



March 20, 2015

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## ENGROSSED SENATE BILL No. 532

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DIGEST OF SB 532 (Updated March 18, 2015 3:29 pm - DI 69)

**Citations Affected:** IC 5-2; IC 10-11; IC 32-30; IC 33-39; IC 34-24.

**Synopsis:** Human trafficking, promoting prostitution, and property forfeiture. Provides that, for purposes of the law concerning actions for indecent nuisances, an indecent nuisance includes a public place in or upon which human trafficking is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place for such a purpose. Establishes the human trafficking prevention and victim assistance fund to fund human trafficking victim services and human trafficking prevention programs. Provides that: (1) 80% of money collected in the seizure of property used in connection with human trafficking will be transferred to the human trafficking prevention and victim assistance fund; and (2) 20% of the money will be transferred to the county for use by the  
(Continued next page)

**Effective:** July 1, 2015.

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### Head, Houchin, Tallian

(HOUSE SPONSORS — MCNAMARA, COX, HALE, LAWSON L)

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January 14, 2015, read first time and referred to Committee on Corrections & Criminal Law.

February 12, 2015, amended, reported favorably — Do Pass.

February 16, 2015, read second time, ordered engrossed. Engrossed.

February 17, 2015, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Courts and Criminal Code.

March 19, 2015, amended, reported — Do Pass.

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Digest Continued

prosecuting attorney. Allows a law enforcement agency to seize real or personal property, including a vehicle, that is used by a person to: (1) commit, attempt to commit, or conspire to commit; (2) facilitate the commission of; or (3) escape from the commission of; an offense concerning human trafficking or promoting prostitution. Requires: (1) the Indiana prosecuting attorneys council to make an annual report to the legislative council concerning civil property forfeitures conducted in Indiana; and (2) the state police department to annually report to the legislative council the amount of money it has received from the federal government as the result of property forfeitures conducted by the federal government.



March 20, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## ENGROSSED SENATE BILL No. 532

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A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

- 1 SECTION 1. IC 5-2-6-25 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 25. (a) The human trafficking prevention and victim**  
4 **assistance fund is established for the purpose of providing funds**  
5 **for:**  
6 (1) **human trafficking victim services; and**  
7 (2) **human trafficking prevention programs provided by**  
8 **community based organizations.**  
9 **Money in the fund may be used only to carry out the purposes of**  
10 **the fund.**  
11 (b) **The fund shall be administered by the institute.**  
12 (c) **The fund consists of:**  
13 (1) **money deposited in the fund under IC 32-30-7-24.5;**  
14 (2) **grants; and**  
15 (3) **donations.**  
16 (d) **The expenses of administering the fund shall be paid from**

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1 money in the fund.

2 (e) The treasurer of state shall invest the money in the fund not  
3 currently needed to meet the obligations of the fund in the same  
4 manner as other public money may be invested. Interest that  
5 accrues from these investments shall be deposited in the fund.

6 (f) Money in the fund at the end of a state fiscal year does not  
7 revert to the state general fund.

8 (g) The state is subrogated to the rights of a victim to whom  
9 services are provided, to the extent of the services. The subrogation  
10 rights are against the perpetrator of the crime or a person  
11 otherwise liable for the loss. If the victim brings a civil action  
12 against the perpetrator of the crime or against the person  
13 otherwise liable for the loss, the victim shall promptly notify the  
14 institute of the filing of the civil action.

15 (h) In addition to the subrogation rights under subsection (g),  
16 the state is entitled to a lien in the amount of the services provided  
17 on a recovery made by or on behalf of the victim. The state may:

- 18 (1) recover the amount of services in a separate action; or  
19 (2) intervene in an action brought by or on behalf of the  
20 victim.

21 SECTION 2. IC 10-11-2-34.2 IS ADDED TO THE INDIANA  
22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
23 [EFFECTIVE JULY 1, 2015]: **Sec. 34.2. (a) The superintendent shall**  
24 **annually report to the legislative council, to the extent the**  
25 **information is available, the amount of money that the state police**  
26 **department has received from the federal government as the result**  
27 **of a forfeiture conducted by the federal government.**

28 (b) The report shall be:

- 29 (1) submitted before July 15 of every year; and  
30 (2) in an electronic format under IC 5-14-6.

31 (c) The report may include any other information that the  
32 superintendent believes would be helpful.

33 SECTION 3. IC 32-30-7-1, AS AMENDED BY P.L.158-2013,  
34 SECTION 333, IS AMENDED TO READ AS FOLLOWS  
35 [EFFECTIVE JULY 1, 2015]: Sec. 1. As used in this chapter, "indecent  
36 nuisance" means a:

- 37 (1) place in or upon which prostitution (as described in  
38 IC 35-45-4);  
39 (2) public place in or upon which other sexual conduct (as defined  
40 in IC 35-31.5-2-221.5) or sexual intercourse (as defined in  
41 IC 35-31.5-2-302); or  
42 (3) public place in or upon which the fondling of the genitals of



1 a person; or

2 **(4) public place in or upon which human trafficking (as**  
 3 **described in IC 35-42-3.5-1);**

4 is conducted, permitted, continued, or exists, and the personal property  
 5 and contents used in conducting and maintaining the place for such a  
 6 purpose.

7 SECTION 4. IC 32-30-7-24 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) **Except as**  
 9 **provided in section 24.5 of this chapter**, all money collected under  
 10 this chapter shall be paid to the county treasurer.

11 (b) The proceeds of the sale of the personal property under section  
 12 22 of this chapter, or as much of the proceeds as necessary, shall be  
 13 applied in payment of the costs of the action and abatement, including  
 14 the complainant's costs.

15 SECTION 5. IC 32-30-7-24.5 IS ADDED TO THE INDIANA  
 16 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 17 **[EFFECTIVE JULY 1, 2015]: Sec. 24.5. Money collected under this**  
 18 **chapter concerning a public place in or upon which human**  
 19 **trafficking (as described in IC 35-42-3.5-1) is conducted, permitted,**  
 20 **continued, or exists, and the personal property and contents used**  
 21 **in conducting and maintaining the place for such a purpose shall**  
 22 **be distributed as follows:**

23 **(1) Eighty percent (80%) of the money collected shall be**  
 24 **deposited in the human trafficking prevention and victim**  
 25 **assistance fund established by IC 5-2-6-25, to be used for the**  
 26 **purposes of the fund.**

27 **(2) Twenty percent (20%) of the money collected shall be**  
 28 **transferred to the county auditor for deposit in the county**  
 29 **general fund. Money deposited in the county general fund**  
 30 **under this subdivision may only be appropriated to the**  
 31 **prosecuting attorney to defray expenses incurred in the:**

32 **(A) collection of the funds; and**

33 **(B) investigation or prosecution of human trafficking.**

34 SECTION 6. IC 33-39-8-5, AS AMENDED BY P.L.176-2005,  
 35 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2015]: Sec. 5. The council shall do the following:

37 (1) Assist in the coordination of the duties of the prosecuting  
 38 attorneys of the state and their staffs.

39 (2) Prepare manuals of procedure.

40 (3) Give assistance in preparation of the trial briefs, forms, and  
 41 instructions.

42 (4) Conduct research and studies that would be of interest and



1 value to all prosecuting attorneys and their staffs.

2 (5) Maintain liaison contact with study commissions and agencies  
3 of all branches of local, state, and federal government that will be  
4 of benefit to law enforcement and the fair administration of  
5 justice in Indiana.

6 (6) Adopt guidelines for the expenditure of funds derived from a  
7 deferral program or a pretrial diversion program.

8 **(7) The council shall:**

9 **(A) compile forfeiture data received under IC 34-24-1-4.5;**  
10 **and**

11 **(B) annually submit a report to the legislative council**  
12 **containing the compiled data.**

13 **The council shall submit the report to the legislative council**  
14 **before July 15 of every year. The report must be in an**  
15 **electronic format under IC 5-14-6. The council may adopt**  
16 **rules under IC 4-22-2 to implement this subdivision.**

17 SECTION 7. IC 34-24-1-1, AS AMENDED BY P.L.217-2014,  
18 SECTION 187, IS AMENDED TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The following may be seized:

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

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

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

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

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

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

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

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

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

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

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

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

42 (xi) Dealing in a synthetic drug or synthetic drug lookalike



- 1 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its  
2 amendment in 2013).
- 3 (B) Any stolen (IC 35-43-4-2) or converted property  
4 (IC 35-43-4-3) if the retail or repurchase value of that property  
5 is one hundred dollars (\$100) or more.
- 6 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
- 7 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of  
8 mass destruction (as defined in IC 35-31.5-2-354) used to  
9 commit, used in an attempt to commit, or used in a conspiracy  
10 to commit an offense under IC 35-47 as part of or in  
11 furtherance of an act of terrorism (as defined by  
12 IC 35-31.5-2-329).
- 13 (2) All money, negotiable instruments, securities, weapons,  
14 communications devices, or any property used to commit, used in  
15 an attempt to commit, or used in a conspiracy to commit an  
16 offense under IC 35-47 as part of or in furtherance of an act of  
17 terrorism or commonly used as consideration for a violation of  
18 IC 35-48-4 (other than items subject to forfeiture under  
19 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
- 20 (A) furnished or intended to be furnished by any person in  
21 exchange for an act that is in violation of a criminal statute;
- 22 (B) used to facilitate any violation of a criminal statute; or
- 23 (C) traceable as proceeds of the violation of a criminal statute.
- 24 (3) Any portion of real or personal property purchased with  
25 money that is traceable as a proceed of a violation of a criminal  
26 statute.
- 27 (4) A vehicle that is used by a person to:
- 28 (A) commit, attempt to commit, or conspire to commit;
- 29 (B) facilitate the commission of; or
- 30 (C) escape from the commission of;
- 31 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal  
32 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting  
33 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense  
34 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 35 (5) Real property owned by a person who uses it to commit any of  
36 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5  
37 felony:
- 38 (A) Dealing in or manufacturing cocaine or a narcotic drug  
39 (IC 35-48-4-1).
- 40 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 41 (C) Dealing in a schedule I, II, or III controlled substance  
42 (IC 35-48-4-2).



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





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



1 seizure under subsection (a).

2 (c) Equipment under subsection (a)(10) may not be seized unless it  
3 can be proven by a preponderance of the evidence that the owner of the  
4 equipment knowingly permitted the equipment to be used to engage in  
5 conduct that subjects it to seizure under subsection (a)(10).

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

15 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a  
16 narcotic drug).

17 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

18 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled  
19 substance).

20 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

21 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)  
22 as a Level 4 felony.

23 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a  
24 Level 3, Level 4, or Level 5 felony.

25 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Level  
26 3, Level 4, or Level 5 felony.

27 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or  
28 salvia) as a Level 5 felony.

29 (9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug  
30 lookalike substance) as a Level 5 felony or Level 6 felony (or as  
31 a Class C felony or Class D felony under IC 35-48-4-10 before its  
32 amendment in 2013).

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

34 (1) an owner of the vehicle; or

35 (2) the spouse of the person who owns the vehicle;

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

40 SECTION 8. IC 34-24-1-4.5 IS ADDED TO THE INDIANA CODE  
41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
42 1, 2015]: **Sec. 4.5. (a) After a court enters a judgment in favor of**

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1 the state or a unit under section 4 of this chapter, the prosecuting  
2 attorney shall report the:

3 (1) amount of money or property that is the subject of the  
4 judgment; and

5 (2) law enforcement agency to which the money or property  
6 is ordered to be transferred;

7 to the Indiana prosecuting attorneys council. This subsection  
8 applies even if the prosecuting attorney has retained an attorney to  
9 bring an action under this chapter.

10 (b) After a court, upon motion of the prosecuting attorney under  
11 IC 35-33-5-5(j), orders property transferred to a federal authority  
12 for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21  
13 U.S.C. 881(e), and any related regulations adopted by the United  
14 States Department of Justice, the prosecuting attorney shall report  
15 to the Indiana prosecuting attorneys council the amount of money  
16 or property transferred. This subsection applies even if the  
17 prosecuting attorney has retained an attorney to bring an action  
18 under this chapter.

19 (c) A report made to the Indiana prosecuting attorneys council  
20 under this section must be in a format approved by the prosecuting  
21 attorneys council.



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 532, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 25. (a) The human trafficking prevention and victim assistance fund is established for the purpose of providing funds for:**

- (1) human trafficking victim services; and
- (2) human trafficking prevention programs provided by community based organizations.

**Money in the fund may be used only to carry out the purposes of the fund.**

**(b) The fund shall be administered by the institute.**

**(c) The fund consists of:**

- (1) money deposited in the fund under IC 32-30-7-24.5;
- (2) grants; and
- (3) donations.

**(d) The expenses of administering the fund shall be paid from money in the fund.**

**(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.**

**(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**(g) The state is subrogated to the rights of a victim to whom services are provided, to the extent of the services. The subrogation rights are against the perpetrator of the crime or a person otherwise liable for the loss. If the victim brings a civil action against the perpetrator of the crime or against the person otherwise liable for the loss, the victim shall promptly notify the institute of the filing of the civil action.**

**(h) In addition to the subrogation rights under subsection (g), the state is entitled to a lien in the amount of the services provided on a recovery made by or on behalf of the victim. The state may:**

- (1) recover the amount of services in a separate action; or

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**(2) intervene in an action brought by or on behalf of the victim."**

Page 2, line 11, delete "(a)".

Page 2, delete lines 17 through 22, begin a new line block indented and insert:

**"(1) Eighty percent (80%) of the money collected shall be deposited in the human trafficking prevention and victim assistance fund established by IC 5-2-6-25, to be used for the purposes of the fund.**

**(2) Twenty percent (20%) of the money collected shall be transferred to the county auditor for deposit in the county general fund. Money deposited in the county general fund under this subdivision may only be appropriated to the prosecuting attorney to defray expenses incurred in the:**

**(A) collection of the funds; and**

**(B) investigation or prosecution of human trafficking."**

Page 2, delete lines 23 through 34.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 532 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 532, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 2. IC 10-11-2-34.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 34.2. (a) The superintendent shall annually report to the legislative council, to the extent the information is available, the amount of money that the state police department has received from the federal government as the result of a forfeiture conducted by the federal government.**

**(b) The report shall be:**

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**(1) submitted before July 15 of every year; and**

**(2) in an electronic format under IC 5-14-6.**

**(c) The report may include any other information that the superintendent believes would be helpful."**

Page 3, after line 21, begin a new paragraph and insert:

"SECTION 6. IC 33-39-8-5, AS AMENDED BY P.L.176-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. The council shall do the following:

(1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.

(2) Prepare manuals of procedure.

(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.

**(7) The council shall:**

**(A) compile forfeiture data received under IC 34-24-1-4.5; and**

**(B) annually submit a report to the legislative council containing the compiled data.**

**The council shall submit the report to the legislative council before July 15 of every year. The report must be in an electronic format under IC 5-14-6. The council may adopt rules under IC 4-22-2 to implement this subdivision.**

SECTION 7. IC 34-24-1-1, AS AMENDED BY P.L.217-2014, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
  - (iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
  - (v) Dealing in a schedule V controlled substance (IC 35-48-4-4).
  - (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
  - (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
  - (viii) Possession of methamphetamine (IC 35-48-4-6.1).
  - (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
  - (x) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).
  - (xi) 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 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 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), 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) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
  - (D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
  - (E) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).
  - (F) 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).
- (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 (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 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(2) IC 35-48-4-1.1 (dealing in methamphetamine).

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

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

(5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.

(6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.

(7) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.

(8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.



(9) 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 8. IC 34-24-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.5. (a) After a court enters a judgment in favor of the state or a unit under section 4 of this chapter, the prosecuting attorney shall report the:**

- (1) amount of money or property that is the subject of the judgment; and**
- (2) law enforcement agency to which the money or property is ordered to be transferred;**

**to the Indiana prosecuting attorneys council. This subsection applies even if the prosecuting attorney has retained an attorney to bring an action under this chapter.**

**(b) After a court, upon motion of the prosecuting attorney under IC 35-33-5-5(j), orders property transferred to a federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e), and any related regulations adopted by the United States Department of Justice, the prosecuting attorney shall report to the Indiana prosecuting attorneys council the amount of money or property transferred. This subsection applies even if the prosecuting attorney has retained an attorney to bring an action under this chapter.**

**(c) A report made to the Indiana prosecuting attorneys council under this section must be in a format approved by the prosecuting attorneys council."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 532 as printed February 13, 2015.)

WASHBURN

Committee Vote: yeas 10, nays 0.

ES 532—LS 7138/DI 69

