

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE ENROLLED ACT No. 240

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

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

SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.197-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:
  - (A) concerning any negotiations made with respect to the research; and
  - (B) received from another party involved in the research.

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(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim, without the law enforcement agency or private university police



department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

- (A) a public agency;
- (B) the state; or
- (C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

- (i) the Indiana economic development corporation;
- (ii) the ports of Indiana;
- (iii) the Indiana state department of agriculture;
- (iv) the Indiana finance authority;
- (v) an economic development commission;
- (vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
- (vii) a governing body of a political subdivision;

with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.



(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a



public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described



under this subdivision includes the following:

- (A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 **(before its repeal)**, or an act of agricultural terrorism under IC 35-47-12-2 **(before its repeal)**, or a felony terrorist offense **(as defined in IC 35-50-2-18)**.
- (B) Vulnerability assessments.
- (C) Risk planning documents.
- (D) Needs assessments.
- (E) Threat assessments.
- (F) Intelligence assessments.
- (G) Domestic preparedness strategies.
- (H) The location of community drinking water wells and surface water intakes.
- (I) The emergency contact information of emergency responders and volunteers.
- (J) Infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems.
- (K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:
  - (i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.
  - (ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law



enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

- (i) emergency management worker (as defined in IC 10-14-3-3);
- (ii) public safety officer (as defined in IC 35-47-4.5-3);
- (iii) emergency medical responder (as defined in IC 16-18-2-109.8); or
- (iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 (**before its repeal**), ~~or~~ an act of agricultural terrorism under IC 35-47-12-2 (**before its repeal**), or a **felony terrorist offense (as defined in IC 35-50-2-18)** has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:



- (A) contain personal information relating to:
  - (i) a correctional officer (as defined in IC 5-10-10-1.5);
  - (ii) a law enforcement officer (as defined in IC 35-31.5-2-185);
  - (iii) a judge (as defined in IC 33-38-12-3);
  - (iv) the victim of a crime; or
  - (v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or
- (B) concern or could affect the security of a jail or correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

- (A) Name.
- (B) Address.
- (C) Telephone number.
- (D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

- (A) Date of birth.
- (B) Driver's license number.
- (C) Taxpayer identification number.
- (D) Employer identification number.
- (E) Account number.

(27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

(28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution to an industrial, a research, or a commercial prospect shall be available for





inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated. However, this subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 11-12-3.7-6, AS AMENDED BY P.L.65-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. As used in this chapter, "violent offense" means one (1) or more of the following offenses:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Battery (IC 35-42-2-1) as a:
  - (A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or
  - (B) Level 2 felony, Level 3 felony, or Level 5 felony (for a crime committed after June 30, 2014).



- (8) Kidnapping (IC 35-42-3-2).
- (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that is a:
  - (A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or
  - (B) Level 1 felony, Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony (for a crime committed after June 30, 2014).
- (10) Sexual misconduct with a minor (IC 35-42-4-9) as a:
  - (A) Class A felony or Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 1 felony, Level 2 felony, or Level 4 felony (for a crime committed after June 30, 2014).
- (11) Incest (IC 35-46-1-3).
- (12) Robbery (IC 35-42-5-1) as a:
  - (A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 2 felony or Level 3 felony (for a crime committed after June 30, 2014).
- (13) Burglary (IC 35-43-2-1) as a:
  - (A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (for a crime committed after June 30, 2014).
- (14) Carjacking (IC 35-42-5-2) (repealed).
- (15) Assisting a criminal (IC 35-44.1-2-5) as a:
  - (A) Class C felony (for a crime committed before July 1, 2014); or
  - (B) Level 5 felony (for a crime committed after June 30, 2014).
- (16) Escape (IC 35-44.1-3-4) as a:
  - (A) Class B felony or Class C felony (for a crime committed before July 1, 2014); or
  - (B) Level 4 felony or Level 5 felony (for a crime committed after June 30, 2014).
- (17) Trafficking with an inmate (IC 35-44.1-3-5) as a:
  - (A) Class C felony (for a crime committed before July 1, 2014); or
  - (B) Level 5 felony (for a crime committed after June 30, 2014).
- (18) Causing death when operating a vehicle (IC 9-30-5-5).
- (19) Criminal confinement (IC 35-42-3-3) as a:



- (A) Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 3 felony (for a crime committed after June 30, 2014).
- (20) Arson (IC 35-43-1-1) as a:
- (A) Class A or Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014).
- (21) Possession, use, or manufacture of a weapon of mass destruction **(IC 35-46.5-2-1) (or IC 35-47-12-1 before its repeal)**.
- (22) Terroristic mischief **(IC 35-46.5-2-3) (or IC 35-47-12-3 before its repeal)** as a:
- (A) Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 4 felony (for a crime committed after June 30, 2014).
- (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
- (24) A violation of IC 35-47.5 (controlled explosives) as a:
- (A) Class A or Class B felony (for a crime committed before July 1, 2014); or
  - (B) Level 2 or Level 4 felony (for a crime committed after June 30, 2014).
- (25) Domestic battery (IC 35-42-2-1.3) as a Level 2 felony, Level 3 felony, or Level 5 felony.
- (26) A crime under the laws of another jurisdiction, including a military court, that is substantially similar to any of the offenses listed in this subdivision.
- (27) Any other crimes evidencing a propensity or history of violence.

SECTION 3. IC 31-37-4-3, AS AMENDED BY P.L.65-2016, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).

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- (7) Battery (IC 35-42-2-1).
- (8) Kidnapping (IC 35-42-3-2).
- (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
- (10) Sexual misconduct with a minor (IC 35-42-4-9).
- (11) Incest (IC 35-46-1-3).
- (12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
- (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
- (14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
- (15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5 felony.
- (16) Trafficking with an inmate as a Level 5 felony (IC 35-44.1-3-5).
- (17) Causing death when operating a vehicle (IC 9-30-5-5).
- (18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level 3 felony.
- (19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or Level 4 felony.
- (20) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1) **(before its repeal)**.
- (21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3 felony **(before its repeal)**.
- (22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
- (23) A violation of IC 35-47.5 (controlled explosives) as a Level 2 felony, Level 3 felony, or Level 4 felony.
- (24) A controlled substances offense under IC 35-48.
- (25) A criminal organization offense under IC 35-45-9.
- (26) Domestic battery (IC 35-42-2-1.3).

**(27) A felony terrorist offense (as defined in IC 35-50-2-18).**

(b) If a child is taken into custody under this chapter for a crime or act listed in subsection (a) or a situation to which IC 12-26-4-1 applies, the law enforcement agency that employs the law enforcement officer who takes the child into custody shall notify the chief administrative officer of the primary or secondary school, including a public or nonpublic school, in which the child is enrolled or, if the child is enrolled in a public school, the superintendent of the school district in which the child is enrolled:

- (1) that the child was taken into custody; and
- (2) of the reason why the child was taken into custody.

(c) The notification under subsection (b) must occur within forty-eight (48) hours after the child is taken into custody.



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

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

SECTION 4. IC 34-24-1-1, AS AMENDED BY P.L.215-2018(ss), SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

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

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Manufacturing methamphetamine (IC 35-48-4-1.2).

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

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

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

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

(viii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(ix) Possession of methamphetamine (IC 35-48-4-6.1).

(x) Dealing in paraphernalia (IC 35-48-4-8.5).

(xi) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(xii) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

(D) A bomb (as defined in IC 35-31.5-2-31) or weapon of mass destruction (as defined in IC 35-31.5-2-354) used to



commit, used in an attempt to commit, or used in a conspiracy to commit **a felony terrorist offense (as defined in IC 35-50-2-18)** or an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-31.5-2-329).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit **a felony terrorist offense (as defined in IC 35-50-2-18)** or an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):

- (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;
- (B) used to facilitate any violation of a criminal statute; or
- (C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

- (A) commit, attempt to commit, or conspire to commit;
- (B) facilitate the commission of; or
- (C) escape from the commission of;

murder (IC 35-42-1-1), dealing in a controlled substance resulting in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:

- (A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- (C) Manufacturing methamphetamine (IC 35-48-4-1.2).
- (D) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (E) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (F) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).



- (G) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).
- (H) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).
- (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).
- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
- (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
- (10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.
- (11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.
- (12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.
- (13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.
- (14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:
- (A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.
  - (B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.
- (15) Except as provided in subsection (e), a vehicle used by a person who operates the vehicle:
- (A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two
  - (2) or more prior unrelated convictions:
    - (i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or



- (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or
- (B) on a highway while the person's driving privileges are suspended in violation of IC 9-24-19-2 through IC 9-24-19-3, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:
  - (i) for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
  - (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a vehicle to be registered in the name of the person whose vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following real or personal property:

- (A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).
- (B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(17) An automated sales suppression device (as defined in IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in IC 35-43-5-4.6(a)(3)).

(18) Real or personal property, including a vehicle, that is used by a person to:

- (A) commit, attempt to commit, or conspire to commit;
- (B) facilitate the commission of; or
- (C) escape from the commission of;

a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking) or IC 35-45-4-4 (promoting prostitution).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it





can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in death).
- (2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).
- (3) IC 35-48-4-1.1 (dealing in methamphetamine).
- (4) IC 35-48-4-1.2 (manufacturing methamphetamine).
- (5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (7) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.
- (8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.
- (9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.
- (10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.
- (11) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

(e) A vehicle operated by a person who is not:

- (1) an owner of the vehicle; or
- (2) the spouse of the person who owns the vehicle;

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

SECTION 5. IC 34-24-1-4, AS AMENDED BY P.L.47-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2019]: Sec. 4. (a) At the hearing, the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under section 1 of this chapter. If the property seized was a vehicle, the prosecuting attorney must also show by a preponderance of the evidence that a person who has an ownership interest of record in the bureau of motor vehicles knew or had reason to know that the vehicle was being used in the commission of the offense.

(b) If the prosecuting attorney fails to meet the burden of proof, the court shall order the property released to the owner, unless the owner's possession of the property is illegal. If property is released to the owner under this subsection, the owner is not subject to or responsible for any charges for storage of the property or other expenses incurred in the preservation of the property.

(c) If the court enters judgment in favor of the state, the court, subject to section 5 of this chapter, shall order distribution of the property in accordance with subsection (d). The court's order may permit the law enforcement agency to use the property for a period not to exceed three (3) years. However, the order must require that, after the period specified by the court, the law enforcement agency shall deliver the property to the county sheriff for public sale.

(d) If the court enters judgment in favor of the state, the court shall, subject to section 5 of this chapter order that:

- (1) the property, if it is not money or real property, be sold under section 6 of this chapter, by the sheriff of the county in which the property was seized, and if the property is a vehicle, this sale must occur after any period of use specified in subsection (c);
- (2) the property, if it is real property, be sold in the same manner as real property is sold on execution under IC 34-55-6; and
- (3) the proceeds of the sale or the money be distributed as follows:

(A) To pay attorney's fees, if outside counsel is employed under section 8 of this chapter.

(B) After payment of attorney's fees under clause (A), one third (1/3) of the remaining amount shall be deposited into the forfeiture fund established by the prosecuting attorney to offset expenses incurred in connection with the investigation and prosecution of the action.

(C) Except as provided in clause (D), after distribution of the proceeds described in clauses (A) and (B), if applicable, eighty-five percent (85%) of the remaining proceeds shall be deposited in the:



- (i) general fund of the state;
- (ii) general fund of the unit that employed the law enforcement officers that seized the property; or
- (iii) county law enforcement fund established for the support of the drug task force;

as determined by the court, to offset expenses incurred in the investigation of the acts giving rise to the action.

(D) After distribution of the proceeds described in clauses (A) and (B), if applicable, eighty-five percent (85%) of the remaining proceeds shall be deposited in the general fund of a unit if the property was seized by a local law enforcement agency of the unit for an offense, an attempted offense, or a conspiracy to commit a **felony terrorist offense (as defined in IC 35-50-2-18)** or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

The court shall order that the proceeds remaining after the distribution of funds to offset expenses described in subdivision (3) be forfeited and transferred to the treasurer of state for deposit in the common school fund.

(e) If property that is seized under this chapter (or IC 34-4-30.1-4 before its repeal) is transferred:

- (1) after its seizure, but before an action is filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal); or
- (2) when an action filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal) is pending;

the person to whom the property is transferred must establish an ownership interest of record as a bona fide purchaser for value. A person is a bona fide purchaser for value under this section if the person, at the time of the transfer, did not have reasonable cause to believe that the property was subject to forfeiture under this chapter.

(f) If the property seized was an unlawful telecommunications device (as defined in IC 35-45-13-6) or plans, instructions, or publications used to commit an offense under IC 35-45-13, the court may order the sheriff of the county in which the person was convicted of an offense under IC 35-45-13 to destroy as contraband or to otherwise lawfully dispose of the property.

SECTION 6. IC 35-31.5-2-27.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 27.6. "Benefit, promote, or further the interests of a terrorist organization", for purposes of IC 35-46.5, has the meaning set forth in IC 35-46.5-1-1.**

SECTION 7. IC 35-31.5-2-130.2 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 130.2. "Felony terrorist offense", for purposes of IC 35-50-2-18, has the meaning set forth in IC 35-50-2-18.**

SECTION 8. IC 35-31.5-2-164, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 164. "Identifying information", for purposes of IC 35-43-5 and **IC 35-46.5**, has the meaning set forth in ~~IC 35-43-5-1(i)~~: **IC 35-43-5-1.**

SECTION 9. IC 35-31.5-2-237.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 237.5. "Police radio mobile application", for purposes of IC 35-44.1-2-7, has the meaning set forth in IC 35-44.1-2-7(d).**

SECTION 10. IC 35-31.5-2-264.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 264.6. "Purpose of increasing a person's own standing or position within a terrorist organization", for purposes of IC 35-46.5, has the meaning set forth in IC 35-46.5-1-1.**

SECTION 11. IC 35-31.5-2-329, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 329. "Terrorism" means the unlawful use of force or violence or the unlawful threat of force or violence to:

- (1) intimidate or coerce:
  - (A) a government; or
  - (B) all or part of the civilian population; or
- (2) **affect the conduct of a government by use of a weapon of mass destruction, assassination, or kidnapping.**

SECTION 12. IC 35-31.5-2-329.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 329.4. "Terrorist organization", for purposes of IC 35-46.5, has the meaning set forth in IC 35-46.5-1-1.**

SECTION 13. IC 35-43-5-3.6 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 3-6. A person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person with intent to:~~

- ~~(1) commit terrorism; or~~
  - ~~(2) obtain or transport a weapon of mass destruction;~~
- ~~commits terroristic deception; a Level 5 felony.~~

SECTION 14. IC 35-43-5-4.3, AS AMENDED BY P.L.158-2013,



SECTION 475, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4.3. (a) As used in this section, "card skimming device" means a device that is designed to read information encoded on a credit card. The term includes a device designed to read, record, or transmit information encoded on a credit card:

- (1) directly from a credit card; or
- (2) from another device that reads information directly from a credit card.

(b) A person who possesses a card skimming device with intent to commit:

- (1) identity deception (IC 35-43-5-3.5);
- (2) synthetic identity deception (IC 35-43-5-3.8);
- (3) fraud (IC 35-43-5-4); or
- (4) terroristic deception (**IC 35-46.5-2-4**) (**or IC 35-43-5-3.6 before its repeal**);

commits unlawful possession of a card skimming device. Unlawful possession of a card skimming device under subdivision (1), (2), or (3) is a Level 6 felony. Unlawful possession of a card skimming device under subdivision (4) is a Level 5 felony.

SECTION 15. IC 35-44.1-2-7, AS ADDED BY P.L.126-2012, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A person who knowingly or intentionally:

- (1) possesses a police radio;
- (2) transmits over a frequency assigned for police emergency purposes; or
- (3) possesses or uses a police radio **or a police radio mobile application**:
  - (A) while committing a crime;
  - (B) to further the commission of a crime; or
  - (C) to avoid detection by a law enforcement agency;

commits unlawful use of a police radio, a Class B misdemeanor.

(b) Subsection (a)(1) and (a)(2) do not apply to:

- (1) a governmental entity;
- (2) a regularly employed law enforcement officer;
- (3) a common carrier of persons for hire whose vehicles are used in emergency service;
- (4) a public service or utility company whose vehicles are used in emergency service;
- (5) a person who has written permission from the chief executive officer of a law enforcement agency to possess a police radio;
- (6) a person who holds an amateur radio license issued by the



Federal Communications Commission if the person is not transmitting over a frequency assigned for police emergency purposes;

(7) a person who uses a police radio only in the person's dwelling or place of business;

(8) a person:

(A) who is regularly engaged in newsgathering activities;

(B) who is employed by a newspaper qualified to receive legal advertisements under IC 5-3-1, a wire service, or a licensed commercial or public radio or television station; and

(C) whose name is furnished by the person's employer to the chief executive officer of a law enforcement agency in the county in which the employer's principal office is located;

(9) a person engaged in the business of manufacturing or selling police radios; or

(10) a person who possesses or uses a police radio during the normal course of the person's lawful business.

(c) As used in this section, "police radio" means a radio that is capable of sending or receiving signals transmitted on frequencies assigned by the Federal Communications Commission for police emergency purposes and that:

(1) can be installed, maintained, or operated in a vehicle; or

(2) can be operated while it is being carried by an individual.

The term does not include a radio designed for use only in a dwelling.

**(d) As used in this section, "police radio mobile application" means an application installed on a mobile device that allows a person to listen to the contents of traffic carried on police radio frequencies.**

SECTION 16. IC 35-44.1-2-8, AS AMENDED BY P.L.158-2013, SECTION 506, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) A person who knowingly or intentionally manufactures and sells or manufactures and offers for sale:

(1) an official badge or a replica of an official badge that is currently used by a law enforcement agency or fire department of the state or of a political subdivision of the state; or

(2) a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or of a political subdivision of the state;

without the written permission of the chief executive officer of the law enforcement agency commits unlawful manufacture or sale of a police or fire insignia, a Class A misdemeanor.



(b) However, the offense described in subsection (a) is:

- (1) a Level 6 felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under section 6 of this chapter; and
- (2) a Level 4 felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-47-12 **(before its repeal) or a felony terrorist offense (as defined in IC 35-50-2-18).**

(c) It is a defense to a prosecution under subsection (a)(1) if the area of the badge or replica that is manufactured and sold or manufactured and offered for sale as measured by multiplying the greatest length of the badge by the greatest width of the badge is:

- (1) less than fifty percent (50%); or
- (2) more than one hundred fifty percent (150%);

of the area of an official badge that is used by a law enforcement agency or fire department of the state or a political subdivision of the state as measured by multiplying the greatest length of the official badge by the greatest width of the official badge.

SECTION 17. IC 35-45-2-1, AS AMENDED BY P.L.85-2017, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A person who communicates a threat to ~~another person~~, with the intent:

- (1) that ~~the other~~ **another** person engage in conduct against the other person's will;
- (2) that ~~the other~~ **another** person be placed in fear of retaliation for a prior lawful act; ~~or~~
- (3) of:

(A) causing:

- (i) a dwelling, a building, or other structure; or
- (ii) a vehicle;

to be evacuated; or

(B) interfering with the occupancy of:

- (i) a dwelling, building, or other structure; or
- (ii) a vehicle; ~~or~~

**(4) that another person be placed in fear that the threat will be carried out, if the threat is a threat described in:**

**(A) subsection (d)(1) through (d)(5); or**

**(B) subsection (d)(7) through (d)(8);**

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:



- (1) Level 6 felony if:
- (A) the threat is to commit a forcible felony;
  - (B) the **subject of the threat or the** person to whom the threat is communicated
    - (i) is a law enforcement officer;
    - (ii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
    - (iii) is an employee of a school or school corporation;
    - (iv) is a community policing volunteer;
    - (v) is an employee of a court;
    - (vi) is an employee of a probation department;
    - (vii) is an employee of a community corrections program;
    - (viii) is an employee of a hospital, church, or religious organization; or
    - (ix) is a person that owns a building or structure that is open to the public or is an employee of the person;
- and, except as provided in item (ii);
- (C) the threat is communicated to the person because of the occupation, profession, employment status, or ownership status of the a person as described in items (i) through (ix) or based on an act taken by the person within the scope of or the threat relates to or is made in connection with the occupation, profession, employment status, or ownership status of the a person;
  - (~~E~~) (D) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
  - (~~D~~) (E) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and
- (2) Level 5 felony if:
- (A) while committing it, the person draws or uses a deadly weapon; or
  - (B) the **subject of the threat or the** person to whom the threat is communicated:
    - (i) is a judge **judicial officer** or bailiff of any court; or
    - (ii) is a prosecuting attorney or a deputy prosecuting attorney;
- and the threat relates to the person's status as a judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney, or is made in connection with the official duties of the judicial officer, bailiff, prosecuting attorney, or**





**deputy prosecuting attorney; or**

**(C) the threat is:**

**(i) to commit terrorism; or**

**(ii) made in furtherance of an act of terrorism.**

(c) "Communicates" includes posting a message electronically, including on a social networking web site (as defined in IC 35-31.5-2-307).

(d) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of ~~the a~~ person; ~~threatened~~; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle. **For purposes of this subdivision, the term includes an expression that would cause a reasonable person to consider the evacuation of a dwelling, a building, another structure, or a vehicle, even if the dwelling, building, structure, or vehicle is not evacuated.**

SECTION 18. IC 35-46.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**ARTICLE 46.5. TERRORISM**

**Chapter 1. Definitions**

**Sec. 1. The following definitions apply throughout this article:**

**(1) "Benefit, promote, or further the interests of a terrorist organization" means to commit a felony or misdemeanor that would cause a reasonable person to believe results in:**

**(A) a benefit to a terrorist organization or a member of a terrorist organization;**

**(B) the promotion of a terrorist organization; or**

**(C) furthering the interests of a terrorist organization.**

**(2) "Identifying information" has the meaning set forth in**



**IC 35-43-5-1.**

**(3) "Purpose of increasing a person's own standing or position within a terrorist organization" means committing a felony or misdemeanor that would cause a reasonable person to believe results in increasing the person's standing or position within a terrorist organization.**

**(4) "Terrorism" has the meaning set forth in IC 35-31.5-2-329.**

**(5) "Terrorist organization" means a formal or informal group with at least three (3) members that specifically:**

**(A) either:**

**(i) promotes, sponsors, or assists in;**

**(ii) participates in; or**

**(iii) has as one (1) of its goals;**

**terrorism; or**

**(B) requires as a condition of membership or continued membership the commission of an act of terrorism, or the commission of a misdemeanor or felony, to assist in the commission of an act of terrorism.**

**Chapter 2. Offenses****Sec. 1. A person who knowingly or intentionally:**

**(1) possesses;**

**(2) manufactures;**

**(3) places;**

**(4) disseminates; or**

**(5) detonates;**

**a weapon of mass destruction with the intent to carry out terrorism commits a Level 3 felony. However, the offense is a Level 1 felony if the conduct results in serious bodily injury or death of any person.**

**Sec. 2. A person who knowingly or intentionally:**

**(1) possesses;**

**(2) manufactures;**

**(3) places;**

**(4) disseminates; or**

**(5) detonates;**

**a weapon of mass destruction with the intent to damage, destroy, sicken, or kill crops or livestock of another person without the consent of the other person commits agricultural terrorism, a Level 5 felony.**

**Sec. 3. A person who knowingly or intentionally places or disseminates a device or substance with the intent to cause a**



reasonable person to believe that the device or substance is a weapon of mass destruction (as defined in IC 35-31.5-2-354) commits terroristic mischief, a Level 5 felony. However, the offense is a Level 4 felony if, as a result of the terroristic mischief:

- (1) a physician prescribes diagnostic testing or medical treatment for any person other than the person who committed the terroristic mischief; or
- (2) a person suffers serious bodily injury.

Sec. 4. A person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person with intent to:

- (1) commit terrorism; or
- (2) obtain or transport a weapon of mass destruction;

commits terroristic deception, a Level 5 felony.

Sec. 5. A person who provides material support to another person with the intent to assist the person in planning or carrying out terrorism commits providing support for a terrorist act, a Level 5 felony. However the offense is a Level 2 felony if:

- (1) the material support involves the commission of a felony; or
- (2) the act of terrorism is reasonably likely to cause serious bodily injury to any person.

Sec. 6. A person who, with the intent to hinder the apprehension or punishment of another person who has committed an act of terrorism, harbors, conceals, or otherwise assists the other person commits harboring a terrorist, a Level 6 felony. However, the offense is a Level 3 felony if the act of terrorism resulted in serious bodily injury or death to any person.

Sec. 7. (a) A person who knowingly or intentionally commits an offense:

- (1) with the intent to benefit, promote, or further the interests of a terrorist organization; or
- (2) for the purpose of increasing the person's own standing or position within a terrorist organization;

commits terrorist organization activity, a Level 5 felony. However, the offense is a Level 3 felony if the offense involves, directly or indirectly, the unlawful use of a firearm or weapon of mass destruction.

(b) In determining whether a person committed an offense under this section, the trier of fact may consider a person's association with a terrorist organization, including:

- (1) an admission of terrorist organization membership by the



person;

(2) a statement by:

(A) a member of the person's family;

(B) the person's guardian; or

(C) a reliable member of the criminal organization;

stating the person is a member of a terrorist organization;

(3) the person associating with one (1) or more members of a terrorist organization;

(4) physical evidence indicating the person is a member of a terrorist organization;

(5) an observation of the person in the company of a known terrorist organization member on at least three (3) occasions;

(6) communications authored by the person indicating terrorist organization membership, promotion of membership in a terrorist organization, or responsibility for an offense committed by a terrorist organization; and

(7) the person's involvement in recruiting terrorist organization members.

SECTION 19. IC 35-47-12 IS REPEALED [EFFECTIVE JULY 1, 2019]. (Weapons of Mass Destruction).

SECTION 20. IC 35-50-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 18. (a) As used in this section, "felony terrorist offense" means the following:**

(1) An offense described in IC 35-46.5-2.

(2) Money laundering (IC 35-45-15-5) committed with the intent to:

(A) commit or promote an act of terrorism; or

(B) obtain or transport a weapon of mass destruction.

(3) Intimidation (IC 35-45-2-1) involving a threat:

(A) to commit terrorism; or

(B) made in furtherance of an act of terrorism.

(b) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense with the intent to aid or assist another person in the commission of a felony terrorist offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person committed the offense with the intent to aid or assist another person in the commission of a felony terrorist offense.

(c) If the person is convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing.

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If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(d) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person committed the offense with the intent to aid or assist another person in the commission of a felony terrorist offense, the court shall:

(1) sentence the person to an additional fixed term of imprisonment equal to the sentence imposed for the underlying offense, if the person is sentenced for only one (1) offense; or

(2) sentence the person to an additional fixed term of imprisonment equal to the longest sentence imposed for the underlying offenses, if the person is being sentenced for more than one (1) offense.

(e) A sentence imposed under this section shall run consecutively to the underlying sentence.

(f) A term of imprisonment imposed under this section may not be suspended.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 240 — Concur**

