

SENATE BILL No. 386

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-6; IC 33-37; IC 35-33-8-5; IC 35-38.

Synopsis: DNA samples from arrestees. Requires every person arrested after June 30, 2014, for burglary, residential entry, a crime of violence, or a sex offense to submit a DNA sample, and specifies that the sample may be taken only by buccal swab. Provides for the expungement of a DNA sample taken from the person if the person is acquitted of all felony charges, all burglary, residential entry, crime of violence, and sex offense charges are dismissed, or no charges have been filed after 30 days. Requires the officer who obtains a DNA sample from a person to inform the person of the right to DNA expungement and to provide the person with a form that may be used for DNA expungement, and permits the use of evidence other than a court order for expungement. Increases the DNA sample processing fee from \$2 to \$4. Allocates \$500,000 semiannually to hold harmless all funds and to provide an additional amount to the DNA processing fund. Specifies that the discovery of previously unknown crimes committed by a person on bail may lead to revocation of bail or an increase in the amount of bail.

Effective: July 1, 2014.

Wyss, Zakas, Arnold J

January 14, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 386

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

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

1 SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 8. (a) The superintendent may establish a data
4 base of DNA identification records of:
5 (1) convicted criminals;
6 (2) **persons arrested for:**
7 (A) **burglary (IC 35-43-2-1);**
8 (B) **residential entry (IC 35-43-2-1.5);**
9 (C) **a crime of violence (as defined in IC 35-50-1-2); or**
10 (D) **a sex offense (as defined in IC 11-8-8-5.2);**
11 (2) ~~(3)~~ **crime scene specimens;**
12 (3) ~~(4)~~ **unidentified missing persons; and**
13 (4) ~~(5)~~ **close biological relatives of missing persons.**
14 (b) The superintendent shall maintain the Indiana DNA data base.
15 (c) The superintendent may contract for services to perform DNA
16 analysis of:



- 1 (1) convicted offenders; **and**
 2 (2) **persons arrested for:**
 3 (A) **burglary;**
 4 (B) **residential entry;**
 5 (C) **a crime of violence; or**
 6 (D) **a sex offense;**

7 under section 10 of this chapter to assist federal, state, and local
 8 criminal justice and law enforcement agencies in the putative
 9 identification, detection, or exclusion of individuals who are subjects
 10 of an investigation or prosecution of a sex offense, a violent crime, or
 11 another crime in which biological evidence is recovered from the crime
 12 scene.

13 (d) The superintendent:

- 14 (1) may perform or contract for performance of testing, typing, or
 15 analysis of a DNA sample collected from a person described in
 16 section 10 of this chapter at any time; and
 17 (2) shall perform or contract for the performance of testing,
 18 typing, or analysis of a DNA sample collected from a person
 19 described in section 10 of this chapter if federal funds become
 20 available for the performance of DNA testing, typing, or analysis.

21 (e) The superintendent shall adopt rules under IC 4-22-2 necessary
 22 to administer and enforce the provisions and intent of this chapter.

23 (f) The detention, arrest, or conviction of a person based on a data
 24 base match or data base information is not invalidated if a court
 25 determines that the DNA sample was obtained or placed in the Indiana
 26 DNA data base by mistake.

27 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,
 28 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2014]: Sec. 10. (a) This section applies to the following:

30 (1) **A person arrested after June 30, 2014, for burglary,**
 31 **residential entry, a crime of violence, or a sex offense, as**
 32 **described in section 8(a)(2) of this chapter.**

33 (+) (2) A person convicted of a felony under IC 35-42 (offenses
 34 against the person) or IC 35-43-2-1 (burglary):

- 35 (A) after June 30, 1996, whether or not the person is sentenced
 36 to a term of imprisonment; or
 37 (B) before July 1, 1996, if the person is held in jail or prison
 38 on or after July 1, 1996.

39 (±) (3) A person convicted of a criminal law in effect before
 40 October 1, 1977, that penalized an act substantially similar to a
 41 felony described in IC 35-42 or IC 35-43-2-1 or that would have
 42 been an included offense of a felony described in IC 35-42 or



- 1 IC 35-43-2-1 if the felony had been in effect:
 2 (A) after June 30, 1998, whether or not the person is sentenced
 3 to a term of imprisonment; or
 4 (B) before July 1, 1998, if the person is held in jail or prison
 5 on or after July 1, 1998.
 6 ~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a
 7 felony, or attempt to commit a felony:
 8 (A) after June 30, 2005, whether or not the person is sentenced
 9 to a term of imprisonment; or
 10 (B) before July 1, 2005, if the person is held in jail or prison
 11 on or after July 1, 2005.
 12 (b) A person described in subsection (a) shall provide a DNA
 13 sample to the:
 14 (1) department of correction or the designee of the department of
 15 correction if the offender is committed to the department of
 16 correction;
 17 (2) county sheriff or the designee of the county sheriff if the
 18 offender is held in a county jail or other county penal facility,
 19 placed in a community corrections program (as defined in
 20 IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;
 21 (3) agency that supervises the person, or the agency's designee, if
 22 the person is on conditional release in accordance with
 23 IC 35-38-1-27; or
 24 **(4) sheriff, in the case of a person arrested for burglary,**
 25 **residential entry, a crime of violence, or a sex offense.**
 26 **A DNA sample provided under subsection (b)(4) may be obtained**
 27 **only by buccal swab.** A person is not required to submit a blood
 28 sample if doing so would present a substantial and an unreasonable risk
 29 to the person's health.
 30 (c) The detention, arrest, or conviction of a person based on a data
 31 base match or data base information is not invalidated if a court
 32 determines that the DNA sample was obtained or placed in the Indiana
 33 DNA data base by mistake.
 34 **(d) The officer, employee, or designee who obtains a DNA**
 35 **sample from a person under this section shall:**
 36 **(1) inform the person of the person's right to DNA**
 37 **expungement under section 18 of this chapter; and**
 38 **(2) provide the person with a form that may be used for DNA**
 39 **expungement.**
 40 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) A person whose
 42 DNA profile has been included in the Indiana DNA data base may



1 request expungement of the profile from the DNA data base on the
2 grounds that:

3 **(1) the conviction on which the authority for inclusion in the**
4 **Indiana DNA data base was founded has been reversed and the**
5 **case has been dismissed; or**

6 **(2) the person was arrested for burglary, residential entry, a**
7 **crime of violence, or a sex offense, as described in section**
8 **8(a)(2) of this chapter, and:**

9 **(A) the person was acquitted of all felony charges;**

10 **(B) all burglary, residential entry, crime of violence, or sex**
11 **offense charges in the case have been dismissed; or**

12 **(C) thirty (30) days have passed since the person's arrest**
13 **and no burglary, residential entry, crime of violence, or sex**
14 **offense charges have been filed against the person.**

15 (b) All identifiable information in the Indiana DNA data base
16 pertaining to a person requesting expungement under subsection (a)
17 shall be expunged, and all samples from the person shall be destroyed,
18 upon receipt of:

19 (1) a **written request for letter or form requesting** expungement
20 under subsection (a);

21 (2) a certified copy of ~~the~~ **a court order or other evidence**
22 **sufficient to establish or permit the superintendent to**
23 **establish that:**

24 **(A) all of the person's felony convictions have been**
25 **reversed reversing and dismissing the conviction, or**
26 **dismissed, as described in subsection (a)(1);**

27 **(B) the person has been acquitted of all felony charges, as**
28 **described in subsection (a)(2)(A);**

29 **(C) all burglary, residential entry, crime of violence, or sex**
30 **offense charges in the case have been dismissed, as**
31 **described in subsection (a)(2)(B); or**

32 **(D) thirty (30) days have passed since the person's arrest**
33 **and no burglary, residential entry, crime of violence, or sex**
34 **offense charges have been filed against the person, as**
35 **described in subsection (a)(2)(C); and**

36 (3) any other information necessary to ascertain the validity of the
37 request.

38 (c) Upon expungement of a person's DNA profile from the Indiana
39 DNA data base, the superintendent shall request expungement of the
40 person's DNA profile from the national DNA data base.

41 SECTION 4. IC 10-13-6-19 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) **The DNA data**



1 **base is confidential.** Access to the Indiana DNA data base is limited
 2 to federal, state, and local law enforcement agencies through their
 3 servicing forensic DNA laboratories.

4 (b) The superintendent shall take appropriate measures to ensure
 5 that the Indiana DNA data base is protected against unauthorized
 6 access.

7 SECTION 5. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006,
 8 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2014]: Sec. 26.2. (a) In each action in which a person is:

- 10 (1) convicted of an offense;
 11 (2) required to pay a pretrial diversion fee;
 12 (3) found to have committed an infraction; or
 13 (4) found to have violated an ordinance;

14 the clerk shall collect a DNA sample processing fee of ~~two dollars (\$2):~~
 15 **four dollars (\$4).**

16 SECTION 6. IC 33-37-7-9, AS AMENDED BY P.L.229-2011,
 17 SECTION 262, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) On June 30 and on December
 19 31 of each year, the auditor of state shall transfer to the treasurer of
 20 state nine million ~~two seven~~ hundred seventy-seven thousand
 21 twenty-three dollars (~~\$9,277,023~~) (**\$9,777,023**) for distribution under
 22 subsection (b).

23 (b) On June 30 and on December 31 of each year, the treasurer of
 24 state shall deposit into:

- 25 (1) the family violence and victim assistance fund established by
 26 IC 5-2-6.8-3 an amount equal to ~~eight and three-hundredths seven~~
 27 **and sixty-two hundredths** percent (~~8.03%~~); (**7.62%**);
 28 (2) the Indiana judges' retirement fund established by
 29 IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five~~
 30 **hundredths thirty-six and fifty-eight hundredths** percent
 31 (~~38.55%~~); (**36.58%**);
 32 (3) the law enforcement academy building fund established by
 33 IC 5-2-1-13 an amount equal to ~~two and fifty-six hundredths two~~
 34 **and forty-three hundredths** percent (~~2.56%~~); (**2.43%**);
 35 (4) the law enforcement training fund established by IC 5-2-1-13
 36 an amount equal to ~~ten and twenty-seven hundredths nine and~~
 37 **seventy-five hundredths** percent (~~10.27%~~); (**9.75%**);
 38 (5) the violent crime victims compensation fund established by
 39 IC 5-2-6.1-40 an amount equal to ~~eleven and ninety-three~~
 40 **hundredths eleven and thirty-two hundredths** percent (~~11.93%~~);
 41 (**11.32%**);
 42 (6) the motor vehicle highway account an amount equal to



1 ~~nineteen and forty-nine hundredths~~ **eighteen and five-tenths**
 2 percent (~~19.49%~~); **(18.5%)**;

3 (7) the fish and wildlife fund established by IC 14-22-3-2 an
 4 amount equal to ~~twenty-five hundredths~~ **twenty-four hundredths**
 5 percent (~~0.25%~~); **(0.24%)**;

6 (8) the Indiana judicial center drug and alcohol programs fund
 7 established by IC 12-23-14-17 for the administration,
 8 certification, and support of alcohol and drug services programs
 9 under IC 12-23-14 an amount equal to ~~one and sixty-three~~
 10 ~~hundredths~~ **one and fifty-five hundredths** percent (~~1.63%~~);
 11 **(1.55%)**; and

12 (9) the DNA sample processing fund established under
 13 IC 10-13-6-9.5 for the funding of the collection, shipment,
 14 analysis, and preservation of DNA samples and the conduct of a
 15 DNA data base program under IC 10-13-6 an amount equal to
 16 ~~seven and twenty-nine hundredths~~ **twelve and one hundredths**
 17 percent (~~7.29%~~); **(12.01%)**;

18 of the amount transferred by the auditor of state under subsection (a).

19 (c) On June 30 and on December 31 of each year, the auditor of
 20 state shall transfer to the treasurer of state for deposit into the public
 21 defense fund established under IC 33-40-6-1 three million seven
 22 hundred thousand dollars (\$3,700,000).

23 SECTION 7. IC 35-33-8-5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Upon a showing
 25 of good cause, the state or the defendant may be granted an alteration
 26 or revocation of bail by application to the court before which the
 27 proceeding is pending. In reviewing a motion for alteration or
 28 revocation of bail, credible hearsay evidence is admissible to establish
 29 good cause.

30 (b) When the state presents additional:

31 (1) evidence relevant to a high risk of nonappearance, based on
 32 the factors set forth in section 4(b) of this chapter; or

33 (2) clear and convincing evidence:

34 (A) of the factors described in IC 35-40-6-6(1)(A) and
 35 IC 35-40-6-6(1)(B); or

36 (B) that the defendant otherwise poses a risk to the physical
 37 safety of another person or the community;

38 the court may increase bail. **If the additional evidence presented by**
 39 **the state is DNA evidence showing that the defendant committed**
 40 **additional crimes that were not considered at the time the**
 41 **defendant was admitted to bail, the court may increase or revoke**
 42 **bail.**



1 (c) When the defendant presents additional evidence of substantial
 2 mitigating factors, based on the factors set forth in section 4(b) of this
 3 chapter, which reasonably suggests that the defendant recognizes the
 4 court's authority to bring the defendant to trial, the court may reduce
 5 bail. However, the court may not reduce bail if the court finds by clear
 6 and convincing evidence that the factors described in
 7 IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant
 8 otherwise poses a risk to the physical safety of another person or the
 9 community.

10 (d) The court may revoke bail or an order for release on personal
 11 recognizance upon clear and convincing proof by the state that:

12 (1) while admitted to bail the defendant:

13 (A) or the defendant's agent threatened or intimidated a victim,
 14 prospective witnesses, or jurors concerning the pending
 15 criminal proceeding or any other matter;

16 (B) or the defendant's agent attempted to conceal or destroy
 17 evidence relating to the pending criminal proceeding;

18 (C) violated any condition of the defendant's current release
 19 order;

20 (D) failed to appear before the court as ordered at any critical
 21 stage of the proceedings; or

22 (E) committed a felony or a Class A misdemeanor that
 23 demonstrates instability and a disdain for the court's authority
 24 to bring the defendant to trial;

25 (2) the factors described in IC 35-40-6-6(1)(A) and
 26 IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a
 27 risk to the physical safety of another person or the community; or

28 (3) a combination of the factors described in subdivisions (1) and
 29 (2) exists.

30 SECTION 8. IC 35-38-1-27, AS ADDED BY P.L.173-2006,
 31 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2014]: Sec. 27. (a) If a court imposes a sentence that does not
 33 involve a commitment to the department of correction, the court shall
 34 require a person:

35 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
 36 **IC 10-13-6-10(a)**; and

37 (2) who has not previously provided a DNA sample in accordance
 38 with IC 10-13-6;

39 to provide a DNA sample as a condition of the sentence.

40 (b) If a person described in subsection (a) is confined at the time of
 41 sentencing, the court shall order the person to provide a DNA sample
 42 immediately after sentencing.



1 (c) If a person described in subsection (a) is not confined at the time
2 of sentencing, the agency supervising the person after sentencing shall
3 establish the date, time, and location for the person to provide a DNA
4 sample. However, the supervising agency must require that the DNA
5 sample be provided not more than seven (7) days after sentencing. A
6 supervising agency's failure to obtain a DNA sample not more than
7 seven (7) days after sentencing does not permit a person required to
8 provide a DNA sample to challenge the requirement that the person
9 provide a DNA sample at a later date.

10 (d) A person's failure to provide a DNA sample is grounds for
11 revocation of the person's probation, community corrections placement,
12 or other conditional release.

13 SECTION 9. IC 35-38-2-2.3, AS AMENDED BY P.L.13-2013,
14 SECTION 138, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2014]: Sec. 2.3. (a) As a condition of probation,
16 the court may require a person to do a combination of the following:

17 (1) Work faithfully at suitable employment or faithfully pursue a
18 course of study or career and technical education that will equip
19 the person for suitable employment.

20 (2) Undergo available medical or psychiatric treatment and
21 remain in a specified institution if required for that purpose.

22 (3) Attend or reside in a facility established for the instruction,
23 recreation, or residence of persons on probation.

24 (4) Participate in a treatment program, educational class, or
25 rehabilitative service provided by a probation department or by
26 referral to an agency.

27 (5) Support the person's dependents and meet other family
28 responsibilities.

29 (6) Make restitution or reparation to the victim of the crime for
30 damage or injury that was sustained by the victim. When
31 restitution or reparation is a condition of probation, the court shall
32 fix the amount, which may not exceed an amount the person can
33 or will be able to pay, and shall fix the manner of performance.

34 (7) Execute a repayment agreement with the appropriate
35 governmental entity to repay the full amount of public relief or
36 assistance wrongfully received, and make repayments according
37 to a repayment schedule set out in the agreement.

38 (8) Pay a fine authorized by IC 35-50.

39 (9) Refrain from possessing a firearm or other deadly weapon
40 unless granted written permission by the court or the person's
41 probation officer.

42 (10) Report to a probation officer at reasonable times as directed



- 1 by the court or the probation officer.
2 (11) Permit the person's probation officer to visit the person at
3 reasonable times at the person's home or elsewhere.
4 (12) Remain within the jurisdiction of the court, unless granted
5 permission to leave by the court or by the person's probation
6 officer.
7 (13) Answer all reasonable inquiries by the court or the person's
8 probation officer and promptly notify the court or probation
9 officer of any change in address or employment.
10 (14) Perform uncompensated work that benefits the community.
11 (15) Satisfy other conditions reasonably related to the person's
12 rehabilitation.
13 (16) Undergo home detention under IC 35-38-2.5.
14 (17) Undergo a laboratory test or series of tests approved by the
15 state department of health to detect and confirm the presence of
16 the human immunodeficiency virus (HIV) antigen or antibodies
17 to the human immunodeficiency virus (HIV), if:
18 (A) the person had been convicted of an offense relating to a
19 criminal sexual act and the offense created an
20 epidemiologically demonstrated risk of transmission of the
21 human immunodeficiency virus (HIV); or
22 (B) the person had been convicted of an offense relating to a
23 controlled substance and the offense involved:
24 (i) the delivery by any person to another person; or
25 (ii) the use by any person on another person;
26 of a contaminated sharp (as defined in IC 16-41-16-2) or other
27 paraphernalia that creates an epidemiologically demonstrated
28 risk of transmission of HIV by involving percutaneous contact.
29 (18) Refrain from any direct or indirect contact with an individual
30 and, if convicted of an offense under IC 35-46-3, any animal
31 belonging to the individual.
32 (19) Execute a repayment agreement with the appropriate
33 governmental entity or with a person for reasonable costs incurred
34 because of the taking, detention, or return of a missing child (as
35 defined in IC 10-13-5-4).
36 (20) Periodically undergo a laboratory chemical test (as defined
37 in IC 9-13-2-22) or series of chemical tests as specified by the
38 court to detect and confirm the presence of a controlled substance
39 (as defined in IC 35-48-1-9). The person on probation is
40 responsible for any charges resulting from a test and shall have
41 the results of any test under this subdivision reported to the
42 person's probation officer by the laboratory.



1 (21) If the person was confined in a penal facility, execute a
 2 reimbursement plan as directed by the court and make repayments
 3 under the plan to the authority that operates the penal facility for
 4 all or part of the costs of the person's confinement in the penal
 5 facility. The court shall fix an amount that:

6 (A) may not exceed an amount the person can or will be able
 7 to pay;

8 (B) does not harm the person's ability to reasonably be self
 9 supporting or to reasonably support any dependent of the
 10 person; and

11 (C) takes into consideration and gives priority to any other
 12 restitution, reparation, repayment, or fine the person is
 13 required to pay under this section.

14 (22) Refrain from owning, harboring, or training an animal.

15 (23) Participate in a reentry court program.

16 (b) When a person is placed on probation, the person shall be given
 17 a written statement specifying:

18 (1) the conditions of probation; and

19 (2) that if the person violates a condition of probation during the
 20 probationary period, a petition to revoke probation may be filed
 21 before the earlier of the following:

22 (A) One (1) year after the termination of probation.

23 (B) Forty-five (45) days after the state receives notice of the
 24 violation.

25 (c) As a condition of probation, the court may require that the
 26 person serve a term of imprisonment in an appropriate facility at the
 27 time or intervals (consecutive or intermittent) within the period of
 28 probation the court determines.

29 (d) Intermittent service may be required only for a term of not more
 30 than sixty (60) days and must be served in the county or local penal
 31 facility. The intermittent term is computed on the basis of the actual
 32 days spent in confinement and shall be completed within one (1) year.
 33 A person does not earn credit time while serving an intermittent term
 34 of imprisonment under this subsection. When the court orders
 35 intermittent service, the court shall state:

36 (1) the term of imprisonment;

37 (2) the days or parts of days during which a person is to be
 38 confined; and

39 (3) the conditions.

40 (e) Supervision of a person may be transferred from the court that
 41 placed the person on probation to a court of another jurisdiction, with
 42 the concurrence of both courts. Retransfers of supervision may occur



1 in the same manner. This subsection does not apply to transfers made
2 under IC 11-13-4 or IC 11-13-5.

3 (f) When a court imposes a condition of probation described in
4 subsection (a)(18):

5 (1) the clerk of the court shall comply with IC 5-2-9; and

6 (2) the prosecuting attorney shall file a confidential form
7 prescribed or approved by the division of state court
8 administration with the clerk.

9 (g) As a condition of probation, a court shall require a person:

10 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
11 **IC 10-13-6-10(a);**

12 (2) who has not previously provided a DNA sample in accordance
13 with IC 10-13-6; and

14 (3) whose sentence does not involve a commitment to the
15 department of correction;

16 to provide a DNA sample as a condition of probation.

17 (h) If a court imposes a condition of probation described in
18 subsection (a)(4), the person on probation is responsible for any costs
19 resulting from the participation in a program, class, or service. Any
20 costs collected for services provided by the probation department shall
21 be deposited in the county or local supplemental adult services fund.

22 SECTION 10. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012,
23 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2014]: Sec. 6. An order for home detention of an offender
25 under section 5 of this chapter must include the following:

26 (1) A requirement that the offender be confined to the offender's
27 home at all times except when the offender is:

28 (A) working at employment approved by the court or traveling
29 to or from approved employment;

30 (B) unemployed and seeking employment approved for the
31 offender by the court;

32 (C) undergoing medical, psychiatric, mental health treatment,
33 counseling, or other treatment programs approved for the
34 offender by the court;

35 (D) attending an educational institution or a program approved
36 for the offender by the court;

37 (E) attending a regularly scheduled religious service at a place
38 of worship; or

39 (F) participating in a community work release or community
40 restitution or service program approved for the offender by the
41 court.

42 (2) Notice to the offender that violation of the order for home



1 detention may subject the offender to prosecution for the crime of
2 escape under IC 35-44.1-3-4.

3 (3) A requirement that the offender abide by a schedule prepared
4 by the probation department, or by a community corrections
5 program ordered to provide supervision of the offender's home
6 detention, specifically setting forth the times when the offender
7 may be absent from the offender's home and the locations the
8 offender is allowed to be during the scheduled absences.

9 (4) A requirement that the offender is not to commit another
10 crime during the period of home detention ordered by the court.

11 (5) A requirement that the offender obtain approval from the
12 probation department or from a community corrections program
13 ordered to provide supervision of the offender's home detention
14 before the offender changes residence or the schedule described
15 in subdivision (3).

16 (6) A requirement that the offender maintain:

17 (A) a working telephone in the offender's home; and

18 (B) if ordered by the court, a monitoring device in the
19 offender's home or on the offender's person, or both.

20 (7) A requirement that the offender pay a home detention fee set
21 by the court in addition to the probation user's fee required under
22 IC 35-38-2-1 or IC 31-40. However, the fee set under this
23 subdivision may not exceed the maximum fee specified by the
24 department of correction under IC 11-12-2-12.

25 (8) A requirement that the offender abide by other conditions of
26 probation set by the court under IC 35-38-2-2.3.

27 (9) A requirement that an offender:

28 (A) who is ~~convicted of an offense~~ described in ~~IC 10-13-6-10;~~
29 **IC 10-13-6-10(a);**

30 (B) who has not previously provided a DNA sample in
31 accordance with IC 10-13-6; and

32 (C) whose sentence does not involve a commitment to the
33 department of correction;
34 provide a DNA sample.

35 SECTION 11. IC 35-38-2.6-3, AS AMENDED BY P.L.173-2006,
36 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2014]: Sec. 3. (a) The court may, at the time of sentencing,
38 suspend the sentence and order a person to be placed in a community
39 corrections program as an alternative to commitment to the department
40 of correction. The court may impose reasonable terms on the
41 placement. A court shall require a person:

42 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~



- 1 **IC 10-13-6-10(a);**
- 2 (2) who has not previously provided a DNA sample in accordance
- 3 with IC 10-13-6; and
- 4 (3) whose sentence does not involve a commitment to the
- 5 department of correction;
- 6 to provide a DNA sample as a term of placement.
- 7 (b) Placement in a community corrections program under this
- 8 chapter is subject to the availability of residential beds or home
- 9 detention units in a community corrections program.
- 10 (c) A person placed under this chapter is responsible for the person's
- 11 own medical care while in the placement program.
- 12 (d) Placement under this chapter is subject to the community
- 13 corrections program receiving a written presentence report or
- 14 memorandum from a county probation agency.

