

PROBATION OFFICERS PROFESSIONAL ASSOCIATION OF INDIANA (POPAI)

HB 1006 Position Statement

March 22, 2013

With regard to House Bill 1006, entitled **Various Changes to the Criminal Code**, POPAI supports the underlying concepts of this bill.

House Bill (HB) 1006 in essence re-writes the Criminal Code as we have known it for the past several decades. The bill creates a new class system for felonies in Indiana, moving from Murder and Class A through D felonies to Murder and Class 1 through 6 felonies. With regard to sentencing, with the new felony classifications, a new sentencing grid has also been introduced. With the new grid, the current Class D felony equates to a Class 6 felony, the current Class C felony equates to the new Class 5 Felony, and the current Class B felonies are broken down to either a Class 3 or 4 felony, and the current Class A felonies will become a Class 1 or 2 felony.

SENTENCING GRID

Current Felony Class	New Felony Level		
	<u>Minimum</u>	<u>Advisory</u>	<u>Maximum</u>
A	20 years	30 years	50 years
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	6 months	1.5 years	3 years

	New Felony Level		
	<u>Minimum</u>	<u>Advisory</u>	<u>Maximum</u>
1	20 years	30 years	50 years
2	10 years	17 years	30 years
3	3 years	6 years	20 years
4	2 years	4 years	12 years
5	1 years	2 years	6 years
6	6 mos.	1 year	30 months

According to the latest Fiscal Impact Statement (March 8, 2013), HB 1006 has the following provisions:

- A. **Criminal Code Changes** - Makes various changes to the criminal code, including changes to the law concerning community corrections, sentencing, probation funding, and drug and alcohol program funding.
- B. **Repeals** - Repeals the law concerning criminal deviate conduct, consolidates criminal deviate conduct into the crime of rape (changes the phrase "deviate sexual conduct" to "other sexual conduct"); repeals laws concerning carjacking, failure of a student athlete to disclose recruitment, and credit restricted felons.
- C. **Theft** - Changes the thresholds for penalties related to theft.
- D. **Neglect Causing Death or Serious Bodily Injury** – makes this a nonsuspendable crime.
- E. **Four Felony Levels to Six Felony Levels** - Removes the current four-level felony penalty classification and replaces that classification with a six-level felony penalty classification. Assigns new felony penalties to each crime.
- F. **Changes to Earned Credit Time** - Increases the amount of credit time that an offender may earn for completing one or more career, technical, or vocational education programs approved by DOC. It specifies that credit time must be directly proportional to the time served and course work completed while incarcerated. It requires DOC to adopt rules to implement this change. It changes the way that an offender's release date is determined by applying earned credit time first. It reduces the total amount of earned credit time that an offender can earn from four to two years.
- G. **Drug Crimes and Protection Zones** – Changes the weight thresholds for determining the severity of crime and reduces the protective zone from 1,000 feet to 500 feet.
- H. **IC 7.1 and IC 9** - Urges the Legislative Council to require an existing study committee to evaluate the criminal law statutes in IC 7.1 and IC 9 and make modification recommendations to the General Assembly.

REASONS WHY POPAI SUPPORTS HB 1006

The Probation Officers Professional Association of Indiana (POPAI) is in support of HB 1006 and the various new provisions that will assist probation and community supervision. The reasons for this support are as follows:

1. **Probation Improvement Fund** – Establishes the Probation Improvement Fund to provide grants administered by the Indiana Judicial Center to: 1) promote probation departments' adoption of evidence-based correctional practices to focus supervision resources on persons who pose a high likelihood of committing another offense as determined by a validated risk assessment; 2) develop and use a progressive sanctions policy to guide decisions concerning how to respond to violations of conditions of supervision; and 3) reduce the risk posed by persons who have been convicted of a felony and are on probation through effective supervision, sanctions, and addressing any needs the persons have for substance abuse treatment, mental health services, or other services. Grants may also be awarded to a county that supervises persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and the services of community corrections programs.

Money for this fund would come from three sources: (1) unspecified appropriations from the General Assembly; (2) money transferred from the bail bond license and runners fee (see below); and (3) donations, gifts, and money received from other sources.

During the legislative process, the House Ways and Means Committee removed the \$1.9 M annually from the Department of Correction annual appropriation and agreed to place the funding in the State's General Fund, however to date this has not occurred. <<POPAI will be requesting that the Legislature appropriate at least \$2M per year to the Probation Improvement Fund>>.

Transfer from Bail Bond License and Runners Fees – This bill would transfer 80% of the revenue collected from the fees and deposited into the Bail Bond Enforcement and Administration Fund to the Probation Improvement Fund. Since licenses are renewed every two years, most of the revenue would be transferred in the even-numbered years. Total estimated \$234,919 every 2 years.

2. **Judicial Center Drug and Alcohol Programs Fund** – Changes some of the restrictions on the fund to allow for a more diverse population to utilize this funding for other services and programs to serve probationers. As proposed, the Indiana Judicial Center could award a grant from the fund to a probation department or a community corrections program to increase substance abuse treatment access for individuals on probation or individuals placed in a community corrections program who are under court supervision and who have been diagnosed with a substance abuse disorder or co-occurring disorder. The Judicial Center would consult with the Division of Mental Health and Addiction and local probation departments or community corrections programs in determining the amounts of the grants. Any mental health and substance abuse counseling services provided by the grants would be provided by certified mental health or addiction providers as determined by the Division of Mental Health and Addiction.
3. **Death Benefits for Community Corrections Officers** – It would allow a person employed as a community corrections officer who dies in the line of duty to be eligible for death benefits as a public safety officer.

4. **Chief and Deputy Chief Probation Officers** – The bill requires that each probation department is to have both a chief and deputy chief probation officer. The salaries of these probation officers must be fixed by a salary schedule adopted by the county or municipal fiscal body under IC 36-2-16.5-3. The salary schedule must comply with the minimum compensation requirements for probation officers adopted by the Indiana Judicial Conference under IC 11-13-1-8.

The bill provides that the minimum salaries of the chief and deputy chief probation officers must be reimbursed from the state General Fund. This reimbursement would be for the minimum salary only; any salary paid above the minimums would not be reimbursed, and fringe benefits will not be reimbursed. All benefits will remain at the local level. This provision does not make chief probation officers or deputy chief probation officers state employees; they will remain as they are now, employees of the local judiciary.

The reimbursement would be sent to the County, to be used by the local County Council for whatever purpose they deem appropriate, there is no restriction on this reimbursement.

POPAI, in addition to our partners at the Association of Indiana Counties (AIC) and the Indiana Judges Association support this provision. This change brings relief to Indiana counties with regard to the minimum salary schedule for probation officers.

The Probation Officers Professional Association has been working throughout the first half of the current legislative session on HB 1006 including working with the authors, sponsors and other individuals to ensure our voice is heard with regard the need for funding and allow probation officers to continue to implement Evidence Based Practices and change the behaviors of the individuals we supervise.

Over the past several legislative sessions, the need for additional resources has been a theme for probation in the state of Indiana. These new provisions in HB 1006 will have a dramatic impact on community supervision in the State of Indiana.

These provisions will allow probation and community corrections to focus supervision efforts on those offenders who need the most intensive supervision and implement the necessary evidence based programs to meet the needs of these same offenders.

The Probation Officers Professional Association believes HB 1006 is the first step towards changing the direction of how offenders are managed in the community to enhance the primary goal of the entire criminal justice system of increased community safety.

While no bill of this magnitude is perfect, HB 1006 will have a dramatic impact on the criminal justice system and the safety of our communities.

Respectfully Submitted,

Don Travis, POPAI President and Linda Brady, POPAI Vice-President