

**SUBTLE SHIFTS AND STEADY DOCTRINES:
A YEAR OF INDIANA CONSTITUTIONAL CLARIFICATION
2024–2025**

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INTRODUCTION

Indiana appellate courts alternately expanded and limited Hoosiers' rights under the Indiana Constitution during the survey period (September 2024 to September 2025). The Indiana Court of Appeals ("Court of Appeals") construed Indiana's abortion law to limit the medical procedure for pregnant women to circumstances only when the pregnant woman faces a threat to life or serious health risk consistent with the content of the constitutional right to the procedure. The Court of Appeals also held that a defendant's criminal charges of possessing or accessing simulated child abuse material violated the free speech clause. The Court of Appeals provided further definition around the impermissibility of *ex parte* communication with the jury and affirmed the permissibility of virtual video testimony by a witness during a murder trial because the witness was incarcerated eight hours away from the trial. A statute making a misdemeanor the carrying of a handgun upon indictment for felony

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charges was found constitutional because the limitation was rationally related to the State's police power. The Court of Appeals also affirmed a trial court's refusal to send a rescission claim to a jury. The Indiana Supreme Court ("Supreme Court") upheld the Indiana Disciplinary Commission's authority in attorney discipline proceedings, denying the Attorney General's motion to dismiss and declining to reach his arguments concerning separation of powers and freedom of expression. The Supreme Court also reiterated that the child's best interest remains paramount in children-in-need-of-services (CHINS) proceedings, holding that a trial court erred by adopting an adjudication by the Indiana Department of Child Services based on separation of powers concerns.

During the survey period, Indiana appellate courts substantively addressed fourteen areas of Indiana Constitutional law.¹ The Court of Appeals affirmed Indiana's limited abortion rights, generally found law enforcement needs outweighed individual claims in search and seizure cases, rejected a right-to-counsel challenge, and clarified jury trial rights in both criminal and civil proceedings. The Supreme Court rejected two separation of powers challenges.

I. ARTICLE 1, SECTION 1 – INALIENABLE RIGHTS

In *Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky, Inc. v. Members of the Medical Licensing Board of Indiana*, medical care providers appealed a judgment denying their as-applied challenges to Indiana's abortion ban.²

1. The courts addressed eighteen topics in 2014, Jon Laramore & Daniel E. Pulliam, *Indiana Constitutional Developments: Small Steps*, 47 IND. L. REV. 1015 (2014); ten in 2015, Jon Laramore & Daniel E. Pulliam, *Developments in Indiana Constitutional Law: A New Equal Privileges Wrinkle*, 48 IND. L. REV. 1223 (2015); fourteen in 2016, Scott Chinn & Daniel E. Pulliam, *Minimalist Developments in Indiana Constitutional Law—Equal Privileges Progresses Slowly*, 49 IND. L. REV. 1003 (2016); twelve in 2017, Scott Chinn & Daniel E. Pulliam, *Emerging Federal Reliance—Continued State Constitutional Minimalism: Indiana State Constitutional Law Summaries—2015-2016*, 50 IND. L. REV. 1215 (2017); ten in 2018, Scott Chinn & Daniel E. Pulliam, *Emerging Federal Reliance—Continued State Constitutional Minimalism: Indiana State Constitutional Law Summaries—2016-2017*, 51 IND. L. REV. 993 (2018); thirteen in 2019, Scott Chinn, Daniel E. Pulliam & Elizabeth M. Little, *Stuck in a Rut or Merely Within the Lines? Indiana State Constitutional Law Summaries—2017-2018*, 52 IND. L. REV. 689 (2019); fifteen in 2020, Scott Chinn, Daniel E. Pulliam & Elizabeth M. Little, *Continued Progressions Toward Irrelevance? Indiana State Constitutional Law Summaries—2018-2019*, 53 IND. L. REV. 865 (2021); twelve in 2021, Scott Chinn, Daniel E. Pulliam, Stephanie L. Gutwein & Elizabeth M. Little, *Practicing Pragmatism During A Pandemic: Indiana's Appellate Courts Practically Apply Indiana's Constitution in 2020*, 54 IND. L. REV. 827 (2022); twelve in 2022, Scott Chinn, Daniel E. Pulliam, Stephanie L. Gutwein & Elizabeth M. Little, *Separation of Powers: Indiana Constitutional Law to the Forefront*, 55 IND. L. REV. 713 (2023); twelve in 2023, Scott Chinn, Daniel E. Pulliam, Stephanie L. Gutwein & Elizabeth M. Little, *Legislative Leeway: A Year of Indiana Constitutional Law Restraint—2022-2023*, 57 IND. L. REV. 871 (2024); and sixteen in 2024, Scott Chinn, Daniel E. Pulliam, Stephanie L. Gutwein & Elizabeth A. Charles, *Defining the Limits: The Right to Bring a Constitutional Claims—2023-2024*, 58 IND. L. REV. 787 (2025).

2. 267 N.E.3d 494, 507 (Ind. Ct. App. 2025) [hereinafter *Planned Parenthood II*]; IND. CODE § 16-34-2-1 (2022).

The Supreme Court held in *Planned Parenthood I* that Article 1, Section 1 of the Indiana Constitution's guarantee of inalienable rights protected a woman's right to an abortion when it "is necessary to protect her life or to protect her from a serious health risk."³ While the Supreme Court rejected a facial challenge to the legislature's abortion prohibition, the court left open the possibility of an as-applied challenge.⁴ On remand, the medical care providers amended their complaint to argue there are specific situations where the abortion ban would prohibit a woman from getting an abortion when her life or health is at serious risk, thereby violating the Indiana Constitution.⁵ The medical care providers also sought to enjoin the licensed-hospital requirement for abortion procedures.⁶

The trial court originally denied the providers' request for declaratory and injunctive relief.⁷ It identified several physical- and mental-health conditions that may entitle a woman to an abortion, but identified none that Article 1, Section 1 protects that the abortion ban prohibits.⁸ It also rejected the providers' request for injunctive relief because it found the enumerated medical risks likely would require treatment in a hospital and that increased costs and travel were insufficient to establish a material burden under Indiana law.⁹

The Court of Appeals then affirmed the trial court's denial of the providers' claims, but for slightly different reasons. First, it found that reasonable medical alternatives to abortion were available to treat the physical- and mental-health conditions the trial court had identified, such that abortion was not a *necessary* treatment for any of the conditions.¹⁰ And it refused to construe these conditions as falling within the Indiana Supreme Court's holding that women have a right to an abortion when necessary to protect their lives or to protect them from a "*serious health risk*."¹¹ It also found that, even under the abortion ban, abortion is lawful when the medical condition becomes so severe that abortion is the only way to save the woman's life or prevent serious health risks.¹² Second, it agreed that the "reasonable medical judgment" standard did not impair the constitutional right to an abortion because the constitutional right to an abortion exists only when it is *necessary*; a "reasonable medical judgment" must be made when this situation exists.¹³ Third, the court found that the providers had not shown that the hospital requirement imposed a material burden on the

3. *Members of the Med. Licensing Bd. of Ind. v. Planned Parenthood Great N.W., Haw., Alaska, Ind., Ky., Inc.*, 211 N.E.3d 957, 985 (Ind. 2023).

4. *Id.* at 966–77.

5. *Planned Parenthood II*, 267 N.E.3d at 498.

6. *Id.*

7. *Id.*

8. *Id.* at 501–06.

9. *Id.* at 501.

10. *Id.* at 508–09.

11. *Id.* (emphasis added).

12. *Id.*

13. *Id.*

constitutional right to an abortion because that right exists only when an abortion is necessary to prevent a risk to the life of or a serious health risk to a pregnant woman; in those circumstances, the woman would likely already be receiving hospital care.¹⁴

II. ARTICLE 1, SECTION 9 – FREEDOM OF THOUGHT AND SPEECH

In *F.G. v. State*, the Court of Appeals held that an Indiana statute prohibiting possession of image of simulated sexual conduct of a child that did not actually exist was unconstitutional as applied to the defendant.¹⁵ The defendant argued that Indiana’s law prohibiting the possession or access of simulated child abuse material violates the First Amendment of the U.S. Constitution and Article 1, Section 9 of the Indiana Constitution.¹⁶ On appeal, the State agreed that the defendant’s motion to dismiss should have been granted.¹⁷ It conceded that it did not charge the defendant with possession of images of child abuse material that depicted “any actual, living and breathing children.”¹⁸ Rather, the images were of “cartoon caricatures of the ‘manga’ or ‘hentai’ variety, which originated in Japan.”¹⁹ Because the defendant asserted an as-applied challenge, and “federal precedent preclude[d] his prosecution for accessing or possessing obscene virtual child pornography within his own home,”²⁰ the court rejected the case on First Amendment grounds.²¹ The court thus declined to address the defendant’s arguments under Article 1, Section 9.²²

III. ARTICLE 1, SECTION 11 – SEARCH AND SEIZURE

In *Bradford v. State*, the Court of Appeals affirmed the defendant’s conviction over the defendant’s objection to a warrantless search of his vehicle based on the smell of marijuana.²³ The defendant was traveling from Illinois to Ohio, both of which have legalized marijuana.²⁴ Thus, the defendant argued that the smell of marijuana could not necessarily indicate the presence of illegal activity in the vehicle.²⁵ But the Court of Appeals held that because marijuana remains illegal in Indiana, its smell served as sufficient probable cause to justify the warrantless vehicle search.²⁶

14. *Id.*

15. 244 N.E.3d 972, 976 (Ind. Ct. App. 2024), *as amended*, (Mar. 5, 2025).

16. *Id.* at 973–74.

17. *Id.* at 974.

18. *Id.* at 973.

19. *Id.*

20. *Id.* at 974.

21. *Id.* at 976.

22. *Id.* at 976 n.2.

23. 246 N.E.3d 808, 819 (Ind. Ct. App. 2024), *trans. denied*, 250 N.E.3d 1061 (Ind. 2025).

24. *Id.* at 815.

25. *Id.*

26. *Id.* at 816.

In *State v. Baker*, the Court of Appeals reversed an order suppressing evidence seized from a vehicle without a warrant because although the defendant was in custody, law enforcement had reason to believe others had access to the vehicle and could move it.²⁷ This law enforcement need—based on the defendant’s statement that he was borrowing the vehicle from a friend—justified a minimal search of the vehicle that did not involve “tearing apart the seats or ripping out the dashboard.”²⁸ Further, a canine alerted to the presence of narcotics raising the level of suspicion and concern regarding illegal activity to “very high.”²⁹

Judge Mathias dissented. He agreed that the degree of suspicion was “high” but did not believe law enforcement needs justified skipping the process of obtaining a search warrant.³⁰ The defendant was handcuffed and in the backseat of a police vehicle with his vehicle’s keys secured by law enforcement.³¹ In Judge Mathias’s view, there simply were not facts justifying an immediate search of the vehicle with five law enforcement officers present on the scene.³²

In *Brooks v. State*, the Court of Appeals held that a warrantless ping of a cellphone’s geolocation did not violate Article 1, Section 11.³³ The degree of suspicion at the time of the search was moderate.³⁴ Law enforcement had found the pinged phone’s telephone number in the caller ID of a phone believed to have been used by a child who was reported missing at the time, and the number was unrecognized by the child’s parents.³⁵ The child’s home and the area around the home had been searched, and no one knew where the child had gone at 4:50 a.m.³⁶ Although there was no guarantee the telephone number related to the child’s disappearance, it was law enforcement’s only lead.³⁷

The court found that the degree of intrusion from pinging the cell phone’s geolocation was also moderate.³⁸ Learning a citizen’s location—without a warrant—invades a citizen’s privacy.³⁹ But the ping did not impede on the citizen’s movement.⁴⁰ The ping resulted in only a visit by law enforcement to the door of the defendant’s hotel room at 5:15 a.m. to ask if he had any information regarding the child.⁴¹ And law enforcement needs were “extremely high” because a thirteen-year-old girl went missing with no explanation in the

27. 246 N.E.3d 1236, 1249 (Ind. Ct. App. 2024).

28. *Id.* at 1248.

29. *Id.*

30. *Id.* at 1249 (Mathias, J., dissenting).

31. *Id.* at 1250.

32. *Id.*

33. 250 N.E.3d 1119 (Ind. Ct. App.), *trans. denied*, 259 N.E.3d 990 (Ind. 2025).

34. *Id.* at 1128.

35. *Id.* at 1124.

36. *Id.* at 1128.

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

middle of the night, time was of the essence, and the location of that phone was the only police lead at the time.⁴²

Although suspicion and intrusion were both moderate, the extreme law enforcement need to track down the missing child made the warrantless ping of the defendant's cellphone constitutional under Article 1, Section 11.⁴³

In *State v. Hendricks*, the Court of Appeals affirmed a trial court's suppression of evidence obtained after an officer went through the side yard of the defendant's home and positioned himself near the back of the home.⁴⁴ This was not the typical route of ingress or egress, e.g., the sidewalk, and the officer approached the home at 11:30 p.m., which is not a time when people expect to receive visitors.⁴⁵ The officers also lacked anything but a low degree of concern, suspicion, or knowledge of criminal activity because the evidence regarding illegality was not tied to individuals living at that home, but instead to relatives.⁴⁶ Further, there was no emergency or other exigency justifying the law enforcement officers' actions to conduct a general search for a suspect.⁴⁷ Thus, the warrantless intrusion into the curtilage was unreasonable under the second *Litchfield* factor.⁴⁸

Judge Brown dissented on the basis that law enforcement officers were looking for a suspect in a recent shooting and an individual wanted on charges of escape.⁴⁹ Judge Brown thus viewed the law enforcement officers as justified in searching the curtilage of known associates of the suspects.⁵⁰

In *Ramos-Osario v. State*, the Court of Appeals reversed a trial court's admission of evidence from a traffic stop that resulted in a conviction for operating a vehicle while intoxicated.⁵¹ The stop was triggered by one officer hearing gun fire and assessing that the nearest location was from a truck driving by and seeing "muzzle flashes" coming from the truck.⁵² The officer initiated a traffic stop and removed three individuals from the truck and handcuffed them.⁵³

The evidence of the muzzle flashes and the gun fire sounding from near the truck was presented at only the suppression hearing.⁵⁴ At the bench trial, the State presented evidence that the stop was initiated only as part of an investigation into shots fired.⁵⁵ Thus, the Court of Appeals found that the level

42. *Id.* at 1129.

43. *Id.*

44. 254 N.E.3d 1127, 1132–33 (Ind. Ct. App. 2025).

45. *Id.* at 1132.

46. *Id.*

47. *Id.* at 1133.

48. *See id.* at 1132–33 (citing *Litchfield v. State*, 824 N.E.2d 356, 359–61 (Ind. 2005)).

49. *Id.* at 1133–34 (Brown, J., dissenting).

50. *Id.*

51. 257 N.E.3d 32, 36 (Ind. Ct. App. 2025), *reh'g denied*, (May 30, 2025).

52. *Id.* at 35.

53. *Id.* at 37.

54. *Id.* at 36.

55. *Id.* at 36–37.

of reasonable suspicion was low and thus favored the defendant.⁵⁶ Although the law enforcement need of investigating shots fired was of an utmost priority, the degree of the intrusion was also high, and thus, the Court of Appeals found that the evidence of the defendant's intoxication was admitted in violation of Article 1, Section 11.⁵⁷

In *Jackson v. State*, the Indiana Supreme Court denied a transfer petition on what two dissenting justices indicated was an issue of first impression.⁵⁸ The case concerned the reasonableness of an officer conducting a warrantless search of a car's locked trunk based on only the smell of burnt marijuana coming from the passenger compartment.⁵⁹ Chief Justice Rush's dissent, joined by Justice Molter, stated that the court's refusal to accept transfer avoids addressing an important opinion that misstates the record and fails to protect a State constitutional right against unreasonable searches by law enforcement.⁶⁰

The officer conducted an investigative stop of the defendant who was sitting in the driver's seat of his vehicle parked in a Carmel, Indiana hotel parking lot where he was staying with his girlfriend.⁶¹ His hotel key was on his lap when he opened the door to speak to the officer. The officer told the defendant he could "smell a little bit of weed" but did not care about it.⁶² Yet the officer called for backup based on the odor and made the defendant exit the vehicle, placing him in handcuffs and performing a search of the vehicle.⁶³ Finding nothing, the officer removed the keys from the ignition and opened the vehicle's trunk, finding a firearm.⁶⁴ The officer then learned that the defendant had been nervously banging on the windows during the search and had a felony carjacking conviction.⁶⁵ The defendant was then charged with unlawful possession of a firearm.⁶⁶

The dissent found the holding of the Court of Appeals, that it is reasonable for law enforcement to conduct a warrantless search of a car's trunk based only on the smell of burnt marijuana coming from the passenger compartment, to be one that had not been, but should be, decided by the Supreme Court.⁶⁷ Because the marijuana smell was not substantiated by a search of the vehicle, and there was no smell of marijuana emanating from the vehicle's trunk, the dissent would have found the search of the trunk unreasonable.⁶⁸ The dissent also found that handcuffing the defendant and placing him in a squad car was a high degree of

56. *Id.* at 39–40.

57. *Id.*

58. 246 N.E.3d 263 (Ind. 2024) (mem.).

59. *Id.* at 264 (Rush, C.J., dissenting).

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* at 265.

68. *Id.* at 266.

intrusion.⁶⁹

In *State v. Poland*, the Court of Appeals reversed a trial court's order granting a motion to dismiss because exigent circumstances justified a blood draw.⁷⁰ Law enforcement arrived on the scene of a multivehicle accident on a state road with at least one person dead.⁷¹ A male, later identified as the defendant, was trapped inside his "completely demolished" vehicle.⁷² With law enforcement assistance, the defendant was removed from the vehicle and transported to a hospital.⁷³ The deputy spoke to other drivers involved in the accident, then reviewed a semitruck's dash camera footage and learned that the defendant's vehicle had lost control coming around a curve.⁷⁴ While the defendant was unconscious in the hospital, law enforcement sought and obtained a blood draw.⁷⁵

The Court of Appeals found that the degree of law enforcement suspicion was high because officers were responding to an accident involving a death and others injured.⁷⁶ The dash camera footage showed a pickup truck traveling quickly around a curve, swerving in and out of traffic, and losing control as it collided with other vehicles.⁷⁷ This gave law enforcement a basis to believe the defendant was impaired.⁷⁸ Because the defendant was receiving other medical care that necessitated the insertion of a line into his arm, the intrusion upon the defendant was minimal.⁷⁹ Finally, law enforcement needs were great given the need to remove intoxicated drivers from the road.⁸⁰ Thus, the blood draw was deemed reasonable under Article 1, Section 11.⁸¹

In *Owens v. State*, the Court of Appeals affirmed the trial court's admission of DNA evidence obtained from swabs taken from the defendant's hands and clothing without a *Pirtle* advisement.⁸² The defendant, who arrived at the hospital with injuries sustained in an attack on the victim, argued that the swabbing violated his right to counsel because he was not advised of his right to counsel prior to the collection.⁸³

The Court of Appeals explained that *Pirtle* advisements are required only when a defendant consents to a search while in custody, found the record unclear

69. *Id.*

70. 269 N.E.3d 1252 (Ind. Ct. App. 2025).

71. *Id.* at 1255.

72. *Id.*

73. *Id.*

74. *Id.* at 1255–56.

75. *Id.* at 1256–57.

76. *Id.* at 1268.

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. 246 N.E.3d 1256, 1259 (Ind. Ct. App. 2024). *See Pirtle v. State*, 323 N.E.2d 634 (Ind. 1975).

83. *Owens*, 246 N.E.3d at 1260–61.

as to whether both conditions were met at the time of collection, and cited to numerous cases where courts have declined to apply *Pirtle* to certain types of searches, including in *Garcia-Torres v. State*, where the Indiana Supreme Court held that the collection of a cheek swab was not a search for which *Pirtle* advisements were required.⁸⁴ The Court of Appeals reasoned that the swabs were minimally intrusive, involving only samples from the surface of hands and clothing, and that the search was limited to the blood on the defendant for the purpose of determining whether the victim's DNA was present.⁸⁵ The Court of Appeals further reasoned that even if a *Pirtle* advisement was required, any error was harmless because the defendant later admitted during his interview with law enforcement that he attacked the victim, the victim identified him as her attacker both at the hospital and in court, and the defendant's blood was found at the crime scene.⁸⁶

IV. ARTICLE 1, SECTION 12 – DUE PROCESS

In *Minor v. State*, the Court of Appeals found that alleged errors at a jury trial did not cumulatively violate the defendant's right to complete justice under Article 1, Section 12.⁸⁷ The defendant claimed that the bailiff's *ex parte* communication with the jury—responding “no” to a question that the jury be given access to body camera footage in the jury room—deprived him of the right to be present and heard at all critical stages of his trial.⁸⁸ The trial court also did not involve the defendant and his lawyer in responding to a note from the jury regarding reaching a unanimous verdict.⁸⁹ Although the Indiana Supreme Court has recognized the defendant's right to be present when a jury makes a request for any additional guidance during deliberations, the denial of that right is subject to harmless error analysis.⁹⁰

The court concluded that the bailiff's brief communication with the jury regarding the request for the bodycam footage while placing evidence in the jury room before deliberations had begun in earnest triggered a critical stage where the defendant was required to be present and heard.⁹¹ The court separately observed that it would have been better practice for the defendant and his counsel to be called into the courtroom and a record established on the jury's note regarding a unanimous verdict.⁹² But because the court's response did not contain any new information regarding the facts or law of the case, the trial

84. *Id.* at 1262–63 (citing, among others, *Garcia-Torres v. State*, 949 N.E.2d 1229, 1239 (Ind. 2011)).

85. *Id.* at 1263.

86. *Id.*

87. 252 N.E.3d 979, 990 (Ind. Ct. App.), *trans. denied*, 259 N.E.3d 995 (Ind. 2025).

88. *Id.* at 986.

89. *Id.* at 987.

90. *Id.* (citing *Hernandez v. State*, 761 N.E.2d 845, 853 (Ind. 2002)).

91. *Id.*

92. *Id.* at 988.

court's error does not rise to the level of reversal.⁹³

In *Heitz v. State*, the Court of Appeals found that the State's failure to seek a trial date required the dismissal of felony identity theft.⁹⁴ The trial court had found that the defendant's failure to seek a trial date constituted a delay that absolved the State's obligation to take the case to trial within one year.⁹⁵ The Court of Appeals found the dispute centered on the trial court's policy of attributing delay to the defendant where the defendant failed to seek a trial setting, even when the State also declined to seek a trial setting.⁹⁶ Because local rules that conflict with the criminal rules are invalid, the shifting of the burden of prosecutorial timeliness to the defendant was deemed invalid.⁹⁷ Defendants must affirmatively extend the period of a trial setting for the delay to be deemed attributable to the defendant.⁹⁸ The State, not the defendant, carries the burden of ensuring timely prosecution.⁹⁹

Judge Felix dissented. Although agreeing with the disapproval of the trial court's practice, Judge Felix believed that the defendant acted to extend the one-year period by declining the court's offer to set a trial date.¹⁰⁰

V. ARTICLE 1, SECTION 13 – RIGHTS OF ACCUSED, RIGHTS OF VICTIMS

In *Graff v. State*, the Court of Appeals addressed whether a suspect's statements to police, made after invocation of his right to counsel but before consultation with an attorney, constituted compelled testimony under Article 1, Section 14 of the Indiana Constitution, and whether his right to counsel under Article 1, Section 13 of the Indiana Constitution was violated during a polygraph examination.¹⁰¹ The court reaffirmed that, under Indiana precedent, a defendant seeking to suppress self-incriminating statements must establish that those statements were compelled.¹⁰² The record demonstrated that the suspect was repeatedly advised of his rights, was not in custody, voluntarily spoke with police, and voluntarily submitted to both a polygraph examination and subsequent interrogation during which he incriminated himself.¹⁰³ The court concluded that the suspect failed to establish a violation of the right against compelled self-incrimination.¹⁰⁴ Regarding the right to counsel, the Court of Appeals reiterated that, although Indiana's right to counsel is broader than its federal counterpart, it attaches only at arrest, and no Indiana Supreme Court

93. *Id.*

94. 263 N.E.3d 181, 195–96 (Ind. Ct. App. 2025).

95. *Id.* at 187.

96. *Id.* at 190.

97. *Id.* at 190–91.

98. *Id.* at 193.

99. *Id.* at 195–96.

100. *Id.* at 196 (Felix, J., dissenting).

101. 250 N.E.3d 497, 502–03 (Ind. Ct. App. 2025).

102. *Id.*

103. *Id.* at 503.

104. *Id.*

authority suggests that the right attaches prior to arrest.¹⁰⁵ Because the defendant was not under arrest at the time of the polygraph examination or when he made incriminating statements, the court held that his right to counsel had not attached and therefore was not violated.¹⁰⁶

In *Shabazz v. State*, the Court of Appeals considered whether allowing a prosecution witness to testify via virtual video platform in a murder trial—because the witness was incarcerated and the jail could not feasibly transport him for an eight-hour round trip—violated the defendant’s right to confrontation under the Indiana and U.S. Constitutions and Administrative Rule 14(C).¹⁰⁷ Administrative Rule 14, issued by the Indiana Supreme Court in January 2023, states: “[a] court must conduct all testimonial proceedings in person except that a court may conduct the proceedings remotely for all or some of the case participants for good cause shown or by agreement of the parties. Remote proceedings must comply with constitutional and statutory guarantees.”¹⁰⁸ Although “Indiana’s confrontation right is mostly ‘co-extensive’ with the federal right of confrontation,” it “differs from its federal counterpart in that it contemplates a face-to-face meeting in which the accused and the witness can see and recognize one another.”¹⁰⁹

The Court of Appeals held that permitting remote testimony under these circumstances did not violate Administrative Rule 14 or the defendant’s confrontation rights under either constitution.¹¹⁰ The court found that good cause existed to permit remote testimony based on the case-specific circumstances that made physical transport unfeasible and noted that the witness’s testimony was cumulative, relating to the defendant’s multiple jailhouse admissions, rather than being primary eyewitness testimony to the murder itself.¹¹¹ The court further noted that defendant’s right to confrontation was preserved because his counsel rigorously cross-examined the witness, and the record reflected that those in the courtroom could see and hear the witness clearly.¹¹²

In *Butler v. State*, the Court of Appeals reversed a conviction because the record lacked evidence of a personal waiver of the right to a jury trial.¹¹³ Although defense counsel signed and filed a written jury trial waiver, the defendant neither signed the waiver nor personally expressed a desire to proceed without a jury, and the trial court failed to confirm the defendant’s waiver before conducting the bench trial.¹¹⁴

105. *Id.* at 504.

106. *Id.*

107. 255 N.E.3d 533 (Ind. Ct. App. 2025), *vacated*, 274 N.E.3d 115 (Ind. 2026).

108. *Id.* at 541–42 (quoting IND. ADMIN. R. 14(C)).

109. *Id.* at 542 (quoting *Brady v. State*, 575 N.E.2d 981, 987 (Ind. 1991)).

110. *Id.*

111. *Id.*

112. *Id.*

113. 259 N.E.3d 362, 363 (Ind. Ct. App. 2025).

114. *Id.*

VI. ARTICLE 1, SECTION 19 – RIGHT TO HAVE JURY DECIDE LAW AND
FACT IN CRIMINAL CASES

In *Applegate v. State*, the Court of Appeals declined to find a violation of the right to have a jury determine the law and facts of a habitual offender allegation under the Indiana Supreme Court’s opinion in *Harris v. State* because the argument rested on a section of *Harris* that only obtained two votes of the justices.¹¹⁵ Although he had otherwise joined the opinion, Justice Slaughter did not join the discussion in *Harris* that the habitual offender statute requires a jury to determine habitual offender status.¹¹⁶ Because that portion of *Harris* was not supported by a majority of the Indiana Supreme Court, the *Applegate* court declined to address whether the habitual offender statute required the jury to determine the defendant’s habitual offender status and affirmed the trial court’s habitual offender designation.¹¹⁷

VII. ARTICLE 1, SECTION 20 – RIGHT TO TRIAL BY JURY IN CIVIL CASES

In *Zotec Partners, LLC v. Hulsey*, the Court of Appeals found that a company had no right to a jury trial for breach of sale agreement and rescission claims under the Indiana Uniform Securities Act (IUSA).¹¹⁸

When Zotec Partners, LLC (“Zotec”), negotiated to purchase Medical Management Professionals, LLC (“MMP”) from CBIZ Operations, Inc. (“CBIZ”), MMP’s CEO and President failed to disclose to CBIZ and Zotec that he had a financial interest in one of MMP’s software vendors, Technology Partners, Inc.¹¹⁹ The vendor sued over the transaction, and MMP’s CEO helped resolve the dispute between the vendor, MMP, and Zotec.¹²⁰ Zotec learned only later of the CEO’s interest in the vendor, and it sued the CEO and CBIZ for alleged fraud and contract breaches.¹²¹ CBIZ counterclaimed for Zotec’s alleged breach of the parties’ agreement.¹²² Ultimately, the trial court required Zotec to elect the remedy it would pursue for its IUSA claim: rescission of the purchase or money damages.¹²³ Because Zotec elected to pursue rescission, the court heard the claim through a bench, rather than jury, trial.¹²⁴

Zotec appealed the trial court’s decision to try the IUSA claim to the bench, arguing it should have been put to a jury.¹²⁵ The Court of Appeals disagreed. It

115. 230 N.E.3d 944, 953 (Ind. Ct. App. 2024) (citing *Harris v. State*, 211 N.E.3d 929, 935–38 (Ind. 2023)).

116. *Harris*, 211 N.E.3d at 956 (Slaughter, J., dissenting).

117. *Applegate*, 230 N.E.3d at 954.

118. 258 N.E.3d 1017, 1023 (Ind. Ct. App. 2025).

119. *Id.* at 1019–20.

120. *Id.*

121. *Id.* at 1020–21.

122. *Id.* at 1021.

123. *Id.*

124. *Id.*

125. *Id.*

found that the IUSA permitted Zotec to seek only rescission because Zotec still held the MMP stock.¹²⁶ And because rescission is equitable in nature, and equitable claims have no right to be tried to a jury, the bench trial was appropriate.¹²⁷ In reaching this conclusion and affirming the trial court, the court observed that Article 1, Section 20 of the Indiana Constitution provides the right to a jury for only those civil cases that were “triable by jury at the adoption of the current constitution in 1851,” or that are “essentially legal, rather than equitable, as those terms were understood in 1851, considering the complaint, the rights and interests involved, and the relief demanded.”¹²⁸

VIII. ARTICLE 1, SECTION 21 – TAKINGS CLAUSE

In *Slavick v. Christmas Lake Properties Ass’n, Inc.*, the Court of Appeals affirmed the trial court’s rejecting a claim of judicial taking by a property owner who failed to show exclusive ownership of four contiguous, non-waterfront lots.¹²⁹ The owner had acquired four contiguous lots in a Santa Claus, Indiana subdivision near a lake, all subject to homeowners’ association (“HOA”) governance.¹³⁰ A portion of the lots abutted an HOA-owned tract that had a boat dock.¹³¹ The owner used and maintained the dock when it came into possession of the lots and later attempted to expel individuals from the tract and otherwise assert exclusive rights to it.¹³² But covenants governed the tract’s use, confirmed the HOA’s control of that and other common areas, and addressed rights to control the areas between the lot lines and lake shorelines, and the HOA quickly notified owner that it had exclusive rights to the tract.¹³³

After the trial court determined that the owner did not have exclusive rights to the area or dock, the owner appealed and argued that the trial court’s ruling amounted to a judicial taking under Article 1, Section 21 of the Indiana Constitution.¹³⁴ Because the owner never sufficiently showed she had exclusive rights in the property she was claiming, the Indiana Court of Appeals rejected the owner’s claim.¹³⁵ It found any subjective belief the owner might have had concerning her purported exclusive rights to the tract were insufficient to support an established exclusive right to the property.¹³⁶

126. *Id.* at 1022.

127. *Id.* (citations omitted).

128. *Id.* (quoting *State v. \$2,435 in U.S. Currency*, 220 N.E.3d 542, 548 (Ind. 2023)).

129. 251 N.E.3d 592, 604 (Ind. Ct. App. 2025).

130. *Id.* at 596.

131. *Id.*

132. *Id.*

133. *Id.* at 596–97.

134. *Id.* at 598–99.

135. *Id.* at 603.

136. *Id.*

IX. ARTICLE 1, SECTION 23 – EQUAL PRIVILEGES AND IMMUNITIES

In *Peters v. Quakenbush*, the Indiana Supreme Court addressed whether a sex or violent offender under the Indiana Sex Offender Registration Act must register in Indiana for the period mandated by another jurisdiction as prescribed by Indiana Code section 11-8-8-19(f) (the “Jurisdiction Statute”), even if the individual committed no offense in the other jurisdiction that imposed the registration requirement.¹³⁷ Peters was convicted of criminal sexual abuse in Illinois in 2013, triggering a ten-year sex offender registration requirement, and upon moving to Indiana in 2016, he continued to comply with registration obligations there.¹³⁸ Peters later moved back to Illinois and vacationed in Florida in 2021.¹³⁹ Florida requires registration in the state for any temporary residence for a period of three days or more.¹⁴⁰ Peters complied and signed a form agreeing to lifetime registration under Florida law.¹⁴¹ Upon his return to Indiana in 2022, the Hamilton County Sheriff’s Department initially set his registration end date for 2023 but later changed it to lifetime registration, citing Florida law. Peters sued for declaratory judgment.¹⁴² The trial court and a divided Court of Appeals affirmed the lifetime requirement under Indiana’s Jurisdiction Statute, despite dissenting opinions arguing against such blanket enforcement for out-of-state obligations, and the Supreme Court granted transfer.¹⁴³

The Indiana Supreme Court held that Indiana’s Jurisdiction Statute applies to individuals residing, working, or attending school in Indiana, even if that person did not commit an offense in the jurisdiction that imposed the triggering registration requirement.¹⁴⁴ However, the court concluded that because Peters was not currently required to register in Florida, Indiana’s Jurisdiction Statute did not apply to him and reversed the trial court’s judgment.¹⁴⁵ In a concurring opinion, Justice Molter noted a potential constitutional issue under the Privileges and Immunities Clause of the Indiana Constitution, observing that two individuals convicted of the same Indiana crime may face unequal registration burdens if only one moves to a more stringent state before returning to Indiana.¹⁴⁶

In *Kelly v. State*, the Indiana Supreme Court rejected a juvenile offender’s constitutional challenges to his 110-year sentence for two murders committed at age sixteen, holding that neither the Indiana Constitution nor the U.S.

137. 260 N.E.3d 919, 921 (Ind. 2025).

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.* at 922.

143. *Id.*

144. *Id.* at 923–24.

145. *Id.* at 924–25.

146. *Id.* at 930–31 (Molter, J., concurring).

Constitution required a more lenient sentence.¹⁴⁷ The defendant asserted that his sentence was effectively life without parole (“LWOP”) and violated several provisions of the Indiana Constitution, including prohibitions against cruel and unusual punishment, disproportionate sentences, vindictive rather than reformatory punishment, and unnecessary rigor, as well as his right to equal privileges and immunities.¹⁴⁸

The court found no constitutional violation.¹⁴⁹ It emphasized that the defendant received a term-of-years sentence, not life, and noted recent legislative amendments now grant juvenile offenders the right to seek sentence modification after twenty years.¹⁵⁰ The court reasoned that Article 1, Section 16’s cruel-and-unusual punishment clause is concerned with the form of punishment—not its duration—and that Indiana’s sentencing framework allows for sufficient flexibility to address the unique circumstances and reform potential of juvenile offenders, defeating the offender’s disproportionality argument.¹⁵¹ The court rejected the argument under Article 1, Section 18’s requirement that the penal code rest on principles of reformation, not vindictive justice, because trial courts maintain discretion to consider youth as a mitigating factor, and offenders can pursue sentence modification under Indiana Code section 35-38-1-17.¹⁵² The court also held that Article 1, Section 15’s prohibition on “unnecessary rigor” bars only physical abuse and found no violation.¹⁵³ Finally, the court rejected the offender’s claimed deprivation of equal privileges and immunities in violation of Article 1, Section 23 because it found that the different statutory protections for those charged under the LWOP statute are reasonably related to the distinct characteristics of the classes, in that an LWOP sentence precludes eventual release.¹⁵⁴

X. ARTICLE 1, SECTION 24 – EX POST FACTO CLAUSE

In *City of Bloomington v. Smith*, the Court of Appeals rejected arguments that a 2019 Act unconstitutionally impaired the City’s contracts with landowners.¹⁵⁵ For years, the City had offered adjacent landowners access to the City’s sewer services in return for remonstrance waivers if the City ever decided to annex the adjacent property within City limits.¹⁵⁶ In 2017, under the authority of the remonstrance waivers, the City proposed annexing certain adjacent land

147. 257 N.E.3d 782, 790 (Ind. 2025).

148. *Id.* at 799.

149. *Id.* at 799–803.

150. *Id.*

151. *Id.*

152. *Id.*

153. *Id.* at 802 (quoting IND. CONST. art. 1, § 15).

154. *Id.* at 802–03.

155. 252 N.E.3d 951, 965–66 (Ind. Ct. App. 2025).

156. *Id.* at 955–56.

into the City limits.¹⁵⁷ The General Assembly, noting opposition from some members of the community, passed House Bill 1001 as Public Law 217-2017 (“2017 Act”) to prohibit Bloomington from annexing the area for at least five years.¹⁵⁸ However, the Indiana Supreme Court, in *Holcomb v. City of Bloomington*, held that the law was unconstitutional for singling out only Bloomington.¹⁵⁹ Before the Supreme Court could issue its ruling in *Holcomb*, though, the General Assembly passed House Bill 1427 as Public Law 257-2019 (“2019 Act”), which voided all remonstrance waivers executed before July 1, 2003, and all remonstrance waivers between June 30, 2003, and July 1, 2019, unless recorded before January 1, 2020.¹⁶⁰ The 2019 Act rendered more than 80% of the City’s remonstrance waivers as void.¹⁶¹

In 2021, the City adopted annexation ordinances affecting approximately 10,000 acres and 15,000 people located adjacent to the city limits.¹⁶² The City mailed notice of annexation ordinances to affected landowners to initiate the remonstrance process, which voided the applicable annexation ordinance if at least 65% of affected landowners in the proposed annexation territory remonstrated and subjected the applicable annexation ordinance to judicial review if between 51% and 65% of the affected landowners remonstrated.¹⁶³ The Monroe County Auditor applied the 2019 Act to exclude many of the City’s remonstrance waivers under the 2019 Act and, as a result, found five of the proposed annexations were void and the other two were subject to judicial review.¹⁶⁴

The City sued, arguing that the 2019 Act unconstitutionally impaired its rights under the Contract Clauses of the Indiana and U.S. Constitutions.¹⁶⁵ The trial court rejected the City’s claims because it found that the City, as a political subdivision, had no right to assert under either constitutional provision.¹⁶⁶ The Court of Appeals agreed that the City could not enforce the federal Contract Clause against the State.¹⁶⁷ The court then observed that, because the State creates municipalities and gives them their powers, the “real contracting party is the state,” and the State can release the sureties from a contract with a municipality.¹⁶⁸ The court thus rejected the City’s claim under the Indiana Constitution’s Contract Clause, too.¹⁶⁹ The court further observed that, even if the City had enforceable rights against the State under either provision, the 2019

157. *Id.* at 956.

158. *Id.*

159. 158 N.E.3d 1250, 1253 (Ind. 2020).

160. *Smith*, 252 N.E.3d at 957.

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.* at 958.

166. *Id.* at 959.

167. *Id.* at 961.

168. *Id.* at 963–64.

169. *Id.* at 965.

Act did not substantially impair the City's contracts because the contracts were for the operation of the City's sewer services to adjacent landowners, rather than for annexation, which the 2019 Act did not affect.¹⁷⁰

In *Rokita v. Board of School Commissioners for City of Indianapolis*, the Indiana Court of Appeals considered dueling challenges by the Indiana Attorney General and the Board of School Commissioners of the City of Indianapolis ("IPS") to IPS's attempt to sell two unused school buildings.¹⁷¹ The Attorney General asked a court to enjoin the sales because he argued they were subject to a 2023 law requiring public school corporations to make school buildings the corporations intended to close available to charter schools for lease or purchase for \$1 ("Dollar Law").¹⁷² IPS, conversely, argued that the sales were excepted from the Dollar Law's requirements and asked for relief permitting the sales to go forward.¹⁷³ At that time, the Dollar Law excepted from its requirements school corporations that "distribute[d] money . . . received as part of a tax levy collected under IC 20-46-1 . . . to an applicable charter school," and IPS argued it satisfied that exception because it had been distributing money from a 2018 tax levy to many applicable charter schools since at least 2021.¹⁷⁴

In November 2023, the trial court found that IPS was exempt from the Dollar Law and authorized it to proceed with the proposed sales.¹⁷⁵ It then stayed its order pending the Attorney General's appeal.¹⁷⁶ Shortly thereafter, IPS leased one of the two buildings to the proposed buyer, which no party argued violated the stay.¹⁷⁷

Then, in March 2024, after the proposed buyer had begun its lease, the General Assembly amended the Dollar Law.¹⁷⁸ The amendment, intended to apply retroactively, clearly precluded IPS from relying on the Dollar Law's exemption to the Law's requirements.¹⁷⁹ On appeal, the Attorney General argued that the amendment precluded IPS from relying on the Dollar Law's exemption.¹⁸⁰ IPS argued that applying the amended Dollar Law to IPS would "impair[] its vested contract rights in violation of Article 1, Section 24 of the Indiana Constitution" and effect a taking made unconstitutional by Article 1, Section 21 of the Indiana Constitution, and that the amendment was special legislation that violated Article 4, Section 23 of the Indiana Constitution.¹⁸¹

The court first rejected the Attorney General's argument that IPS could not

170. *Id.* at 966.

171. 262 N.E.3d 873 (Ind. Ct. App. 2025).

172. *Id.* at 879 (discussing IND. CODE ch. 20-26-7.1).

173. *Id.* at 877–78.

174. *Id.* at 880, 885 (quoting IND. CODE § 20-26-7.1-1).

175. *Id.* at 881–82.

176. *Id.* at 883.

177. *Id.*

178. *Id.* at 884.

179. *Id.* at 884–85.

180. *Id.* at 884.

181. *Id.* at 885.

raise constitutional challenges to regulatory acts by the State, reiterating that “local governmental entities may challenge the constitutionality of a statute if they have ‘a direct stake in the outcome of the litigation and will sustain direct injury if the statute is upheld.’”¹⁸² Next, the court found that applying the amended Dollar Law to IPS to invalidate its lease agreement with the proposed buyer would impermissibly retroactively impair IPS’s contractual rights and obligations, contrary to Article 1, Section 24 of the Indiana Constitution.¹⁸³ It thus found the amended Dollar Law void as to that transaction.¹⁸⁴ Because IPS had no existing contractual relationship at that point with the prospective buyer of the other building, however, the court found the amended Dollar Law did not violate Article 1, Section 24 as to that proposed transaction.¹⁸⁵

The court then rejected IPS’s other arguments as to that proposed sale, too. Relying on *Lake Ridge School Corp. v. Holcomb*, it found IPS could not assert a taking claim against the State under Article 1, Section 21 of the Indiana Constitution.¹⁸⁶ And because the Dollar Law, as amended, operated uniformly throughout the State, the court rejected IPS’s claim that it was special legislation that violated Article 4, Section 23 of the Indiana Constitution.¹⁸⁷ Finally, the court rejected IPS’s argument that the trial court abused its discretion when it stayed its judgment pending the State’s appeal.¹⁸⁸ It thus affirmed the trial court’s ruling as to the proposed transaction with the lessor, reversed the trial court as to the transaction with the second prospective buyer, and remanded with instructions that IPS dispose of the second property consistently with the Dollar Law, as amended.¹⁸⁹

XI. ARTICLE 1, SECTION 32 – RIGHT TO BEAR ARMS

In *Moore v. State*, the Court of Appeals affirmed that a trial court conviction for the misdemeanor unlawful carrying of a handgun did not violate his right to bear arms under the Second Amendment to the U.S. Constitution and Article 1, Section 32 of the Indiana Constitution.¹⁹⁰ The plaintiff had been indicted for felony charges when he wrecked his car.¹⁹¹ After a firefighter found a handgun and live ammunition in the car, the State charged the plaintiff with a Class A misdemeanor for unlawfully carrying a handgun while under felony indictment.¹⁹² The plaintiff argued that the State’s doing so violated his rights

182. *Id.* at 887 (brackets omitted) (quoting *City of Hammond v. Herman & Kittle Props., Inc.*, 95 N.E.3d 116, 135 (Ind. Ct. App. 2018)).

183. *Id.* at 888.

184. *Id.*

185. *Id.*

186. *Id.* (citing 198 N.E.3d 715 (Ind. Ct. App. 2022)).

187. *Id.* at 889.

188. *Id.* at 890.

189. *Id.*

190. 244 N.E.3d 934, 943–45 (Ind. Ct. App. 2024).

191. *Id.* at 938.

192. *Id.*; IND. CODE § 35-47-2-1.5(b)(6).

under the Second Amendment to the U.S. Constitution and Article 1, Section 32 of the Indiana Constitution.¹⁹³ The court rejected the plaintiff's claims.¹⁹⁴ Because the statute the State invoked had significant support from historical analogues, it satisfied the test the Supreme Court articulated in *New York State Rifle & Pistol Ass'n v. Bruen* for analyzing alleged Second Amendment violations.¹⁹⁵ And because the statute was rationally related to the State's exercise of its police power and handgun violence by alleged felons threatens a particularized harm the State can reasonably regulate without materially burdening individuals' constitutional right to bear arms, the court found the State's application of the law did not violate Article 1, Section 32 of the Indiana Constitution, either.¹⁹⁶

XII. ARTICLE 3, SECTION 1 – STANDING

In *Thomas v. Foyst*, the Indiana Supreme Court dismissed as moot a challenge to the 2023 election of a Republican to the Columbus City Council.¹⁹⁷ Because no Republican ran in the primary for that Council seat, the Republican Party held a caucus in July 2023 to select a vacancy-filling candidate for the general election that November.¹⁹⁸ Although the party did not timely notice that caucus meeting, the circuit court clerk accepted the party's filing, contrary to statute.¹⁹⁹ And days after the caucus, the party nominated the defendant, Foyst, as its candidate.²⁰⁰ Plaintiff Thomas, the county's Democratic Party chairman, then timely filed a pre-election challenge asserting that the candidate was ineligible because of the untimely caucus meeting, which the county election board granted, and Foyst was removed from the ballot.²⁰¹ But the Republican Party re-nominated Foyst, and he once again was selected as the party's candidate for the November election.²⁰² And then Thomas asserted another pre-election challenge to Foyst's candidacy.²⁰³ This time, however, the county election board declared Thomas's challenge untimely because it came after the deadline for pre-election challenges had passed.²⁰⁴

Rather than seek judicial review of that decision, Thomas separately pursued declaratory and injunctive relief in state court.²⁰⁵ But his claims were not adjudicated before the November 2023 election, which Foyst won, so Foyst

193. *Moore*, 244 N.E.3d at 937–38.

194. *Id.* at 945.

195. *Id.* at 942 (citing 597 U.S. 1 (2022)).

196. *Id.* at 945.

197. 260 N.E.3d 887, 889 (Ind. 2025).

198. *Id.*

199. *Id.* at 889–90.

200. *Id.* at 890.

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.* at 891.

205. *Id.*

moved to dismiss the suit.²⁰⁶ Although the Indiana Supreme Court agreed that Thomas had standing to pursue his claims on behalf of the county's Democratic Party, it nonetheless held that the only claim he had preserved before the trial court was mooted by the election.²⁰⁷ In particular, it held that there are only "two avenues for disputing a person's candidacy: an Article 8 pre-election 'challenge' and an Article 12 election 'contest'"—the former addressing who should appear on the ballot and the latter concerning disputes over election results.²⁰⁸ And because Thomas pursued only the first path, having disclaimed the second, and the election already had occurred, his challenge to who lawfully could have been on the ballot for that *past* election was moot.²⁰⁹ The court thus vacated the judgment below and remanded the case to the trial court with instructions to dismiss the suit as moot.²¹⁰

XIII. ARTICLE 3, SECTION 1 – SEPARATION OF POWERS

In *Matter of Rokita*, the Indiana Supreme Court denied the Indiana Attorney General's motion to dismiss a second complaint that the Indiana Disciplinary Commission filed against him resulting from public comments he made about an investigation his office had been conducting.²¹¹ As part of resolving the first complaint, the Attorney General had agreed to accept responsibility for violating certain rules.²¹² But the Commission alleged that the Attorney General rebuffed those obligations through later public statements he made in which he denied responsibility for the asserted rule violations, thereby prompting the Commission's second complaint.²¹³ The court denied the Attorney General's motion to dismiss the Commission's second complaint and, in doing so, declined to address the Attorney General's arguments that sanctioning him would violate the Indiana Constitution's separation of powers or his rights to freedom of expression.²¹⁴ Instead, it found his arguments would be "better considered in the normal course of attorney discipline litigation—first through hearing proceedings and then through review in [the] Court" and reiterated that he was "free to raise" the arguments during that process.²¹⁵

In *Matter of E.K.*, the Indiana Supreme Court reiterated the statutory requirements for children-in-need-of-services (CHINS) proceedings and remanded the case for further proceedings, after finding that the trial court erred

206. *Id.*

207. *Id.* at 893.

208. *Id.* at 894 (quoting *White v. Ind. Democratic Party ex rel. Parker*, 963 N.E.2d 481, 485 (Ind. 2012)).

209. *Id.* at 895.

210. *Id.* at 898.

211. 262 N.E.3d 823, 825 (Ind. 2025).

212. *Id.*

213. *Id.*

214. *Id.* at 830.

215. *Id.* at 829.

in deferring to the Indiana Department of Child Services (DCS) in the underlying CHINS proceedings.²¹⁶ During a fact-finding hearing, the trial court had adopted DCS's CHINS adjudication concerning a child over two alternative CHINS adjudications the child's adopted mother had proposed.²¹⁷ The court did so because it was concerned that rejecting DCS's adjudication would "violate the principle of power separation and [be] an abhorrence for judicial activism[.]"²¹⁸ Reiterating that the "critical consideration for a court in any CHINS proceeding" is "advancement of the child's best interests," which the legislature has empowered trial courts to aid in, the Supreme Court vacated the trial court's judgment and remanded for the court to proceed under applicable statute, including by conducting a hearing and observing the child's procedural due process rights.²¹⁹

XIV. ARTICLE 4, SECTION 19 – ONE SUBJECT PER ACT

In *City of Fishers v. Netflix, Inc.*, the Indiana Court of Appeals rejected a challenge by four Indiana cities to the constitutionality of an amendment to Indiana's Video Service Franchises Act that the General Assembly included in Public Law 236-2023.²²⁰ The Act required certain video service providers in Indiana to satisfy certain regulatory franchise obligations.²²¹ After the cities sued several national streaming companies for failure to comply with those requirements, the General Assembly amended the Act through Public Law 236-2023 to retroactively exempt the streaming companies from its requirements.²²²

The cities argued that the inclusion of the amendment in Public Law 236-2023 violated Article 4, Section 19, which generally prohibits acts from addressing more than "one subject and matters properly connected therewith" because the law was ostensibly about tax matters, not video services.²²³ But the Court of Appeals rejected that argument because it found that the amendment "ha[d] at least some rational connection to" the law's "general purpose of taxation."²²⁴ The court also found that the amendment was "general legislation" that did not violate the Indiana Constitution's prohibitions against local and special laws under Article 4, Sections 22 or 23.²²⁵ It observed that the amendment applied to all "similarly situated persons" and merely clarified the meaning of language in the original Act, rather than "singl[ing] out a group

216. *In re E.K. v. Ind. Dep't of Child Servs.*, 260 N.E.3d 901, 910–15 (Ind. 2025).

217. *Id.* at 904.

218. *Id.* at 918.

219. *Id.* at 919.

220. 264 N.E.3d 69, 80 (Ind. Ct. App. 2025).

221. *Id.* at 73.

222. *Id.* at 75.

223. *Id.* at 78–79 (quoting IND. CONST. art. 4, § 19).

224. *Id.* at 80.

225. *Id.* at 81.

smaller than the previously specified class to receive unique privileges.”²²⁶

CONCLUSION

Between September 2024 and September 2025, Indiana’s appellate courts navigated fourteen areas of Indiana’s constitutional landscape. They alternately expanded and limited Hoosiers’ rights to balance individual liberties against the preservation of State police powers. The courts consistently declined invitations to depart materially from precedent. From clarifying procedural rules in both civil and criminal proceedings, to rejecting various separation-of-powers challenges, the courts’ decisions demonstrate subtle shifts within steady doctrines. The jurisprudence of the past year reflects a judiciary responsive to the society of the times—providing necessary clarification while grounding its opinions in the foundational principles of the Indiana Constitution and prior decisions.

226. *Id.* at 83 (quoting *Alpha Psi Chapter of Pi Kappa Phi Fraternity, Inc. v. Auditor of Monroe Cnty.*, 849 N.E.2d 1131, 1137 (Ind. 2006)).