

# HOUSE BILL No. 1148

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-47-14.

**Synopsis:** NICS reporting under the Jake Laird law. Requires notifying the federal National Instant Criminal Background Check System (NICS) if a court has determined that a person is dangerous in a firearms retention hearing conducted under the Jake Laird law, and requires NICS notification if the court determines in a subsequent hearing that the person is no longer dangerous.

**Effective:** July 1, 2019.

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## DeLaney

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January 7, 2019, read first time and referred to Committee on Courts and Criminal Code.

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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. 1148

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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 35-47-14-6, AS ADDED BY P.L.1-2006,  
2 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) In a hearing conducted under  
4 section 5 of this chapter, the state has the burden of proving all material  
5 facts by clear and convincing evidence.

6 (b) If the court, in a hearing under section 5 of this chapter,  
7 determines that the state has proved by clear and convincing evidence  
8 that the individual is dangerous, the court may order that the law  
9 enforcement agency having custody of the seized firearm retain the  
10 firearm. In addition, if the individual has received a license to carry a  
11 handgun, the court shall suspend the individual's license to carry a  
12 handgun. If the court determines that the state has failed to prove that  
13 the individual is dangerous, the court shall order the law enforcement  
14 agency having custody of the firearm to return the firearm to the  
15 individual from whom it was seized.

16 (c) If the court, in a hearing under section 5 of this chapter, orders  
17 a law enforcement agency to retain a firearm, the law enforcement



1 agency shall retain the firearm until the court orders the firearm  
2 returned or otherwise disposed of.

3 **(d) If the court, in a hearing under section 5 of this chapter,**  
4 **determines that the state has proved by clear and convincing**  
5 **evidence that the individual is dangerous, the court shall notify the**  
6 **office of judicial administration that the individual is not a proper**  
7 **person under IC 35-47-1-7(6) and transmit any information**  
8 **required by the office of judicial administration to the office of**  
9 **judicial administration for transmission to the NICS (as defined in**  
10 **IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

11 SECTION 2. IC 35-47-14-8, AS ADDED BY P.L.1-2006,  
12 SECTION 537, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) At least one hundred eighty  
14 (180) days after the date on which a court orders a law enforcement  
15 agency to retain an individual's firearm under section 6(b) of this  
16 chapter, the individual may petition the court for return of the firearm.

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

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

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

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

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

28 (e) If, upon the completion of the hearing and consideration of the  
29 record, the court finds that the individual is not dangerous, the court  
30 shall:

- 31 (1) order the law enforcement agency having custody of the  
32 firearm to return the firearm to the individual; **and**
- 33 (2) **transmit any information required by the office of judicial**  
34 **administration to the office of judicial administration for**  
35 **transmission to the NICS (as defined in IC 35-47-2.5-2.5) in**  
36 **accordance with IC 33-24-6-3.**

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

