

**2020 Legislative Session**  
**Summary of Changes Affecting**  
**Criminal Law**

<b>Administrative Matters</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
State board of accounts.	1108	2-5-1.1-6.3 5-11	7/1/20	Allows SBOA to issue subpoenas to enforce filings of annual financial reports. Provides that a court may order a public officer to forfeit their office if they commit certain audit violations (current law requires office forfeiture). In lieu of forfeiture of office, allows a court to impose a civil penalty (\$500 maximum) for each day the violation continues. Provides that the individual is personally liable for the civil penalty. Allows SBOA to collect expenses incurred for the audit, exam, or engagement from the audited entity of the officer who commits the violation.
Pension matters.	10	2-3.5-5-6 5-10.2 5-10.3-12-26 5-10.4-8-12	1/1/21	Allows PERF members who meet certain age and service requirements to withdraw all or part of their annuity savings account without consequence to their pension benefit and without separating from a covered position. Removes the requirement that a PERF member wait 30 days after separating to withdraw an amount from their annuity savings account.
Disclosure of personal information to offender.	216	5-14-3-2 5-14-3-4	7/1/20	Amends the public records statutes to provide that personal information of officers, judges, victims, or their family members may be withheld from disclosure when requested by a person (or their agent or relative) confined in a prison, jail, detention facility, or community corrections program as a result of arrest or conviction. Exempts attorneys from the definition of “agent.”
<b>Children and Endangered Adults</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Minimum age to marry and emancipation of minors.	1006	31-9-2 31-11 31-34-20-6 31-37-19-27 35-52-31-2	7/1/20	Raises the minimum age to marry from 15 to 16. Provides that a 16 or 17-year-old may only marry if their intended spouse is not more than 4 years older, a juvenile court has issued an order allowing the marriage, and the individual completes any required premarital counseling. Requires the marriage license application to be received within 15 days of the court order and to include a certified copy of the order. Repeals current parental consent processes.
Child care background checks.	1264	12-17.2	7/1/20	Requires employees and volunteers of child care facilities who may be present on the premises during operating hours to submit to a national criminal history background check. Current law requires background checks only for those who have direct contact with children.

Adult guardianship services.	139	29-3 34-30-2-125.5	7/1/20	Combines the volunteer advocates for seniors program and the volunteer advocates for incapacitated adults programs into one. Requires an advocate to include a person-centered care plan in their progress reports to the court.
Mental health services.	246	10-21-1-5 20-34-3-21	7/1/20	Requires a school to enter into a memorandum of understanding with a mental health provider to provide mental and behavioral health services to students. Requires the Division of Mental Health and Addiction (DMHA) to develop an MOU for referral and to assist schools in obtaining their providers.
Exploitation of dependents and endangered adults.	249	35-31.5-2 35-46-1-12	7/1/20	Defines “person in a position of trust” as a person who cares for or has a professional relationship with a dependent or endangered adult that may permit the person to exert undue influence over them. Defines “self-dealing” as a person using the property of another to gain a grossly disproportionate benefit to the goods or services provided to the other person. Provides that exploitation of a dependent or an endangered adult is a Class A misdemeanor, and includes: a person recklessly using or exerting control over the property of a dependent or endangered adult for their own profit, or a person in a position of trust recklessly engaging in self-dealing. Creates a Level 6 felony enhancement if the person has a prior unrelated conviction of the same. Repeals current penalty enhancements for property value (\$10,000+) and age of the victim (60+).
Various education matters.	398	20-26-20	7/1/20	Requires a public school to conduct expanded criminal history checks of representatives of patriotic youth membership organizations who request to provide information or instruction to students on public school property. Patriotic youth membership organization is defined as any youth organization listed in federal code that has an educational purpose and promotes patriotism and civic involvement.
<b>Controlled Substances: Enforcement</b>				
Title	Enrolled Act	Code Cite	Effective Date	Summary
Tobacco and vaping smoking age.	1	Title 7.1 24-3-5 35-31.5-2 35-43-5-3.8 35-46-1	7/1/20	Raises the age to purchase tobacco, e-liquid, or electronic cigarette products from 18 to 21. Expands current penalties for tobacco and electronic cigarette violations to cover e-liquids as well. Doubles maximum civil penalties for violations involving underaged persons. Increases the lookback period for prior violations from 180 days to 1 year for purposes of penalty enhancements. Creates a Class C

				misdemeanor penalty for operating a tobacco and vaping business within 1,000 feet of a school. Creates a Class B infraction penalty for knowingly selling tobacco, e-liquid, or an e-cigarette that contains vitamin E acetate.
Drug scheduling.	194	35-31.5-2 35-48	7/1/20	Adds various synthetic cannabinoids and synthetic cathinones to the definition of synthetic drug. Adds brexanolone to Schedule V. Defines isomer and narcotic to match the definitions in US Code, in order to address the holding in <i>US v. De La Torre</i> , and allow prior state dealing convictions to be used to enhance federal charges.
Criminal law issues.	335	35-48-4-10.1	7/1/20	Creates a defense to dealing in smokable hemp for shipments from a licensed producer in another state in continuous transit through Indiana to a licensed handler in another state. Addresses the holding in <i>CY Wholesale Inc. v. Holcomb</i> .
<b>Controlled Substances: Treatment</b>				
Title	Enrolled Act	Code Cite	Effective Date	Summary
Substance use prevention and recovery.	1094	4-3-25-15 5-2-11	7/1/20	Makes various changes to the administration and operation of the County Drug Free Community Fund. Specifies that “public safety programs” are eligible for funding. Clarifies that local coordinating councils are collaborative and open to the public. Allows funds to be used to supplement local government spending on drug use recovery, intervention, and prevention programs.
HIV, fatality reviews, and syringe exchange programs.	1182	Title 16	7/1/20	Replaces references to “AIDS” with “human immunodeficiency virus,” “carrier” with “individual with a communicable disease,” “danger” with “risk,” “spread” with “transmission,” and “HIV antibody” with “human immunodeficiency virus” throughout Title 16. Requires a patient to be notified of his or her right to a hearing and counsel if a court orders an HIV test of the patient. Allows a local health department or a person approved by the State Department of Health to establish a Suicide and Overdose Fatality Review (SOFR) team in a county or region. Provides that the purpose of the SOFR team is to gather information regarding suicides and overdose fatalities and improve community resources and systems of care to reduce these deaths. Requires team members to be appointed by the county health officer or entity approved by the State Department of Health and may include local representatives from a number of disciplines, including public health, mental health, law enforcement,

				parole or probation, and addiction medicine. Provides that information and records acquired by the SOFR team are confidential and exempt from disclosure. Sets forth procedures and processes for the operation of SOFR teams. Extends the sunset provision for syringe exchange programs from July 1, 2021, to July 1, 2022. Requires syringe exchange programs to provide testing for communicable diseases and establish a referral process for information concerning communicable diseases and general health care.
Community mental health centers.	1326	12-15-5-20 12-21-2-3 12-23-19-9	7/1/20	Expands eligible supervisors for outpatient addiction treatment under Medicaid to include licensed social workers, mental health counselors, marriage and family therapists, and addiction counselors who have at least two years' experience or hold an addiction treatment credential. Requires the DMHA to provide best practice recommendations to community mental health centers and work in a collaborative manner in order to ensure improved health outcomes. Requires DMHA to develop an appeal process for the Mental Health and Addiction Forensic Treatment Services Grant Program when a corrective plan is required for a violation. Requires the process to reserve the right to restrict treatment in cases of abuse, neglect, false claims, providing false information, or waste.
Indiana behavioral health commission.	273	12-7-2-34 12-21-7	3/18/20	Establishes the Indiana Behavioral Health Commission, consisting of 25 members from a number of state agencies, associations, and industries across various disciplines related to behavioral health. Requires the Commission to prepare an interim report, due October 1, 2020, and a final report, due October 1, 2022, addressing behavioral health issues in Indiana, including assessment and inventory, funding and data, youth and families, and system design and access. Requires the report to be submitted to the governor and the legislative council.
<b>Domestic Violence and Sex Crimes</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Statute of limitations.	109	5-2-6.1-16 35-41-4-2	7/1/20	Expands the statute of limitations for child sex crimes, providing that charges can be brought within 5 years from the date that either DNA evidence or a recording is discovered, or a confession is made. Allows victims to apply for victim compensation from the Violent Crime Victims Compensation Fund within that timeframe.
Sexual assault	146	35-31.5-2	7/1/20	Provides that a sexual assault victim has the right to the collection of

victims' rights.		35-40.5		forensic evidence, and the right to speak with a victim advocate, victim service provider, victim assistant, or social worker while in the hospital and during the course of the investigation. Requires a law enforcement officer to inform a victim of these rights before commencing an interview and to provide a document explaining these rights upon initial interaction. Requires a provider to do the same before commencing a forensic medical examination. Requires the document to be developed by the statewide sexual assault response team, coordinated by IPAC and the Criminal Justice Institute. Provides that a victim's communications with a victim service provider are not admissible into evidence except with consent of the victim.
Deposition of a child victim.	206	35-31.5-2 35-40-5-3	3/18/20	Provides that a defendant may not depose a child victim of a sex crime, unless the prosecutor agrees to it, the child is unavailable for trial, or the court finds that extraordinary circumstances exist and it is in the interest of justice. Provides a child victim with the right to confer with the prosecuting attorney's office before being deposed. Prohibits the prosecutor or their representative from instructing the victim not to participate in the deposition. Establishes a procedure for a defendant to petition the court to authorize a deposition and determine the manner in which it shall be conducted. Requires a court to issue a written order describing reasons for granting or denying a petition for a deposition.
Criminal law issues.	335	35-50-1-2	7/1/20	Adds strangulation as a Level 5 felony and domestic battery as a Level 2-5 felony to the crimes of violence statute for sentencing purposes.
Address confidentiality program.	424	5-26.5	7/1/20	Adds victims of harassment, human trafficking, intimidation, and invasion of privacy as eligible participants of the address confidentiality program, administered by the Attorney General's Office. Removes the requirement that a victim obtain a protective order in order to participate in the program. Allows household members of victims to file a program application. Expands the term of certification of program participation from two years to June 30 of the fourth year after the date of certification. Allows the OAG to revoke certification or deny an application in certain circumstances. Prohibits a person from disclosing a participant's address in a court proceeding, unless the address is needed to obtain necessary information or

				evidence, there is no other practicable way of obtaining it, and the potential harm to the program participant is outweighed by the interest of disclosure. The court must provide the participant and the OAG with notice and an opportunity to be heard. If the address is disclosed, the court must limit disclosure except to the extent absolutely necessary to obtain the information or evidence. Requires the court to order disclosure of a participant's address if it finds that protecting the address violates the constitutional right of the accused.
<b>Firearms</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Criminal law issues.	335	33-24-6-3 35-44.1-2-3 35-47	7/1/20	Requires courts to transmit information regarding the quantity and types of firearms confiscated under Indiana's Red Flag Law to the OJA, beginning July 1, 2021. Requires OJA to collect, record, and publish the information, and report it to the legislative council by January 1 of each year. Expands the Level 5 penalty for obliteration of a serial number on a handgun to apply to all firearms, including long guns, and amends statute to mirror federal code. Provides that a person who knowingly makes a false report that a person is dangerous for purposes of the Red Flag law commits false informing.
<b>Jails and Courts</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Justice reinvestment advisory council.	1047	33-38-9-6 33-38-9.5-2 33-38-9.5-3	3/14/20	Adds members to JRAC, including the executive director of the Association of Counties, the president of the Judges Association, the chair of the Public Defender Commission, the governor, and the chairs and ranking minority members of the legislative criminal committees. Adds to JRAC's duties evaluating and identifying solutions to jail overcrowding, coordinating with other funding sources, and establishing committees. Enables JRAC to make recommendations to criminal justice systems and corrections programs, the General Assembly, the Criminal Justice Institute, OJA, and county sheriffs.
Courts and family law matters.	1313	33-23-5 33-23-17 33-24-6-3	7/1/20	Provides that judicial magistrates have the same powers as a judge, with the exception of judicial mandate. Repeals the Judicial Technology Oversight Committee. Combines Marion County probate and juvenile court divisions into family court.
Jail overcrowding.	1346	5-2-6-3 11-12-6.8	3/14/20	Repeals the Jail Overcrowding Task Force established in the 2019 session, and instead, tasks the JRAC with conducting an evaluation of

		33-38-9.5-2 33-38-9.5-3		jail overcrowding statewide. Requires JRAC to develop incarceration alternatives and recidivism reduction programs at the county level, and allows them to recommend strategies to county sheriffs. Requires the Criminal Justice Institute to coordinate the collection of jail data from sheriffs concerning populations and statistics.
Courts and judicial officers.	256	2-5-1.3-13 33-33 35-33-8-12	Sect. 1, 24-25: 7/1/20  Sect. 2-23: 7/1/21	Codifies current practice of the Interim Study Committee on Courts and the Judiciary reviewing and recommending requests for new courts, judges, and jurisdictional changes in even-numbered years. Requires requests for new courts to include information regarding the level of support from the local fiscal body, results of a mandated survey from local members of the bar, the judiciary, and other local officials, whether the county is already using a judge or magistrate from an overserved area in the judicial district, the severity of need based on the most recent caseload measurement system report, the existence and capacity of problem solving courts in the county, details of the county's past and projected population growth, the use of services to reduce recidivism, and county funding sources and estimated costs. Establishes additional circuit courts in Clark and Delaware Counties. Establishes an additional superior court in Marshall County. Allows judges of the Gibson, Hamilton, and Jennings courts to jointly appoint additional magistrates. Requires ICJI to collect data concerning re-arrest rates of defendants released with and without money bail, and to report the data annually to the Legislative Council.
<b>Juvenile Delinquency</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Criminal law issues.	335	31-37-13-5 31-39-8-3 35-47-4-9	7/1/20	Requires a juvenile court to transmit a finding of delinquency to the Office of Judicial Administration for transmission to NICS if it involves an act that would be a serious violent felony if committed by an adult. Prohibits a person from possessing a firearm if he or she was adjudicated delinquent for committing a serious violent felony while armed, until they are at least 26 for Level 3-6 felonies, or 28 for murder, Level 1 and Level 2 felonies. Creates a Level 6 felony crime for possession of a firearm by a serious delinquent, and a Level 5 enhancement for doing so with a prior unrelated conviction. Requires a court to consider a number of factors related to the seriousness of the offense and the mental health of the individual when evaluating

				whether to expunge certain juvenile adjudications.
<b>Miscellaneous</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Panhandling.	1022	35-31.5-2 35-45-17	7/1/20	Amends the current panhandling statutes to provide that a person who panhandles within 50 feet of a bank, business, restaurant, public monument, or the location where a financial transaction occurs, commits a Class C misdemeanor. Removes current requirement that the act be committed after sunset and before sunrise.
Interfering with public safety.	1032	35-44.1-3-1	7/1/20	Renames the offense of “interfering with law enforcement,” enacted in the 2019 session, to “interfering with public safety” and expands the offense to cover areas blocked off by emergency medical services, instead of only law enforcement officers, as current law provides.
Various health matters.	1210	16-27-1-12 16-39-1-3	Sect. 1-6: 7/1/20 Sect. 7-9: 4/1/20	Creates a Class C misdemeanor penalty and a civil penalty up to \$25,000 for intentionally interfering with the State Department of Health’s investigation or enforcement of a home health agency. Allows health records of a deceased patient to be released by any responsible member of the patient’s family, if the patient does not have a living spouse, child, or personal representative.
Public safety.	1225	9-19-13-4 9-19-14-4 9-21-8-35 35-44.1-3-1 35-52-9	7/1/20	Removes the requirement that a school bus have black reflective tape mounted on its sides and bumpers. Creates a Level 6 felony offense for failure to yield to an emergency vehicle resulting in serious bodily injury, catastrophic injury, or death. Creates a Level 6 felony enhancement for resisting law enforcement if a person resists, creating a substantial risk of bodily injury to another and the person has two or more prior unrelated convictions, or if a person flees from law enforcement and the person has two or more prior convictions.
Natural resources.	1385	14-10-2-4	7/1/20	Provides that any violation of a rule adopted by the Natural Resources Commission is a Class C infraction, unless otherwise specified by law.
Physician assistants and nurses.	1392	16-18-2 16-37-1-3.1 16-37-3	1/1/2021	Allows licensed physician assistants and advance practice registered nurses who are last in attendance upon a death, and who certify the cause of death, to enter or sign a death record.
Expungement issues.	47	24-4-18-1 34-6-2-121.7 34-26-7.5 35-38-9	Sect. 1-8, 10-11: 7/1/20 Sect. 9: 3/18/20	Expands the current statutes governing the expungement of protective orders to apply to all records related to protective orders. Clarifies that, if a court reduces a Level 6 or Class D felony to a misdemeanor, the five-year waiting period for expungement begins tolling on the

				date of the original felony conviction, not on the date the felony was converted to a misdemeanor. Provides that a law enforcement agency may inquire about expunged records during the hiring process. For expunging records of a collateral action that are adjudicated in a different county other than in the county that issues an expungement order, requires the court in which the collateral action occurred to notify the prosecutor and set the matter for hearing, unless it conclusively appears from the records that the person is entitled to expungement without a hearing.
Search warrants.	209	35-33-5-7	7/1/20	Provides that a warrant authorizing a search, testing, or other analysis of an item is deemed executed when the item is seized.
Indigency determinations.	302	35-33-7-6 35-33-7-6.5	7/1/20	Requires a court, if a defendant is ordered to pay part of the cost of their representation, to inquire at sentencing whether the defendant has paid. Allows a court to review an indigency finding at any time if evidence of a material change in income or assets is received, or if the person fails to provide sufficient evidence to sustain the initial indigency determination. Requires a court to consider, in an indigency determination, the person's assets, income, and necessary expenses. Allows a court to consider whether a person's eligibility for need-based public assistance programs is sufficient enough to establish indigency. Allows a court to prorate fines, fees, and court costs if the court finds that the person is reasonably able to pay some of the expenses.
Election matters.	334	3-6-3.7-6	3/21/20	Allows, instead of requires (as current law provides), the Secretary of State and the Election Division to assist a prosecutor in prosecuting criminal violations of election law. Allows the Secretary of State or the Election Division to retain an attorney to assist in the criminal matter.
Criminal law issues.	335	1-1-2 3-8-1-5 4-33-8-11 4-35-6.5-11 7.1-1-3-13.5 9-13-2-130 10-13 11-8-8 11-12-3.7-6	7/1/20	Creates a 12-year lookback period if criminal penalties are increased for prior unrelated convictions. In order to be eligible for enhancement, requires the new offense to be committed within 12 years from conviction or release from incarceration, probation, or parole, whichever is later. Excludes crimes of violence, crimes that result in bodily injury or death, sex offenses, domestic battery, strangulation, OWI with a prior conviction for OWI resulting in death/serious bodily injury/catastrophic injury, and drug dealing. Specifies throughout the code that references to convictions for

		12-7-2-53.2 16-27-2-5 16-31-3 20-26 22-15-5-16 24-5-26-1 25-1-1.1 25-23.6 29-1-2-1 29-3-7-7 31-9-2-84.8 31-19 31-30-1-2.5 31-34 31-37 32-30-8-1 33-23 34-24-1-1 35-31.5-2 35-37-4 35-38 35-40-14-1 35-42 35-43 35-45-4 35-47-4-5 35-48-1-16.5 35-50 36-1-9.5-48		Indiana offenses include attempts, conspiracies, and substantially similar offenses committed in other states. Creates the offense of organized theft as a Level 6 felony for a person who agrees with two or more people to commit theft and performs an overt act in furtherance of that agreement.
<b>Sentencing</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Community corrections and credit time.	1120	35-38-2.6-5 35-50-6	7/1/20	Creates another option for DOC inmates to earn educational credit time through individualized case management plans, which may include addiction or mental health treatment, vocational training, academic diplomas, or other programming designed to reduce recidivism. Provides that the case management plans are still subject to the current educational credit time limitation of two years, or 1/3 of

				a person's total credit time. Requires DOC to report on individualized case management plans to the Legislative Council, by 5/1/23, including the ratio of staff to participating offenders, the average number of days awarded to participating offenders in 2022, and the percentage of the prison population who participates. Allows a prosecuting attorney to file for revocation of a community corrections placement. Provides that credit time earned by a person on pretrial home detention does not include accrued time
<b>Traffic</b>				
<b>Title</b>	<b>Enrolled Act</b>	<b>Code Cite</b>	<b>Effective Date</b>	<b>Summary</b>
Distracted driving.	1070	9-13-2-177.4 9-21-8-0.5 9-21-8-59	7/1/20	Provides that a person may not hold or use a cell phone while operating a motor vehicle, unless it is used via hands free or voice-operated technology, or it is being used to call 911. Current Class C infraction for a violation applies. Prohibits BMV from assessing points for distracted driving violations before 7/1/21.
Motor vehicle and criminal law issues.	1157	9-21 9-30-6 9-30-16 34-28-5	7/1/20	Increases the penalties for traffic control signal and vehicle control violations from Class C infractions to A infractions if they result in bodily injury. Clarifies that a refusal of a chemical test can be terminated if the charge is dismissed or not prosecuted. Specifies that a judge may terminate a refusal suspension if it is in the best interest of society at the time of sentencing.
Council on impaired and dangerous driving.	1224	9-19-11-9 9-30-8-3 20-27-3-1	7/1/20	Repeals references to the Governor's Council on Impaired and Dangerous Driving and transfers its duties to the Criminal Justice Institute.
Automotive dealer services.	1246	9-19-10.5-2 9-19-10.5-3	7/1/20	Expands current penalties for violations of the inflatable restraint systems statute. Provides that a person who knowingly or intentionally manufactures, imports, installs, reinstalls, distributes, sells, or offers for sale a component intended to replace an airbag, and the component is counterfeit, nonfunctional, or causes the motor vehicle to fail to comply to federal regulations, commits a Class C Misdemeanor. Provides that a person who knowingly or intentionally sells, leases, trades, or transfers a motor vehicle to an Indiana resident, in which is installed a supplemental restraint system that is counterfeit, nonfunctional, or not designed in accordance with federal regulations, commits a Level 6 felony.
Natural resources.	1385	9-13-2	1/1/21	Repeals definition of "motorboat" in Title 9, and replaces its

		9-18.1-14.5 9-20-13-2 9-22-6-0.6		references with “watercraft.” Excludes from the definition of “watercraft” crafts that are powered by occupants and do not contain any mechanical propellant. Creates Class C infraction penalties for persons who failure to register a watercraft, make a false statement in an application for a watercraft registration, fail to carry a certificate of registration, fail to display proof of registration on a watercraft, or operates or permits operation of an unregistered watercraft. Provides that a person who knowingly or intentionally falsifies, predates, changes, or counterfeits proof of registration for a watercraft commits a Class C misdemeanor.
Specialized driving privileges.	39	9-30-6-8 9-30-16-3 9-30-16-3.5	7/1/20	Clarifies that a probable cause affidavit for traffic offenses must be sent to the BMV at the conclusion of the initial hearing and removes the minimum and maximum time limitations on specialized driving privileges. Instead, provides that the time period is set by the court, who may also set periodic hearings to review an individual’s specialized driving privileges.
Criminal law issues.	335	9-30-5-1 9-30-5-3 14-15-4-1	7/1/20	Changes the reference to a person’s “body” to a person’s “blood” in the statute criminalizing operating a vehicle with a schedule I or II controlled substance. Increases the penalty, from a Class C Misdemeanor to a Level 6 felony, for operating while intoxicated with a controlled substance in the person’s blood if the person is transporting a child in the vehicle. Specifies that the duties required of a person operating a motorboat involved in an accident resulting in injury or death only apply if they can be fulfilled without endangering a person.