

# HOUSE BILL No. 1651

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-6-18; IC 35-31.5-2-81.5; IC 35-47.

**Synopsis:** Seizure of firearms from dangerous individuals. Requires the Indiana criminal justice institute to track and record the following: (1) The name of the law enforcement agency responsible for each confiscation of a firearm from a person adjudicated or believed to be dangerous. (2) The number of: (A) warrant based; and (B) warrantless; firearm confiscations from dangerous persons by a law enforcement agency. (3) The county, court of origin, and judge responsible for each written court order finding a person to be dangerous. (4) The total number of: (A) handguns; (B) long guns; and (C) NFA regulated firearms; confiscated from persons adjudicated or believed to be dangerous each year. (5) Each: (A) appeal of; or (B) reversal of; a written court order that finds a person to be dangerous. Provides that a dangerous person is not a proper person for the purpose of: (1) applying for; or (2) receiving; a license to carry a handgun. Provides that a dangerous person who knowingly or intentionally: (1) rents; (2) purchases; (3) receives transfer of; (4) owns; or (5) possesses; a firearm commits dangerous possession of a firearm, a Level 6 felony. Provides that a person who knowingly or intentionally: (1) rents; (2) transfers; (3) sells; or (4) offers for sale; a firearm to a person that a court has found to be dangerous or prohibited from owning or possessing a firearm commits dangerous transfer of a firearm, a Level 5 felony. Requires a law enforcement officer (officer) who seizes a firearm from a person believed to be dangerous without a warrant to provide an affidavit to a court with jurisdiction over the person at issue: (1) not later than 48 hours after the seizure or attempted seizure of the firearm; and (2) for each seizure or attempted seizure of a firearm from the  
(Continued next page)

**Effective:** Upon passage; July 1, 2020.

---

---

## Schaibley

---

---

January 24, 2019, read first time and referred to Committee on Courts and Criminal Code.

---

---



person. Requires a court to review the affidavit of an officer as soon as possible. Requires a court to order the retention of a seized firearm by a law enforcement agency if the court: (1) finds; or (2) has previously found; the person to be dangerous. Requires a court to determine if a person is dangerous by conducting a hearing after: (1) the receipt of an officer's affidavit; or (2) authorizing a search warrant mandating the seizure of a firearm from a person believed to be dangerous. Requires a court to issue a written court order prohibiting a person from: (1) renting; (2) buying; (3) receiving transfer of; (4) owning; or (5) possessing a firearm; after finding a person to be dangerous. Requires a court to provide certain information to the office of judicial administration after issuing a finding concerning a person's dangerousness. Requires a court to issue a written order finding that a person is: (1) not dangerous; or (2) no longer dangerous; in certain instances. Provides that a dangerous person may petition a court for a court order vacating the person's designation as a dangerous individual 180 days after being found dangerous by a circuit or superior court. Specifies the process that a dangerous individual must follow when petitioning a court for the dissolution of a dangerous person designation. Provides that the authorized disposal or authorized sale of a firearm retained by a law enforcement agency does not: (1) alter or terminate a person's designation as a dangerous individual; or (2) constitute prima facie evidence that a person is not dangerous. Allows the rightful owner of a firearm to petition a court for an order mandating the: (1) disposal; or (2) sale; of a seized or retained firearm. Defines certain terms. Makes conforming amendments.



Introduced

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1651

---

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 5-2-6-18.5 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2020]: **Sec. 18.5. (a) The following terms are defined for this**  
4 **section:**  
5 (1) "Dangerous" has the meaning set forth in IC 35-47-14-1.  
6 (2) "Firearm" has the meaning set forth in IC 35-47-1-5.  
7 (3) "Institute" means the Indiana criminal justice institute  
8 established by section 3 of this chapter.  
9 (4) "NFA regulated firearm" means any firearm described  
10 under 26 U.S.C. 5845(a) through 26 U.S.C. 5845(f).  
11 (b) The institute shall track and record the following  
12 **information:**  
13 (1) The name of the law enforcement agency responsible for  
14 each confiscation of a firearm under IC 35-47-14-2 and  
15 IC 35-47-14-3.



- 1           **(2) The number of:**  
 2           **(A) warrant based firearm confiscations under**  
 3           **IC 35-47-14-2; and**  
 4           **(B) warrantless firearm confiscations under IC 35-47-14-3;**  
 5           **for each county, as applicable, each year.**  
 6           **(3) The total number of:**  
 7           **(A) handguns;**  
 8           **(B) long guns; and**  
 9           **(C) NFA regulated firearms;**  
 10           **confiscated under IC 35-47-14 for each county, as applicable,**  
 11           **each year.**  
 12           **(4) The:**  
 13           **(A) county;**  
 14           **(B) court of origin; and**  
 15           **(C) judge;**  
 16           **responsible for each written court order that finds an**  
 17           **individual to be dangerous under IC 35-47-14-5.**  
 18           **(5) The:**  
 19           **(A) county;**  
 20           **(B) court of origin; and**  
 21           **(C) judge;**  
 22           **for each appeal of or reversal of a written court order that**  
 23           **finds an individual to be dangerous under IC 35-47-14-5.**  
 24           **(6) The:**  
 25           **(A) county;**  
 26           **(B) court of origin; and**  
 27           **(C) judge;**  
 28           **responsible for enacting or enforcing an agreed entry.**  
 29           **(c) The institute shall, not later than January 1 of each year,**  
 30           **submit a report to the general assembly in an electronic format**  
 31           **under IC 5-14-6 that consolidates and presents the information**  
 32           **described in subsection (b).**  
 33           **(d) Notwithstanding subsections (b) and (c), the institute shall**  
 34           **not collect, store, disclose, distribute, transfer, or provide the**  
 35           **following information to any assembly, person, entity, agency, or**  
 36           **department:**  
 37           **(1) The:**  
 38           **(A) name;**  
 39           **(B) date of birth;**  
 40           **(C) Social Security number;**  
 41           **(D) address; or**  
 42           **(E) other unique identifier;**



1 belonging to or associated with an individual alleged to be  
 2 dangerous by a law enforcement officer or found to be  
 3 dangerous by a circuit or superior court.

4 (2) The make, model, or serial number of any handgun, long  
 5 gun, firearm, or NFA regulated firearm seized, confiscated,  
 6 retained, disposed of, or sold under IC 35-47-14.

7 (e) Information:

8 (1) collected by the institute; or

9 (2) used by the institute;

10 to prepare the report described in subsection (c) is confidential and  
 11 not subject to public inspection or copying under IC 5-14-3-3.

12 (f) The office of judicial administration may provide  
 13 information relevant to the report described in subsection (c) to the  
 14 institute.

15 (g) The institute shall make the report described in subsection  
 16 (c) available to the public.

17 SECTION 2. IC 35-31.5-2-81.5 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE UPON PASSAGE]: **Sec. 81.5. "Dangerous", for**  
 20 **purposes of IC 35-47-4-6.5, IC 35-47-4-6.7, and IC 35-47-14 has the**  
 21 **meaning set forth in IC 35-47-14-1.**

22 SECTION 3. IC 35-47-1-7, AS AMENDED BY P.L.126-2012,  
 23 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: Sec. 7. "Proper person" means a person who:

25 (1) does not have a conviction for resisting law enforcement  
 26 under IC 35-44.1-3-1 within five (5) years before the person  
 27 applies for a license or permit under this chapter;

28 (2) does not have a conviction for a crime for which the person  
 29 could have been sentenced for more than one (1) year;

30 (3) does not have a conviction for a crime of domestic violence  
 31 (as defined in IC 35-31.5-2-78), unless a court has restored the  
 32 person's right to possess a firearm under IC 35-47-4-7;

33 (4) is not prohibited by a court order from possessing a handgun;

34 (5) does not have a record of being an alcohol or drug abuser as  
 35 defined in this chapter;

36 (6) does not have documented evidence which would give rise to  
 37 a reasonable belief that the person has a propensity for violent or  
 38 emotionally unstable conduct;

39 (7) does not make a false statement of material fact on the  
 40 person's application;

41 (8) does not have a conviction for any crime involving an inability  
 42 to safely handle a handgun;



- 1 (9) does not have a conviction for violation of the provisions of  
 2 this article within five (5) years of the person's application;  
 3 (10) does not have an adjudication as a delinquent child for an act  
 4 that would be a felony if committed by an adult, if the person  
 5 applying for a license or permit under this chapter is less than  
 6 twenty-three (23) years of age;  
 7 (11) has not been involuntarily committed, other than a temporary  
 8 commitment for observation or evaluation, to a mental institution  
 9 by a court, board, commission, or other lawful authority;  
 10 (12) has not been the subject of a:  
 11 (A) ninety (90) day commitment as a result of proceeding  
 12 under IC 12-26-6; or  
 13 (B) regular commitment under IC 12-26-7; ~~or~~  
 14 (13) has not been found by a court to be mentally incompetent,  
 15 including being found:  
 16 (A) not guilty by reason of insanity;  
 17 (B) guilty but mentally ill; or  
 18 (C) incompetent to stand trial;  
 19 **(14) is not currently designated as dangerous (as defined in**  
 20 **IC 35-47-14-1) by a court; and**  
 21 **(15) is not currently the subject of an injunction issued under**  
 22 **IC 35-47-14-5.**

23 SECTION 4. IC 35-47-4-6.5 IS ADDED TO THE INDIANA CODE  
 24 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 25 **UPON PASSAGE]: Sec. 6.5. (a) As used in this section, "dangerous"**  
 26 **has the meaning set forth in IC 35-47-14-1.**

27 **(b) A person who:**

28 **(1) has been found to be dangerous by a circuit or superior**  
 29 **court having jurisdiction over the person; and**

30 **(2) knowingly or intentionally:**

31 **(A) rents;**

32 **(B) purchases;**

33 **(C) receives transfer of;**

34 **(D) owns; or**

35 **(E) possesses;**

36 **a firearm, commits unlawful possession of a firearm by a**  
 37 **dangerous person, a Level 6 felony.**

38 SECTION 5. IC 35-47-4-6.7 IS ADDED TO THE INDIANA CODE  
 39 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 40 **UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "dangerous"**  
 41 **has the meaning set forth in IC 35-47-14-1.**

42 **(b) A person who knowing or intentionally rents, transfers, sells,**



1 or offers for sale a firearm to another person who the person  
2 knows to be:

- 3 (1) found dangerous by a circuit or superior court; or  
4 (2) subject to a written court order issued under  
5 IC 35-47-14-2;

6 commits unlawful transfer of a firearm to a dangerous person, a  
7 Level 5 felony.

8 SECTION 6. IC 35-47-14-1, AS ADDED BY P.L.1-2006,  
9 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) For the purposes of this  
11 chapter, an individual is "dangerous" if:

- 12 (1) the individual presents an imminent risk of personal injury to  
13 the individual or to another individual; or  
14 (2) **It is probable that** the individual ~~may~~ **will** present a risk of  
15 personal injury to the individual or to another individual in the  
16 future and the individual:

17 (A) has a mental illness (as defined in IC 12-7-2-130) that may  
18 be controlled by medication, and has not demonstrated a  
19 pattern of voluntarily and consistently taking the individual's  
20 medication while not under supervision; or

21 (B) is the subject of documented evidence that would give rise  
22 to a reasonable belief that the individual has a propensity for  
23 violent or ~~emotionally unstable~~ **suicidal** conduct.

24 (b) The fact that an individual has been released from a mental  
25 health facility or has a mental illness that is currently controlled by  
26 medication does not establish that the individual is dangerous for the  
27 purposes of this chapter.

28 SECTION 7. IC 35-47-14-2, AS ADDED BY P.L.1-2006,  
29 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
30 [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A circuit or superior  
31 court may issue a warrant to search for and seize a firearm in the  
32 possession of an individual who is dangerous if:

- 33 (1) a law enforcement officer provides the court a sworn affidavit  
34 that:

35 (A) states why the law enforcement officer believes that the  
36 individual is dangerous and in possession of a firearm; and

37 (B) describes the law enforcement officer's interactions and  
38 conversations with:

- 39 (i) the individual who is alleged to be dangerous; or  
40 (ii) another individual, if the law enforcement officer  
41 believes that information obtained from this individual is  
42 credible and reliable;



- 1           that have led the law enforcement officer to believe that the  
 2           individual is dangerous and in possession of a firearm;  
 3           (2) the affidavit specifically describes the location of the firearm;  
 4           and  
 5           (3) the circuit or superior court determines that probable cause  
 6           exists to believe that the individual is:  
 7           (A) dangerous; and  
 8           (B) in possession of a firearm.

9           **(b) A law enforcement agency responsible for the seizure of the  
 10          firearm under this section shall provide the court with the:**

- 11           **(1) quantity; and**  
 12           **(2) type;**

13          **of each firearm seized from an individual under this section.**  
 14          **Information described under this subsection shall be provided to**  
 15          **the office of judicial administration by the court.**

16          SECTION 8. IC 35-47-14-3, AS ADDED BY P.L.1-2006,  
 17          SECTION 537, IS AMENDED TO READ AS FOLLOWS  
 18          [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If a law enforcement  
 19          officer seizes a firearm from an individual whom the law enforcement  
 20          officer believes to be dangerous without obtaining a warrant, the law  
 21          enforcement officer shall submit to the circuit or superior court having  
 22          jurisdiction over the individual believed to be dangerous a ~~written~~  
 23          ~~statement an affidavit under oath or affirmation~~ describing the basis  
 24          for the law enforcement officer's belief that the individual is dangerous.

25          **(b) An affidavit described in subsection (a) shall be submitted to**  
 26          **a circuit or superior court having jurisdiction over the individual**  
 27          **believed to be dangerous:**

- 28           **(1) not later than forty eight (48) hours after the seizure of the**  
 29           **firearm; and**  
 30           **(2) for each incident involving the seizure of a firearm.**

31          **A law enforcement officer's obligation to provide the affidavit**  
 32          **described in subsection (a) is not contingent upon the confiscation,**  
 33          **recovery, seizure, or retention of a firearm.**

34          ~~(b)~~ **(c) The court shall review the written statement submitted under**  
 35          **subsection affidavit described in subsections (a) and (b) as soon as**  
 36          **possible.**

37          **(d) If the court finds, or has previously found under section 2 of**  
 38          **this chapter, that probable cause exists to believe that the individual**  
 39          **is dangerous, the court shall order the law enforcement agency having**  
 40          **custody of the firearm to retain the firearm.**

41          **(e) A law enforcement agency responsible for the seizure of the**  
 42          **firearm under this section shall provide the court with the:**





1           (1) quantity; and  
 2           (2) type;  
 3 of each firearm seized from an individual under this section.  
 4 Information described under this subsection shall be provided to  
 5 the office of judicial administration by the court.

6           (f) If the court finds that there is no probable cause to believe that  
 7 the individual is dangerous, the court shall order the law enforcement  
 8 agency having custody of the firearm to return the firearm to the  
 9 individual.

10           (c) This section does not authorize a law enforcement officer to  
 11 perform a warrantless search or seizure if a warrant would otherwise be  
 12 required.

13           SECTION 9. IC 35-47-14-5, AS ADDED BY P.L.1-2006,  
 14 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) ~~Not later than fourteen~~  
 16 ~~(14) days after a~~ **After the filing of a search warrant return is filed**  
 17 **under section 4 of this chapter or a the receipt of an affidavit written**  
 18 **statement is submitted under section 3 of this chapter, the court shall**  
 19 **conduct a hearing to determine whether:**

20           (1) **the individual at issue is dangerous; and**

21           (2) ~~whether the any~~ seized firearm should be:

22           ~~(1) (A)~~ returned to the individual from whom the firearm was  
 23 seized; or

24           ~~(2) (B)~~ retained by the law enforcement agency having custody  
 25 of the firearm.

26           (b) The court shall **make a good faith effort to set conduct** the  
 27 **hearing date as soon as possible not later than fourteen (14) days**  
 28 **after the receipt of a search warrant return is filed submitted under**  
 29 **section 4 of this chapter or an affidavit submitted under section 3 of**  
 30 **this chapter. If the hearing cannot be conducted within fourteen**  
 31 **(14) days of receiving a search warrant return submitted under**  
 32 **section 4 of this chapter or an affidavit submitted under section 3**  
 33 **of this chapter, the court shall conduct the hearing as soon as**  
 34 **possible. However, a request for a continuance of the hearing**  
 35 **described under this subsection for a period of not more than sixty**  
 36 **(60) days from the individual alleged to be dangerous shall be**  
 37 **liberally granted.** The court shall inform:

38           (1) the prosecuting attorney; and

39           (2) the individual from whom the firearm was seized;

40 of the date, time, and location of the hearing. The court may conduct  
 41 the hearing at a facility or other suitable place not likely to have a  
 42 harmful effect upon the individual's health or well-being.



1           (c) If a court finds, by clear and convincing evidence, that an  
2 individual is dangerous at the conclusion of a hearing performed  
3 under this section, the court shall issue an injunction prohibiting  
4 the individual from:

- 5           (1) renting;  
6           (2) receiving transfer of;  
7           (3) owning; or  
8           (4) possessing;

9 a firearm.

10          (d) A hearing described in subsection (a) is not contingent upon  
11 the confiscation, recovery, seizure, or retention of a firearm by a  
12 law enforcement officer.

13          (e) A law enforcement officer's inability to confiscate, locate,  
14 recover, or seize a firearm from the individual or premises of the  
15 individual believed to be dangerous shall not constitute prima facie  
16 evidence that the individual is not dangerous.

17          (f) If the court:

- 18           (1) finds that a person is dangerous; and  
19           (2) issues an injunction described in subsection (c);

20 the court shall transmit any information required by the office of  
21 judicial administration to the office of judicial administration for  
22 transmission to the NICS (as defined in IC 35-47-2.5-2.5) in  
23 accordance with IC 33-24-6-3.

24          SECTION 10. IC 35-47-14-6, AS ADDED BY P.L.1-2006,  
25 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
26 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) In a hearing conducted  
27 under section 5 of this chapter, the state has the burden of proving all  
28 material facts by clear and convincing evidence.

29          (b) If the court, in a hearing under section 5 of this chapter,  
30 determines that the state has proved by clear and convincing evidence  
31 that the individual is dangerous, the court:

- 32           (1) may order ~~that~~ the law enforcement agency having custody of  
33 the seized firearm ~~to~~ retain the firearm;  
34           (2) ~~In addition, if the individual has received a license to carry a~~  
35 ~~handgun, the court shall suspend the individual's license to carry~~  
36 ~~a handgun if applicable; and~~  
37           (3) shall issue an injunction prohibiting the individual from:  
38           (A) renting;  
39           (B) receiving transfer of;  
40           (C) owning; or  
41           (D) possessing;  
42 a firearm.



1 If the court determines that the state has failed to prove that the  
 2 individual is dangerous, the court shall order the law enforcement  
 3 agency having custody of the firearm to return the firearm to the  
 4 individual from whom it was seized.

5 (c) If the court, in a hearing under section 5 of this chapter, orders  
 6 a law enforcement agency to retain a firearm, the law enforcement  
 7 agency shall retain the firearm until the court orders the firearm  
 8 returned or otherwise disposed of.

9 **(d) If the court, in a hearing conducted under section 5 of this**  
 10 **chapter:**

11 **(1) makes a finding that an individual is dangerous; and**

12 **(2) issues an injunction described in subsection (b);**

13 **the court shall transmit any information required by the office of**  
 14 **judicial administration to the office of judicial administration for**  
 15 **transmission to the NICS (as defined in IC 35-47-2.5-2.5) in**  
 16 **accordance with IC 33-24-6-3.**

17 **(e) If the court, in a hearing conducted under section 5 of this**  
 18 **chapter, makes a finding that an individual is not dangerous, the**  
 19 **court shall:**

20 **(1) issue a written order finding that the individual is:**

21 **(A) not dangerous; or**

22 **(B) no longer dangerous;**

23 **as applicable; and**

24 **(2) transmit, as quickly as practicable, the court's finding on**  
 25 **the issue of dangerousness to the office of judicial**  
 26 **administration for transmission to the NICS (as defined in**  
 27 **IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

28 SECTION 11. IC 35-47-14-8, AS ADDED BY P.L.1-2006,  
 29 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
 30 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) At least one hundred  
 31 eighty (180) days after the date on which a court orders a law  
 32 enforcement agency to retain an individual's firearm under section 6(b)  
 33 of this chapter, the individual may petition the court for **one (1) or**  
 34 **more of the following:**

35 **(1) The return of the any firearm belonging to the individual.**

36 **(2) A court order that:**

37 **(A) finds that the individual is:**

38 **(i) not dangerous; or**

39 **(ii) no longer dangerous;**

40 **as applicable; and**

41 **(B) terminates any injunction issued under section 5 of this**  
 42 **chapter.**



1 (b) Upon receipt of a petition described in subsection (a), the court  
2 shall:

- 3 (1) enter an order setting a date for a hearing on the petition; and  
4 (2) inform the prosecuting attorney of the date, time, and location  
5 of the hearing.

6 (c) The prosecuting attorney shall represent the state at the hearing  
7 on a petition under this section.

8 (d) In a hearing on a petition under this section, the individual:

- 9 (1) may be represented by an attorney; and  
10 (2) must prove by a preponderance of the evidence that the  
11 individual is not dangerous.

12 (e) If, upon the completion of the hearing and consideration of the  
13 record, the court finds that the individual is not dangerous, the court  
14 shall:

15 **(1) issue a court order that finds that the individual is:**

16 **(A) not dangerous; or**

17 **(B) no longer dangerous;**

18 **as applicable;**

19 **(2) order the law enforcement agency having custody of ~~the~~ any**  
20 **firearm ~~confiscated, recovered, or seized from the individual~~**  
21 **to return the firearm to the individual; and**

22 **(3) terminate any injunction issued under section 5 of this**  
23 **chapter;**

24 **as applicable.**

25 (f) If the court denies an individual's petition under this section, the  
26 individual may not file a subsequent petition until at least one hundred  
27 eighty (180) days after the date on which the court denied the petition.

28 **(g) A court order described under subsection (a)(2) or (e)(1)**  
29 **shall be transmitted, as soon as practicable, to the office of judicial**  
30 **administration for transmission to the NICS (as defined in**  
31 **IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

32 SECTION 12. IC 35-47-14-9, AS AMENDED BY P.L.157-2014,  
33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 UPON PASSAGE]: Sec. 9. (a) If at least five (5) years have passed  
35 since a court conducted the first hearing to retain a firearm under this  
36 chapter, the court, after giving notice to the parties and conducting a  
37 hearing, may order the law enforcement agency having custody of the  
38 firearm to dispose of the firearm in accordance with IC 35-47-3.

39 **(b) The disposal of a firearm retained under this chapter does**  
40 **not:**

- 41 **(1) alter or terminate an individual's designation as a**  
42 **dangerous person by a court; or**



- 1           **(2) constitute prima facie evidence that an individual is no**  
 2           **longer dangerous.**
- 3           SECTION 13. IC 35-47-14-10, AS ADDED BY P.L.157-2014,  
 4           SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5           UPON PASSAGE]: Sec. 10. (a) If a court has ordered a law  
 6           enforcement agency to retain an individual's firearm under section 6 of  
 7           this chapter, the individual **or the rightful owner of the firearm, as**  
 8           **applicable**, may request the court to order the law enforcement agency  
 9           to sell the firearm at auction under IC 35-47-3-2 and return the  
 10          proceeds to the individual **or the rightful owner of the firearm, as**  
 11          **applicable.**
- 12          (b) An individual **or rightful owner of the firearm** may make the  
 13          request described in subsection (a):
- 14               (1) at the retention hearing described in section 9 of this chapter;  
 15               or  
 16               (2) at any time before the retention hearing described in section  
 17               9 of this chapter is held.
- 18          (c) If an individual **or rightful owner** timely requests a sale of a  
 19          firearm under subsection (a), the court shall order the law enforcement  
 20          agency having custody of the firearm to sell the firearm at auction  
 21          under IC 35-47-3-2, unless the serial number of the firearm has been  
 22          obliterated.
- 23          (d) If the court issues an order under subsection (c), the court's order  
 24          must require:
- 25               (1) that the firearm be sold not more than one (1) year after  
 26               receipt of the order; and  
 27               (2) that the proceeds of the sale be returned to the individual ~~who~~  
 28               **owns or rightful owner of the firearm.**
- 29          (e) ~~However, the~~ A law enforcement agency may retain not more  
 30          than eight percent (8%) of the sale price to pay the costs of the sale,  
 31          including administrative costs and the auctioneer's fee.
- 32          (f) **The sale of a firearm retained under this chapter does not:**
- 33               **(1) alter or terminate an individual's designation as a**  
 34               **dangerous person by a court; or**  
 35               **(2) constitute prima facie evidence that an individual is no**  
 36               **longer dangerous.**
- 37          SECTION 14. IC 35-47-14-11 IS ADDED TO THE INDIANA  
 38          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 39          [EFFECTIVE UPON PASSAGE]: **Sec. 11. Nothing in this chapter**  
 40          **may be construed to authorize a warrantless search or seizure by**  
 41          **a law enforcement officer if a warrant would otherwise be**  
 42          **required.**



1        **SECTION 15. An emergency is declared for this act.**

