime committed after June 30, 2014).
- 24 (14) Carjacking (IC 35-42-5-2) (repealed).
- 25 (15) Assisting a criminal (IC 35-44.1-2-5) as a:
- 26 (A) Class C felony (for a crime committed before July 1,
- 27 2014); or
- 28 (B) Level 5 felony (for a crime committed after June 30,
- 29 2014).
- 30 (16) Escape (IC 35-44.1-3-4) as a:
- 31 (A) Class B felony or Class C felony (for a crime committed
- 32 before July 1, 2014); or
- 33 (B) Level 4 felony or Level 5 felony (for a crime committed
- 34 after June 30, 2014).
- 35 (17) Trafficking with an inmate (IC 35-44.1-3-5) as a:
- 36 (A) Class C felony (for a crime committed before July 1,
- 37 2014); or
- 38 (B) Level 5 felony (for a crime committed after June 30,
- 39 2014).
- 40 (18) Causing death when operating a vehicle (IC 9-30-5-5).
- 41 (19) Criminal confinement (IC 35-42-3-3) as a:
- 42 (A) Class B felony (for a crime committed before July 1,



- 1 2014); or
 2 (B) Level 3 felony (for a crime committed after June 30,
 3 2014).
 4 (20) Arson (IC 35-43-1-1) as a:
 5 (A) Class A or Class B felony (for a crime committed before
 6 July 1, 2014); or
 7 (B) Level 2, Level 3, or Level 4 felony (for a crime committed
 8 after June 30, 2014).
 9 (21) Possession, use, or manufacture of a weapon of mass
 10 destruction (IC 35-47-12-1).
 11 (22) Terroristic mischief (IC 35-47-12-3) as a:
 12 (A) Class B felony (for a crime committed before July 1,
 13 2014); or
 14 (B) Level 4 felony (for a crime committed after June 30,
 15 2014).
 16 (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
 17 (24) A violation of IC 35-47.5 (controlled explosives) as a:
 18 (A) Class A or Class B felony (for a crime committed before
 19 July 1, 2014); or
 20 (B) Level 2 or Level 4 felony (for a crime committed after
 21 June 30, 2014).
 22 (25) A crime under the laws of another jurisdiction, including a
 23 military court, that is substantially similar to any of the offenses
 24 listed in this subdivision.
 25 (26) Any other crimes evidencing a propensity or history of
 26 violence.
 27 SECTION 2. IC 12-7-2-53.2, AS AMENDED BY P.L.168-2014,
 28 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2016]: Sec. 53.2. "Dangerous felony", for purposes of
 30 IC 12-17.2, means one (1) or more of the following felonies:
 31 (1) Murder (IC 35-42-1-1).
 32 (2) Attempted murder (IC 35-41-5-1).
 33 (3) Voluntary manslaughter (IC 35-42-1-3).
 34 (4) Involuntary manslaughter (IC 35-42-1-4).
 35 (5) Reckless homicide (IC 35-42-1-5).
 36 (6) Aggravated battery (IC 35-42-2-1.5).
 37 (7) Kidnapping (IC 35-42-3-2).
 38 (8) Rape (IC 35-42-4-1).
 39 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 40 (10) Child molesting (IC 35-42-4-3).
 41 (11) Sexual misconduct with a minor as a Class A felony (for a
 42 crime committed before July 1, 2014) or a Level 1 felony (for a



- 1 crime committed after June 30, 2014) under IC 35-42-4-9(a)(2)
 2 or a Class B felony (for a crime committed before July 1, 2014)
 3 or a Level 2 felony (for a crime committed after June 30, 2014)
 4 under IC 35-42-4-9(b)(2).
- 5 (12) **Robbery or robbery of a pharmacy** as a Class A or Class B
 6 felony (for a crime committed before July 1, 2014) or a Level 2 or
 7 Level 3 felony (for a crime committed after June 30, 2014)
 8 (IC 35-42-5-1).
- 9 (13) Burglary as a Class A or Class B felony (for a crime
 10 committed before July 1, 2014) or a Level 2 or Level 3 felony (for
 11 a crime committed after June 30, 2014) (IC 35-43-2-1).
- 12 (14) Battery as a felony (IC 35-42-2-1).
- 13 (15) Domestic battery (IC 35-42-2-1.3).
- 14 (16) Strangulation (IC 35-42-2-9).
- 15 (17) Criminal confinement (IC 35-42-3-3).
- 16 (18) Sexual battery (IC 35-42-4-8).
- 17 (19) A felony committed in another jurisdiction that is
 18 substantially similar to a felony in this section.
- 19 (20) An attempt to commit or a conspiracy to commit an offense
 20 listed in subdivisions (1) through (19).
- 21 SECTION 3. IC 20-28-5-8, AS AMENDED BY P.L.238-2015,
 22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 8. (a) This section applies when a prosecuting
 24 attorney knows that a licensed employee of a public school or a
 25 nonpublic school has been convicted of an offense listed in subsection
 26 (c). The prosecuting attorney shall immediately give written notice of
 27 the conviction to the following:
- 28 (1) The state superintendent.
- 29 (2) Except as provided in subdivision (3), the superintendent of
 30 the school corporation that employs the licensed employee or the
 31 equivalent authority if a nonpublic school employs the licensed
 32 employee.
- 33 (3) The presiding officer of the governing body of the school
 34 corporation that employs the licensed employee, if the convicted
 35 licensed employee is the superintendent of the school corporation.
- 36 (b) The superintendent of a school corporation, presiding officer of
 37 the governing body, or equivalent authority for a nonpublic school shall
 38 immediately notify the state superintendent when the individual knows
 39 that a current or former licensed employee of the public school or
 40 nonpublic school has been convicted of an offense listed in subsection
 41 (c), or when the governing body or equivalent authority for a nonpublic
 42 school takes any final action in relation to an employee who engaged



- 1 in any offense listed in subsection (c).
 2 (c) The department, after holding a hearing on the matter, shall
 3 permanently revoke the license of a person who is known by the
 4 department to have been convicted of any of the following felonies:
 5 (1) Kidnapping (IC 35-42-3-2).
 6 (2) Criminal confinement (IC 35-42-3-3).
 7 (3) Rape (IC 35-42-4-1).
 8 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 9 (5) Child molesting (IC 35-42-4-3).
 10 (6) Child exploitation (IC 35-42-4-4(b)).
 11 (7) Vicarious sexual gratification (IC 35-42-4-5).
 12 (8) Child solicitation (IC 35-42-4-6).
 13 (9) Child seduction (IC 35-42-4-7).
 14 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 15 (11) Incest (IC 35-46-1-3).
 16 (12) Dealing in or manufacturing cocaine or a narcotic drug
 17 (IC 35-48-4-1).
 18 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 19 (14) Dealing in a schedule I, II, or III controlled substance
 20 (IC 35-48-4-2).
 21 (15) Dealing in a schedule IV controlled substance
 22 (IC 35-48-4-3).
 23 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 24 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
 25 (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 26 (IC 35-48-4-10).
 27 (19) Dealing in a synthetic drug or synthetic drug lookalike
 28 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
 29 amendment in 2013).
 30 (20) Possession of child pornography (IC 35-42-4-4(c)).
 31 (21) Homicide (IC 35-42-1).
 32 (22) Voluntary manslaughter (IC 35-42-1-3).
 33 (23) Reckless homicide (IC 35-42-1-5).
 34 (24) Battery as any of the following:
 35 (A) A Class A felony (for a crime committed before July 1,
 36 2014) or a Level 2 felony (for a crime committed after June
 37 30, 2014).
 38 (B) A Class B felony (for a crime committed before July 1,
 39 2014) or a Level 3 felony (for a crime committed after June
 40 30, 2014).
 41 (C) A Class C felony (for a crime committed before July 1,
 42 2014) or a Level 5 felony (for a crime committed after June



- 1 30, 2014).
- 2 (25) Aggravated battery (IC 35-42-2-1.5).
- 3 (26) Robbery (IC 35-42-5-1) **or robbery of a pharmacy**
- 4 **(IC 35-42-5-1.5).**
- 5 (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 6 (28) Arson as a Class A felony or Class B felony (for a crime
- 7 committed before July 1, 2014) or as a Level 2, Level 3, or Level
- 8 4 felony (for a crime committed after June 30, 2014)
- 9 (IC 35-43-1-1(a)).
- 10 (29) Burglary as a Class A felony or Class B felony (for a crime
- 11 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
- 12 or Level 4 felony (for a crime committed after June 30, 2014)
- 13 (IC 35-43-2-1).
- 14 (30) Attempt under IC 35-41-5-1 to commit an offense listed in
- 15 this subsection.
- 16 (31) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 17 in this subsection.
- 18 (d) The department, after holding a hearing on the matter, shall
- 19 permanently revoke the license of a person who is known by the
- 20 department to have been convicted of a federal offense or an offense in
- 21 another state that is comparable to a felony listed in subsection (c).
- 22 (e) A license may be suspended by the state superintendent as
- 23 specified in IC 20-28-7.5.
- 24 (f) The department shall develop a data base of information on
- 25 school corporation employees who have been reported to the
- 26 department under this section.
- 27 SECTION 4. IC 31-30-1-4, AS AMENDED BY P.L.84-2015,
- 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2016]: Sec. 4. (a) The juvenile court does not have jurisdiction
- 30 over an individual for an alleged violation of:
- 31 (1) IC 35-41-5-1(a) (attempted murder);
- 32 (2) IC 35-42-1-1 (murder);
- 33 (3) IC 35-42-3-2 (kidnapping);
- 34 (4) IC 35-42-4-1 (rape);
- 35 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
- 36 (6) IC 35-42-5-1 (robbery) if:
- 37 (A) the robbery was committed while armed with a deadly
- 38 weapon; or
- 39 (B) the robbery results in bodily injury or serious bodily
- 40 injury;
- 41 **(7) IC 35-42-5-1.5 (robbery of a pharmacy) if:**
- 42 **(A) the robbery of a pharmacy was committed while**



- 1 **armed with a deadly weapon; or**
 2 **(B) the robbery of a pharmacy results in bodily injury or**
 3 **serious bodily injury;**
 4 ~~(7)~~ **(8)** IC 35-42-5-2 (carjacking) (before its repeal);
 5 ~~(8)~~ **(9)** IC 35-47-2-1 (carrying a handgun without a license), if
 6 charged as a felony;
 7 ~~(9)~~ **(10)** IC 35-47-10 (children and firearms), if charged as a
 8 felony; or
 9 ~~(10)~~ **(11)** any offense that may be joined under IC 35-34-1-9(a)(2)
 10 with any crime listed in this subsection;
 11 if the individual was at least sixteen (16) years of age at the time of the
 12 alleged violation.
 13 (b) Once an individual described in subsection (a) has been charged
 14 with any crime listed in subsection (a), the court having adult criminal
 15 jurisdiction shall retain jurisdiction over the case even if the individual
 16 pleads guilty to or is convicted of a lesser included offense. A plea of
 17 guilty to or a conviction of a lesser included offense does not vest
 18 jurisdiction in the juvenile court.
 19 SECTION 5. IC 31-30-4-5, AS AMENDED BY P.L.168-2014,
 20 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2016]: Sec. 5. (a) At the request of a sentencing court, the
 22 department of correction shall provide a progress report to the
 23 sentencing court concerning an offender sentenced and placed in a
 24 juvenile facility under section 2(b) of this chapter. When the offender
 25 becomes eighteen (18) years of age:
 26 (1) the department shall notify the sentencing court; and
 27 (2) the sentencing court shall hold a review hearing concerning
 28 the offender before the offender becomes nineteen (19) years of
 29 age.
 30 (b) Except as provided in subsection (c), after a hearing conducted
 31 under subsection (a), the sentencing court may:
 32 (1) continue the offender's placement in a juvenile facility until
 33 the objectives of the sentence imposed on the offender have been
 34 met, if the sentencing court finds that the objectives of the
 35 sentence imposed on the offender have not been met;
 36 (2) discharge the offender if the sentencing court finds that the
 37 objectives of the sentence imposed on the offender have been
 38 met;
 39 (3) order execution of all or part of the offender's suspended
 40 criminal sentence in an adult facility of the department of
 41 correction; or
 42 (4) place the offender:



- 1 (A) in home detention under IC 35-38-2.5;
 2 (B) in a community corrections program under IC 35-38-2.6;
 3 (C) on probation under IC 35-50-7; or
 4 (D) in any other appropriate alternative sentencing program.
- 5 (c) This subsection applies to an offender over whom a juvenile
 6 court lacks jurisdiction under IC 31-30-1-4 who is convicted of one (1)
 7 or more of the following offenses:
- 8 (1) Murder (IC 35-42-1-1).
 9 (2) Attempted murder (IC 35-41-5-1).
 10 (3) Kidnapping (IC 35-42-3-2).
 11 (4) Rape as a Class A felony (for a crime committed before July
 12 1, 2014) or a Level 1 felony (for a crime committed after June 30,
 13 2014) (IC 35-42-4-1(b)).
 14 (5) Criminal deviate conduct as a Class A felony
 15 (IC 35-42-4-2(b)) (before its repeal).
 16 (6) Robbery as a Class A felony (for a crime committed before
 17 July 1, 2014) or a Level 2 felony (for a crime committed after
 18 June 30, 2014) (IC 35-42-5-1), if:
- 19 (A) the offense was committed while armed with a deadly
 20 weapon; and
 21 (B) the offense resulted in bodily injury to any person other
 22 than a defendant.
- 23 **(7) Robbery of a pharmacy (IC 35-42-5-1.5) if:**
 24 **(A) the offense was committed while armed with a deadly**
 25 **weapon; or**
 26 **(B) the offense resulted in bodily injury or serious bodily**
 27 **injury.**
- 28 The court may not modify the original sentence of an offender to whom
 29 this subsection applies if the prosecuting attorney objects in writing to
 30 the modification. The prosecuting attorney shall set forth in writing the
 31 prosecuting attorney's reasons for objecting to the sentence
 32 modification.
- 33 SECTION 6. IC 31-37-4-3, AS AMENDED BY P.L.168-2014,
 34 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2016]: Sec. 3. (a) This section applies if a child is arrested or
 36 taken into custody for allegedly committing an act that would be any of
 37 the following crimes if committed by an adult:
- 38 (1) Murder (IC 35-42-1-1).
 39 (2) Attempted murder (IC 35-41-5-1).
 40 (3) Voluntary manslaughter (IC 35-42-1-3).
 41 (4) Involuntary manslaughter (IC 35-42-1-4).
 42 (5) Reckless homicide (IC 35-42-1-5).



- 1 (6) Aggravated battery (IC 35-42-2-1.5).
 2 (7) Battery (IC 35-42-2-1).
 3 (8) Kidnapping (IC 35-42-3-2).
 4 (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
 5 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 6 (11) Incest (IC 35-46-1-3).
 7 (12) Robbery as a Level 2 felony or a Level 3 felony
 8 (IC 35-42-5-1) **or robbery of a pharmacy as a Level 2 felony or**
 9 **a Level 3 felony (IC 35-42-5-1.5).**
 10 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 11 or Level 4 felony (IC 35-43-2-1).
 12 (14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
 13 (15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5
 14 felony.
 15 (16) Trafficking with an inmate as a Level 5 felony
 16 (IC 35-44.1-3-5).
 17 (17) Causing death when operating a vehicle (IC 9-30-5-5).
 18 (18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level
 19 3 felony.
 20 (19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or
 21 Level 4 felony.
 22 (20) Possession, use, or manufacture of a weapon of mass
 23 destruction (IC 35-47-12-1).
 24 (21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3
 25 felony.
 26 (22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
 27 (23) A violation of IC 35-47.5 (controlled explosives) as a Level
 28 2 felony, Level 3 felony, or Level 4 felony.
 29 (24) A controlled substances offense under IC 35-48.
 30 (25) A criminal gang offense under IC 35-45-9.
 31 (b) If a child is taken into custody under this chapter for a crime or
 32 act listed in subsection (a) or a situation to which IC 12-26-4-1 applies,
 33 the law enforcement agency that employs the law enforcement officer
 34 who takes the child into custody shall notify the chief administrative
 35 officer of the primary or secondary school, including a public or
 36 nonpublic school, in which the child is enrolled or, if the child is
 37 enrolled in a public school, the superintendent of the school district in
 38 which the child is enrolled:
 39 (1) that the child was taken into custody; and
 40 (2) of the reason why the child was taken into custody.
 41 (c) The notification under subsection (b) must occur within
 42 forty-eight (48) hours after the child is taken into custody.



1 (d) A law enforcement agency may not disclose information that is
 2 confidential under state or federal law to a school or school district
 3 under this section.

4 (e) A law enforcement agency shall include in its training for law
 5 enforcement officers training concerning the notification requirements
 6 under subsection (b).

7 SECTION 7. IC 31-37-19-9, AS AMENDED BY P.L.214-2013,
 8 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2016]: Sec. 9. (a) This section applies if a child is a delinquent
 10 child under IC 31-37-1.

11 (b) After a juvenile court makes a determination under IC 11-8-8-5,
 12 the juvenile court may, in addition to an order under section 6 of this
 13 chapter, and if the child:

14 (1) is at least thirteen (13) years of age and less than sixteen (16)
 15 years of age; and

16 (2) committed an act that, if committed by an adult, would be:

17 (A) murder (IC 35-42-1-1);

18 (B) kidnapping (IC 35-42-3-2);

19 (C) rape (IC 35-42-4-1);

20 (D) criminal deviate conduct (IC 35-42-4-2) (repealed); or

21 (E) robbery (IC 35-42-5-1) **or robbery of a pharmacy**
 22 **(IC 35-42-5-1.5)** if the robbery was committed while armed
 23 with a deadly weapon or if the robbery resulted in bodily
 24 injury or serious bodily injury;

25 order wardship of the child to the department of correction for a fixed
 26 period that is not longer than the date the child becomes eighteen (18)
 27 years of age, subject to IC 11-10-2-10.

28 (c) Notwithstanding IC 11-10-2-5, the department of correction may
 29 not reduce the period ordered under this section (or
 30 IC 31-6-4-15.9(b)(8) before its repeal).

31 SECTION 8. IC 35-31.5-2-64, AS ADDED BY P.L.114-2012,
 32 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2016]: Sec. 64. "Controlled substance", for purposes of
 34 **IC 35-42-5-1.5 and** IC 35-48, has the meaning set forth in
 35 IC 35-48-1-9.

36 SECTION 9. IC 35-31.5-2-91, AS AMENDED BY P.L.158-2013,
 37 SECTION 365, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2016]: Sec. 91. "Designated offense", for
 39 purposes of IC 35-33.5, means the following:

40 (1) A Class A, Class B, or Class C felony, for a crime committed
 41 before July 1, 2014, or a Level 1, Level 2, Level 3, Level 4, or
 42 Level 5 felony, for a crime committed after June 30, 2014, that is



- 1 a controlled substance offense (IC 35-48-4).
 2 (2) Murder (IC 35-42-1-1).
 3 (3) Kidnapping (IC 35-42-3-2).
 4 (4) Criminal confinement (IC 35-42-3-3).
 5 (5) Robbery (IC 35-42-5-1) **or robbery of a pharmacy**
 6 **(IC 35-42-5-1.5).**
 7 (6) Arson (IC 35-43-1-1).
 8 (7) Child solicitation (IC 35-42-4-6).
 9 (8) Human and sexual trafficking crimes under IC 35-42-3.5.
 10 (9) Escape as a Class B felony or Class C felony, for a crime
 11 committed before July 1, 2014, or a Level 4 felony or Level 5
 12 felony, for a crime committed after June 30, 2014
 13 (IC 35-44.1-3-4).
 14 (10) An offense that relates to a weapon of mass destruction (as
 15 defined in section 354 of this chapter).
 16 (11) An attempt or conspiracy to commit an offense described in
 17 subdivisions (1) through (10).
 18 (12) An offense under the law of the United States or in another
 19 state or country that is substantially similar to an offense
 20 described in subdivisions (1) through (11).
 21 SECTION 10. IC 35-38-1-17, AS AMENDED BY P.L.164-2015,
 22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 17. (a) Notwithstanding IC 1-1-5.5-21, this section
 24 applies to a person who:
 25 (1) commits an offense; or
 26 (2) is sentenced;
 27 before July 1, 2014.
 28 (b) This section does not apply to a credit restricted felon.
 29 (c) Except as provided in subsections (k) and (m), this section does
 30 not apply to a violent criminal.
 31 (d) As used in this section, "violent criminal" means a person
 32 convicted of any of the following offenses:
 33 (1) Murder (IC 35-42-1-1).
 34 (2) Attempted murder (IC 35-41-5-1).
 35 (3) Voluntary manslaughter (IC 35-42-1-3).
 36 (4) Involuntary manslaughter (IC 35-42-1-4).
 37 (5) Reckless homicide (IC 35-42-1-5).
 38 (6) Aggravated battery (IC 35-42-2-1.5).
 39 (7) Kidnapping (IC 35-42-3-2).
 40 (8) Rape (IC 35-42-4-1).
 41 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 42 (10) Child molesting (IC 35-42-4-3).



- 1 (11) Sexual misconduct with a minor as a Level 1 felony under
 2 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 3 (12) Robbery as a Level 2 felony or a Level 3 felony
 4 (IC 35-42-5-1) **or robbery of a pharmacy as a Level 2 felony or**
 5 **a Level 3 felony (IC 35-42-5-1.5).**
 6 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 7 or Level 4 felony (IC 35-43-2-1).
 8 (14) Unlawful possession of a firearm by a serious violent felon
 9 (IC 35-47-4-5).
 10 (e) At any time after:
 11 (1) a convicted person begins serving the person's sentence; and
 12 (2) the court obtains a report from the department of correction
 13 concerning the convicted person's conduct while imprisoned;
 14 the court may reduce or suspend the sentence and impose a sentence
 15 that the court was authorized to impose at the time of sentencing. The
 16 court must incorporate its reasons in the record.
 17 (f) If the court sets a hearing on a petition under this section, the
 18 court must give notice to the prosecuting attorney and the prosecuting
 19 attorney must give notice to the victim (as defined in IC 35-31.5-2-348)
 20 of the crime for which the convicted person is serving the sentence.
 21 (g) The court may suspend a sentence for a felony under this section
 22 only if suspension is permitted under IC 35-50-2-2.2.
 23 (h) The court may deny a request to suspend or reduce a sentence
 24 under this section without making written findings and conclusions.
 25 (i) The court is not required to conduct a hearing before reducing or
 26 suspending a sentence under this section if:
 27 (1) the prosecuting attorney has filed with the court an agreement
 28 of the reduction or suspension of the sentence; and
 29 (2) the convicted person has filed with the court a waiver of the
 30 right to be present when the order to reduce or suspend the
 31 sentence is considered.
 32 (j) This subsection applies only to a convicted person who is not a
 33 violent criminal. A convicted person who is not a violent criminal may
 34 file a petition for sentence modification under this section:
 35 (1) not more than one (1) time in any three hundred sixty-five
 36 (365) day period; and
 37 (2) a maximum of two (2) times during any consecutive period of
 38 incarceration;
 39 without the consent of the prosecuting attorney.
 40 (k) This subsection applies to a convicted person who is a violent
 41 criminal. A convicted person who is a violent criminal may, not later
 42 than three hundred sixty-five (365) days from the date of sentencing,



1 file one (1) petition for sentence modification under this section
 2 without the consent of the prosecuting attorney. After the elapse of the
 3 three hundred sixty-five (365) day period, a violent criminal may not
 4 file a petition for sentence modification without the consent of the
 5 prosecuting attorney.

6 (l) A person may not waive the right to sentence modification under
 7 this section as part of a plea agreement. Any purported waiver of the
 8 right to sentence modification under this section in a plea agreement is
 9 invalid and unenforceable as against public policy. This subsection
 10 does not prohibit the finding of a waiver of the right to sentence
 11 modification for any other reason, including failure to comply with the
 12 provisions of this section.

13 (m) Notwithstanding subsection (k), a person who commits a
 14 offense after June 30, 2014, and before May 15, 2015, may file one (1)
 15 petition for sentence modification without the consent of the
 16 prosecuting attorney, even if the person has previously filed a petition
 17 for sentence modification.

18 SECTION 11. IC 35-38-2.6-1, AS AMENDED BY P.L.185-2014,
 19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2016]: Sec. 1. (a) Except as provided in subsection (b), this
 21 chapter applies to the sentencing of a person convicted of a felony
 22 whenever any part of the sentence may not be suspended under
 23 IC 35-50-2-2.1 or IC 35-50-2-2.2.

24 (b) This chapter does not apply to persons convicted of any of the
 25 following:

- 26 (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.
- 27 (2) Any of the following felonies:
 - 28 (A) Murder (IC 35-42-1-1).
 - 29 (B) Battery (IC 35-42-2-1) with a deadly weapon or battery
 30 causing death.
 - 31 (C) Kidnapping (IC 35-42-3-2).
 - 32 (D) Criminal confinement (IC 35-42-3-3) with a deadly
 33 weapon.
 - 34 (E) Robbery (IC 35-42-5-1) **or robbery of a pharmacy**
 35 **(IC 35-42-5-1.5)** resulting in serious bodily injury or with a
 36 deadly weapon.
 - 37 (F) Arson (IC 35-43-1-1) for hire resulting in serious bodily
 38 injury.
 - 39 (G) Burglary (IC 35-43-2-1) resulting in serious bodily injury.
 - 40 (H) Resisting law enforcement (IC 35-44.1-3-1) with a deadly
 41 weapon.
 - 42 (I) Escape (IC 35-44.1-3-4) with a deadly weapon.



- 1 (J) Rioting (IC 35-45-1-2) with a deadly weapon.
 2 (K) Aggravated battery (IC 35-42-2-1.5).
 3 (L) Disarming a law enforcement officer (IC 35-44.1-3-2).
 4 (3) An offense under IC 9-30-5-4.
 5 (4) An offense under IC 9-30-5-5.
- 6 SECTION 12. IC 35-42-5-1.5 IS ADDED TO THE INDIANA
 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2016]: **Sec. 1.5. (a) A person who knowingly**
 9 **or intentionally takes a controlled substance from a pharmacy (as**
 10 **defined in IC 25-26-13-2):**
 11 **(1) by using force against or threatening the use of force**
 12 **against; or**
 13 **(2) by putting in fear;**
 14 **a person who is located on the premises of the pharmacy commits**
 15 **robbery of a pharmacy, a Level 4 felony.**
 16 **(b) However, the offense described in subsection (a) is:**
 17 **(1) a Level 3 felony if it:**
 18 **(A) is committed while armed with a deadly weapon; or**
 19 **(B) results in bodily injury to any person other than a**
 20 **defendant; and**
 21 **(2) a Level 2 felony if it results in serious bodily injury to any**
 22 **person other than a defendant.**
- 23 SECTION 13. IC 35-45-6-1, AS AMENDED BY P.L.168-2014,
 24 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 1. (a) The definitions in this section apply
 26 throughout this chapter.
 27 (b) "Documentary material" means any document, drawing,
 28 photograph, recording, or other tangible item containing compiled data
 29 from which information can be either obtained or translated into a
 30 usable form.
 31 (c) "Enterprise" means:
 32 (1) a sole proprietorship, corporation, limited liability company,
 33 partnership, business trust, or governmental entity; or
 34 (2) a union, an association, or a group, whether a legal entity or
 35 merely associated in fact.
 36 (d) "Pattern of racketeering activity" means engaging in at least two
 37 (2) incidents of racketeering activity that have the same or similar
 38 intent, result, accomplice, victim, or method of commission, or that are
 39 otherwise interrelated by distinguishing characteristics that are not
 40 isolated incidents. However, the incidents are a pattern of racketeering
 41 activity only if at least one (1) of the incidents occurred after August
 42 31, 1980, and if the last of the incidents occurred within five (5) years



1 after a prior incident of racketeering activity.

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

5 (1) A provision of IC 23-19, or of a rule or order issued under
6 IC 23-19.

7 (2) A violation of IC 35-45-9.

8 (3) A violation of IC 35-47.

9 (4) A violation of IC 35-49-3.

10 (5) Murder (IC 35-42-1-1).

11 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
12 felony after June 30, 2014 (IC 35-42-2-1).

13 (7) Kidnapping (IC 35-42-3-2).

14 (8) Human and sexual trafficking crimes (IC 35-42-3.5).

15 (9) Child exploitation (IC 35-42-4-4).

16 (10) Robbery (IC 35-42-5-1) **or robbery of a pharmacy**
17 **(IC 35-42-5-1.5).**

18 (11) Carjacking (IC 35-42-5-2) (before its repeal).

19 (12) Arson (IC 35-43-1-1).

20 (13) Burglary (IC 35-43-2-1).

21 (14) Theft (IC 35-43-4-2).

22 (15) Receiving stolen property (IC 35-43-4-2).

23 (16) Forgery (IC 35-43-5-2).

24 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).

25 (18) Bribery (IC 35-44.1-1-2).

26 (19) Official misconduct (IC 35-44.1-1-1).

27 (20) Conflict of interest (IC 35-44.1-1-4).

28 (21) Perjury (IC 35-44.1-2-1).

29 (22) Obstruction of justice (IC 35-44.1-2-2).

30 (23) Intimidation (IC 35-45-2-1).

31 (24) Promoting prostitution (IC 35-45-4-4).

32 (25) Professional gambling (IC 35-45-5-3).

33 (26) Maintaining a professional gambling site
34 (IC 35-45-5-3.5(b)).

35 (27) Promoting professional gambling (IC 35-45-5-4).

36 (28) Dealing in or manufacturing cocaine or a narcotic drug
37 (IC 35-48-4-1).

38 (29) Dealing in or manufacturing methamphetamine
39 (IC 35-48-4-1.1).

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

42 (31) Dealing in a schedule IV controlled substance



- 1 (IC 35-48-4-3).
 2 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 3 (33) Dealing in marijuana, hash oil, hashish, or salvia
 4 (IC 35-48-4-10).
 5 (34) Money laundering (IC 35-45-15-5).
 6 (35) A violation of IC 35-47.5-5.
 7 (36) A violation of any of the following:
 8 (A) IC 23-14-48-9.
 9 (B) IC 30-2-9-7(b).
 10 (C) IC 30-2-10-9(b).
 11 (D) IC 30-2-13-38(f).
 12 (37) Practice of law by a person who is not an attorney
 13 (IC 33-43-2-1).
 14 (38) Dealing in a synthetic drug or synthetic drug lookalike
 15 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 16 amendment in 2013).
 17 SECTION 14. IC 35-47-4-5, AS AMENDED BY P.L.168-2014,
 18 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2016]: Sec. 5. (a) As used in this section, "serious violent
 20 felon" means a person who has been convicted of:
 21 (1) committing a serious violent felony in:
 22 (A) Indiana; or
 23 (B) any other jurisdiction in which the elements of the crime
 24 for which the conviction was entered are substantially similar
 25 to the elements of a serious violent felony; or
 26 (2) attempting to commit or conspiring to commit a serious
 27 violent felony in:
 28 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
 29 or
 30 (B) any other jurisdiction in which the elements of the crime
 31 for which the conviction was entered are substantially similar
 32 to the elements of attempting to commit or conspiring to
 33 commit a serious violent felony.
 34 (b) As used in this section, "serious violent felony" means:
 35 (1) murder (IC 35-42-1-1);
 36 (2) voluntary manslaughter (IC 35-42-1-3);
 37 (3) reckless homicide not committed by means of a vehicle
 38 (IC 35-42-1-5);
 39 (4) battery (IC 35-42-2-1) as a:
 40 (A) Class A felony, Class B felony, or Class C felony, for a
 41 crime committed before July 1, 2014; or
 42 (B) Level 2 felony, Level 3 felony, Level 4 felony, or Level 5



- 1 felony, for a crime committed after June 30, 2014;
 2 (5) aggravated battery (IC 35-42-2-1.5);
 3 (6) kidnapping (IC 35-42-3-2);
 4 (7) criminal confinement (IC 35-42-3-3);
 5 (8) rape (IC 35-42-4-1);
 6 (9) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
 7 (10) child molesting (IC 35-42-4-3);
 8 (11) sexual battery (IC 35-42-4-8) as a:
 9 (A) Class C felony, for a crime committed before July 1, 2014;
 10 or
 11 (B) Level 5 felony, for a crime committed after June 30, 2014;
 12 (12) robbery (IC 35-42-5-1) **or robbery of a pharmacy**
 13 **(IC 35-42-5-1.5);**
 14 (13) carjacking (IC 35-42-5-2) (before its repeal);
 15 (14) arson (IC 35-43-1-1(a)) as a:
 16 (A) Class A felony or Class B felony, for a crime committed
 17 before July 1, 2014; or
 18 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
 19 crime committed after June 30, 2014;
 20 (15) burglary (IC 35-43-2-1) as a:
 21 (A) Class A felony or Class B felony, for a crime committed
 22 before July 1, 2014; or
 23 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
 24 felony, for a crime committed after June 30, 2014;
 25 (16) assisting a criminal (IC 35-44.1-2-5) as a:
 26 (A) Class C felony, for a crime committed before July 1, 2014;
 27 or
 28 (B) Level 5 felony, for a crime committed after June 30, 2014;
 29 (17) resisting law enforcement (IC 35-44.1-3-1) as a:
 30 (A) Class B felony or Class C felony, for a crime committed
 31 before July 1, 2014; or
 32 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
 33 crime committed after June 30, 2014;
 34 (18) escape (IC 35-44.1-3-4) as a:
 35 (A) Class B felony or Class C felony, for a crime committed
 36 before July 1, 2014; or
 37 (B) Level 4 felony or Level 5 felony, for a crime committed
 38 after June 30, 2014;
 39 (19) trafficking with an inmate (IC 35-44.1-3-5) as a:
 40 (A) Class C felony, for a crime committed before July 1, 2014;
 41 or
 42 (B) Level 5 felony, for a crime committed after June 30, 2014;



- 1 (20) criminal gang intimidation (IC 35-45-9-4);
 2 (21) stalking (IC 35-45-10-5) as a:
 3 (A) Class B felony or Class C felony, for a crime committed
 4 before July 1, 2014; or
 5 (B) Level 4 felony or Level 5 felony, for a crime committed
 6 after June 30, 2014;
 7 (22) incest (IC 35-46-1-3);
 8 (23) dealing in or manufacturing cocaine or a narcotic drug
 9 (IC 35-48-4-1);
 10 (24) dealing in methamphetamine (IC 35-48-4-1.1);
 11 (25) dealing in a schedule I, II, or III controlled substance
 12 (IC 35-48-4-2);
 13 (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
 14 or
 15 (27) dealing in a schedule V controlled substance (IC 35-48-4-4).
 16 (c) A serious violent felon who knowingly or intentionally possesses
 17 a firearm commits unlawful possession of a firearm by a serious violent
 18 felon, a Level 4 felony.
 19 SECTION 15. IC 35-50-1-2, AS AMENDED BY P.L.238-2015,
 20 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2016]: Sec. 2. (a) As used in this section, "crime of violence"
 22 means the following:
 23 (1) Murder (IC 35-42-1-1).
 24 (2) Attempted murder (IC 35-41-5-1).
 25 (3) Voluntary manslaughter (IC 35-42-1-3).
 26 (4) Involuntary manslaughter (IC 35-42-1-4).
 27 (5) Reckless homicide (IC 35-42-1-5).
 28 (6) Aggravated battery (IC 35-42-2-1.5).
 29 (7) Kidnapping (IC 35-42-3-2).
 30 (8) Rape (IC 35-42-4-1).
 31 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 32 (10) Child molesting (IC 35-42-4-3).
 33 (11) Sexual misconduct with a minor as a Level 1 felony under
 34 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 35 (12) Robbery as a Level 2 felony or a Level 3 felony
 36 (IC 35-42-5-1) **or robbery of a pharmacy as a Level 2 felony or**
 37 **a Level 3 felony (IC 35-42-5-1.5).**
 38 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 39 or Level 4 felony (IC 35-43-2-1).
 40 (14) Operating a vehicle while intoxicated causing death
 41 (IC 9-30-5-5).
 42 (15) Operating a vehicle while intoxicated causing serious bodily



1 injury to another person (IC 9-30-5-4).

2 (16) Resisting law enforcement as a felony (IC 35-44.1-3-1).

3 (17) Unlawful possession of a firearm by a serious violent felon
4 (IC 35-47-4-5).

5 (b) As used in this section, "episode of criminal conduct" means
6 offenses or a connected series of offenses that are closely related in
7 time, place, and circumstance.

8 (c) Except as provided in subsection (e) or (f) the court shall
9 determine whether terms of imprisonment shall be served concurrently
10 or consecutively. The court may consider the:

11 (1) aggravating circumstances in IC 35-38-1-7.1(a); and

12 (2) mitigating circumstances in IC 35-38-1-7.1(b);

13 in making a determination under this subsection. The court may order
14 terms of imprisonment to be served consecutively even if the sentences
15 are not imposed at the same time. However, except for crimes of
16 violence, the total of the consecutive terms of imprisonment, exclusive
17 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
18 (before its repeal) to which the defendant is sentenced for felony
19 convictions arising out of an episode of criminal conduct shall not
20 exceed the period described in subsection (d).

21 (d) Except as provided in subsection (c), the total of the consecutive
22 terms of imprisonment to which the defendant is sentenced for felony
23 convictions arising out of an episode of criminal conduct may not
24 exceed the following:

25 (1) If the most serious crime for which the defendant is sentenced
26 is a Level 6 felony, the total of the consecutive terms of
27 imprisonment may not exceed four (4) years.

28 (2) If the most serious crime for which the defendant is sentenced
29 is a Level 5 felony, the total of the consecutive terms of
30 imprisonment may not exceed seven (7) years.

31 (3) If the most serious crime for which the defendant is sentenced
32 is a Level 4 felony, the total of the consecutive terms of
33 imprisonment may not exceed fifteen (15) years.

34 (4) If the most serious crime for which the defendant is sentenced
35 is a Level 3 felony, the total of the consecutive terms of
36 imprisonment may not exceed twenty (20) years.

37 (5) If the most serious crime for which the defendant is sentenced
38 is a Level 2 felony, the total of the consecutive terms of
39 imprisonment may not exceed thirty-two (32) years.

40 (6) If the most serious crime for which the defendant is sentenced
41 is a Level 1 felony, the total of the consecutive terms of
42 imprisonment may not exceed forty-two (42) years.



1 (e) If, after being arrested for one (1) crime, a person commits
2 another crime:

3 (1) before the date the person is discharged from probation,
4 parole, or a term of imprisonment imposed for the first crime; or

5 (2) while the person is released:

6 (A) upon the person's own recognizance; or

7 (B) on bond;

8 the terms of imprisonment for the crimes shall be served consecutively,
9 regardless of the order in which the crimes are tried and sentences are
10 imposed.

11 (f) If the factfinder determines under IC 35-50-2-11 that a person
12 used a firearm in the commission of the offense for which the person
13 was convicted, the term of imprisonment for the underlying offense and
14 the additional term of imprisonment imposed under IC 35-50-2-11
15 must be served consecutively.

16 SECTION 16. IC 35-50-2-9, AS AMENDED BY P.L.187-2015,
17 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2016]: Sec. 9. (a) The state may seek either a death sentence
19 or a sentence of life imprisonment without parole for murder by
20 alleging, on a page separate from the rest of the charging instrument,
21 the existence of at least one (1) of the aggravating circumstances listed
22 in subsection (b). In the sentencing hearing after a person is convicted
23 of murder, the state must prove beyond a reasonable doubt the
24 existence of at least one (1) of the aggravating circumstances alleged.
25 However, the state may not proceed against a defendant under this
26 section if a court determines at a pretrial hearing under IC 35-36-9 that
27 the defendant is an individual with an intellectual disability.

28 (b) The aggravating circumstances are as follows:

29 (1) The defendant committed the murder by intentionally killing
30 the victim while committing or attempting to commit any of the
31 following:

32 (A) Arson (IC 35-43-1-1).

33 (B) Burglary (IC 35-43-2-1).

34 (C) Child molesting (IC 35-42-4-3).

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

37 (E) Kidnapping (IC 35-42-3-2).

38 (F) Rape (IC 35-42-4-1).

39 (G) Robbery (IC 35-42-5-1) **or robbery of a pharmacy**
40 **(IC 35-42-5-1.5).**

41 (H) Carjacking (IC 35-42-5-2) (before its repeal).

42 (I) Criminal gang activity (IC 35-45-9-3).



- 1 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
 2 (K) Criminal confinement (IC 35-42-3-3).
 3 (2) The defendant committed the murder by the unlawful
 4 detonation of an explosive with intent to injure a person or
 5 damage property.
 6 (3) The defendant committed the murder by lying in wait.
 7 (4) The defendant who committed the murder was hired to kill.
 8 (5) The defendant committed the murder by hiring another person
 9 to kill.
 10 (6) The victim of the murder was a corrections employee,
 11 probation officer, parole officer, community corrections worker,
 12 home detention officer, fireman, judge, or law enforcement
 13 officer, and either:
 14 (A) the victim was acting in the course of duty; or
 15 (B) the murder was motivated by an act the victim performed
 16 while acting in the course of duty.
 17 (7) The defendant has been convicted of another murder.
 18 (8) The defendant has committed another murder, at any time,
 19 regardless of whether the defendant has been convicted of that
 20 other murder.
 21 (9) The defendant was:
 22 (A) under the custody of the department of correction;
 23 (B) under the custody of a county sheriff;
 24 (C) on probation after receiving a sentence for the commission
 25 of a felony; or
 26 (D) on parole;
 27 at the time the murder was committed.
 28 (10) The defendant dismembered the victim.
 29 (11) The defendant:
 30 (A) burned, mutilated, or tortured the victim; or
 31 (B) decapitated or attempted to decapitate the victim;
 32 while the victim was alive.
 33 (12) The victim of the murder was less than twelve (12) years of
 34 age.
 35 (13) The victim was a victim of any of the following offenses for
 36 which the defendant was convicted:
 37 (A) Battery committed before July 1, 2014, as a Class D felony
 38 or as a Class C felony under IC 35-42-2-1 or battery
 39 committed after June 30, 2014, as a Level 6 felony, a Level 5
 40 felony, a Level 4 felony, or a Level 3 felony.
 41 (B) Kidnapping (IC 35-42-3-2).
 42 (C) Criminal confinement (IC 35-42-3-3).



- 1 (D) A sex crime under IC 35-42-4.
 2 (14) The victim of the murder was listed by the state or known by
 3 the defendant to be a witness against the defendant and the
 4 defendant committed the murder with the intent to prevent the
 5 person from testifying.
 6 (15) The defendant committed the murder by intentionally
 7 discharging a firearm (as defined in IC 35-47-1-5):
 8 (A) into an inhabited dwelling; or
 9 (B) from a vehicle.
 10 (16) The victim of the murder was pregnant and the murder
 11 resulted in the intentional killing of a fetus that has attained
 12 viability (as defined in IC 16-18-2-365).
 13 (17) The defendant knowingly or intentionally:
 14 (A) committed the murder:
 15 (i) in a building primarily used for an educational purpose;
 16 (ii) on school property; and
 17 (iii) when students are present; or
 18 (B) committed the murder:
 19 (i) in a building or other structure owned or rented by a state
 20 educational institution or any other public or private
 21 postsecondary educational institution and primarily used for
 22 an educational purpose; and
 23 (ii) at a time when classes are in session.
 24 (18) The murder is committed:
 25 (A) in a building that is primarily used for religious worship;
 26 and
 27 (B) at a time when persons are present for religious worship or
 28 education.
 29 (c) The mitigating circumstances that may be considered under this
 30 section are as follows:
 31 (1) The defendant has no significant history of prior criminal
 32 conduct.
 33 (2) The defendant was under the influence of extreme mental or
 34 emotional disturbance when the murder was committed.
 35 (3) The victim was a participant in or consented to the defendant's
 36 conduct.
 37 (4) The defendant was an accomplice in a murder committed by
 38 another person, and the defendant's participation was relatively
 39 minor.
 40 (5) The defendant acted under the substantial domination of
 41 another person.
 42 (6) The defendant's capacity to appreciate the criminality of the



1 defendant's conduct or to conform that conduct to the
2 requirements of law was substantially impaired as a result of
3 mental disease or defect or of intoxication.

4 (7) The defendant was less than eighteen (18) years of age at the
5 time the murder was committed.

6 (8) Any other circumstances appropriate for consideration.

7 (d) If the defendant was convicted of murder in a jury trial, the jury
8 shall reconvene for the sentencing hearing. If the trial was to the court,
9 or the judgment was entered on a guilty plea, the court alone shall
10 conduct the sentencing hearing. The jury or the court may consider all
11 the evidence introduced at the trial stage of the proceedings, together
12 with new evidence presented at the sentencing hearing. The court shall
13 instruct the jury concerning the statutory penalties for murder and any
14 other offenses for which the defendant was convicted, the potential for
15 consecutive or concurrent sentencing, and the availability of
16 educational credit, good time credit, and clemency. The court shall
17 instruct the jury that, in order for the jury to recommend to the court
18 that the death penalty or life imprisonment without parole should be
19 imposed, the jury must find at least one (1) aggravating circumstance
20 beyond a reasonable doubt as described in subsection (l) and shall
21 provide a special verdict form for each aggravating circumstance
22 alleged. The defendant may present any additional evidence relevant
23 to:

24 (1) the aggravating circumstances alleged; or

25 (2) any of the mitigating circumstances listed in subsection (c).

26 (e) For a defendant sentenced after June 30, 2002, except as
27 provided by IC 35-36-9, if the hearing is by jury, the jury shall
28 recommend to the court whether the death penalty or life imprisonment
29 without parole, or neither, should be imposed. The jury may
30 recommend:

31 (1) the death penalty; or

32 (2) life imprisonment without parole;

33 only if it makes the findings described in subsection (l). If the jury
34 reaches a sentencing recommendation, the court shall sentence the
35 defendant accordingly. After a court pronounces sentence, a
36 representative of the victim's family and friends may present a
37 statement regarding the impact of the crime on family and friends. The
38 impact statement may be submitted in writing or given orally by the
39 representative. The statement shall be given in the presence of the
40 defendant.

41 (f) If a jury is unable to agree on a sentence recommendation after
42 reasonable deliberations, the court shall discharge the jury and proceed



1 as if the hearing had been to the court alone.

2 (g) If the hearing is to the court alone, except as provided by
3 IC 35-36-9, the court shall:

4 (1) sentence the defendant to death; or

5 (2) impose a term of life imprisonment without parole;
6 only if it makes the findings described in subsection (l).

7 (h) If a court sentences a defendant to death, the court shall order
8 the defendant's execution to be carried out not later than one (1) year
9 and one (1) day after the date the defendant was convicted. The
10 supreme court has exclusive jurisdiction to stay the execution of a
11 death sentence. If the supreme court stays the execution of a death
12 sentence, the supreme court shall order a new date for the defendant's
13 execution.

14 (i) If a person sentenced to death by a court files a petition for
15 post-conviction relief, the court, not later than ninety (90) days after the
16 date the petition is filed, shall set a date to hold a hearing to consider
17 the petition. If a court does not, within the ninety (90) day period, set
18 the date to hold the hearing to consider the petition, the court's failure
19 to set the hearing date is not a basis for additional post-conviction
20 relief. The attorney general shall answer the petition for post-conviction
21 relief on behalf of the state. At the request of the attorney general, a
22 prosecuting attorney shall assist the attorney general. The court shall
23 enter written findings of fact and conclusions of law concerning the
24 petition not later than ninety (90) days after the date the hearing
25 concludes. However, if the court determines that the petition is without
26 merit, the court may dismiss the petition within ninety (90) days
27 without conducting a hearing under this subsection.

28 (j) A death sentence is subject to automatic review by the supreme
29 court. The review, which shall be heard under rules adopted by the
30 supreme court, shall be given priority over all other cases. The supreme
31 court's review must take into consideration all claims that the:

32 (1) conviction or sentence was in violation of the:

33 (A) Constitution of the State of Indiana; or

34 (B) Constitution of the United States;

35 (2) sentencing court was without jurisdiction to impose a
36 sentence; and

37 (3) sentence:

38 (A) exceeds the maximum sentence authorized by law; or

39 (B) is otherwise erroneous.

40 If the supreme court cannot complete its review by the date set by the
41 sentencing court for the defendant's execution under subsection (h), the
42 supreme court shall stay the execution of the death sentence and set a



1 new date to carry out the defendant's execution.

2 (k) A person who has been sentenced to death and who has
3 completed state post-conviction review proceedings may file a written
4 petition with the supreme court seeking to present new evidence
5 challenging the person's guilt or the appropriateness of the death
6 sentence if the person serves notice on the attorney general. The
7 supreme court shall determine, with or without a hearing, whether the
8 person has presented previously undiscovered evidence that
9 undermines confidence in the conviction or the death sentence. If
10 necessary, the supreme court may remand the case to the trial court for
11 an evidentiary hearing to consider the new evidence and its effect on
12 the person's conviction and death sentence. The supreme court may not
13 make a determination in the person's favor nor make a decision to
14 remand the case to the trial court for an evidentiary hearing without
15 first providing the attorney general with an opportunity to be heard on
16 the matter.

17 (l) Before a sentence may be imposed under this section, the jury,
18 in a proceeding under subsection (e), or the court, in a proceeding
19 under subsection (g), must find that:

20 (1) the state has proved beyond a reasonable doubt that at least
21 one (1) of the aggravating circumstances listed in subsection (b)
22 exists; and

23 (2) any mitigating circumstances that exist are outweighed by the
24 aggravating circumstance or circumstances.

