

# HOUSE BILL No. 1409

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-26-6-2; IC 33-24-6; IC 35-31.5-2-81.5; IC 35-33-5; IC 35-44.1-2-3; IC 35-47.

**Synopsis:** Repeal of involuntary firearm removal process. Repeals provisions concerning the: (1) confiscation and retention of firearms from a dangerous person; (2) compilation and publication of statistics related to the confiscation and retention of firearms from a dangerous person; and (3) making of a false report that a person is dangerous. Modifies a provision concerning a petition to find that an individual is no longer dangerous.

**Effective:** July 1, 2024.

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**Payne, Haggard, Sweet, Prescott**

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January 11, 2024, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1409

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 12-26-6-2, AS AMENDED BY P.L.289-2019,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2024]: Sec. 2. (a) A commitment under this chapter may be
- 4 begun by any of the following methods:
- 5 (1) Upon request of the superintendent under IC 12-26-3-5.
- 6 (2) An order of the court
- 7 (A) having jurisdiction over the individual following
- 8 emergency detention. ~~or~~
- 9 (B) referring an individual:
- 10 (i) following a hearing under IC 35-47-14-6; and
- 11 (ii) after a physicians written statement has been filed setting
- 12 forth the requirements described in subsections (c)(1) and
- 13 (c)(2) of this section.
- 14 (3) Filing a petition with a court having jurisdiction in the county:
- 15 (A) of residence of the individual; or
- 16 (B) where the individual may be found.
- 17 (b) A petitioner under subsection (a)(3) must be at least eighteen



- 1 (18) years of age.
- 2 (c) A petition under subsection (a)(3) must include a physician's
- 3 written statement stating both of the following:
- 4 (1) The physician has examined the individual within the past
- 5 thirty (30) days.
- 6 (2) The physician believes the individual is:
- 7 (A) mentally ill and either dangerous or gravely disabled; and
- 8 (B) in need of custody, care, or treatment in an appropriate
- 9 facility.
- 10 SECTION 2. IC 33-24-6-3, AS AMENDED BY P.L.205-2023,
- 11 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2024]: Sec. 3. (a) The office of judicial administration shall
- 13 do the following:
- 14 (1) Examine the administrative and business methods and systems
- 15 employed in the offices of the clerks of court and other offices
- 16 related to and serving the courts and make recommendations for
- 17 necessary improvement.
- 18 (2) Collect and compile statistical data and other information on
- 19 the judicial work of the courts in Indiana. All justices of the
- 20 supreme court, judges of the court of appeals, judges of all trial
- 21 courts, and any city or town courts, whether having general or
- 22 special jurisdiction, court clerks, court reporters, and other
- 23 officers and employees of the courts shall, upon notice by the
- 24 chief administrative officer and in compliance with procedures
- 25 prescribed by the chief administrative officer, furnish the chief
- 26 administrative officer the information as is requested concerning
- 27 the nature and volume of judicial business. The information must
- 28 include the following:
- 29 (A) The volume, condition, and type of business conducted by
- 30 the courts.
- 31 (B) The methods of procedure in the courts.
- 32 (C) The work accomplished by the courts.
- 33 (D) The receipt and expenditure of public money by and for
- 34 the operation of the courts.
- 35 (E) The methods of disposition or termination of cases.
- 36 (3) Prepare and publish reports, not less than one (1) or more than
- 37 two (2) times per year, on the nature and volume of judicial work
- 38 performed by the courts as determined by the information
- 39 required in subdivision (2).
- 40 (4) Serve the judicial nominating commission and the judicial
- 41 qualifications commission in the performance by the commissions
- 42 of their statutory and constitutional functions.



- 1 (5) Administer the civil legal aid fund as required by IC 33-24-12.  
 2 (6) Administer the court technology fund established by section  
 3 12 of this chapter.  
 4 (7) By December 31, 2013, develop and implement a standard  
 5 protocol for sending and receiving court data:  
 6 (A) between the protective order registry, established by  
 7 IC 5-2-9-5.5, and county court case management systems;  
 8 (B) at the option of the county prosecuting attorney, for:  
 9 (i) a prosecuting attorney's case management system;  
 10 (ii) a county court case management system; and  
 11 (iii) a county court case management system developed and  
 12 operated by the office of judicial administration;  
 13 to interface with the electronic traffic tickets, as defined by  
 14 IC 9-30-3-2.5; and  
 15 (C) between county court case management systems and the  
 16 case management system developed and operated by the office  
 17 of judicial administration.  
 18 The standard protocol developed and implemented under this  
 19 subdivision shall permit private sector vendors, including vendors  
 20 providing service to a local system and vendors accessing the  
 21 system for information, to send and receive court information on  
 22 an equitable basis and at an equitable cost, and for a case  
 23 management system developed and operated by the office of  
 24 judicial administration, must include a searchable field for the  
 25 name and bail agent license number, if applicable, of the bail  
 26 agent or a person authorized by the surety that pays bail for an  
 27 individual as described in IC 35-33-8-3.2.  
 28 (8) Establish and administer an electronic system for receiving  
 29 information that relates to certain individuals who may be  
 30 prohibited from possessing a firearm for the purpose of  
 31 ~~(A) transmitting this information to the Federal Bureau of~~  
 32 ~~Investigation for inclusion in the NICS. and~~  
 33 ~~(B) beginning July 1, 2021, compiling and publishing certain~~  
 34 ~~statistics related to the confiscation and retention of firearms~~  
 35 ~~as described under section 14 of this chapter.~~  
 36 (9) Establish and administer an electronic system for receiving  
 37 drug related felony conviction information from courts. The office  
 38 of judicial administration shall notify NPLeX of each drug related  
 39 felony entered after June 30, 2012, and do the following:  
 40 (A) Provide NPLeX with the following information:  
 41 (i) The convicted individual's full name.  
 42 (ii) The convicted individual's date of birth.



- 1 (iii) The convicted individual's driver's license number, state  
 2 personal identification number, or other unique number, if  
 3 available.
- 4 (iv) The date the individual was convicted of the felony.  
 5 Upon receipt of the information from the office of judicial  
 6 administration, a stop sale alert must be generated through  
 7 NPLEx for each individual reported under this clause.
- 8 (B) Notify NPLEx if the felony of an individual reported under  
 9 clause (A) has been:
- 10 (i) set aside;  
 11 (ii) reversed;  
 12 (iii) expunged; or  
 13 (iv) vacated.
- 14 Upon receipt of information under this clause, NPLEx shall  
 15 remove the stop sale alert issued under clause (A) for the  
 16 individual.
- 17 (10) After July 1, 2018, establish and administer an electronic  
 18 system for receiving from courts felony or misdemeanor  
 19 conviction information for each felony or misdemeanor described  
 20 in IC 20-28-5-8(c). The office of judicial administration shall  
 21 notify the department of education at least one (1) time each week  
 22 of each felony or misdemeanor described in IC 20-28-5-8(c)  
 23 entered after July 1, 2018, and do the following:
- 24 (A) Provide the department of education with the following  
 25 information:
- 26 (i) The convicted individual's full name.  
 27 (ii) The convicted individual's date of birth.  
 28 (iii) The convicted individual's driver's license number, state  
 29 personal identification number, or other unique number, if  
 30 available.  
 31 (iv) The date the individual was convicted of the felony or  
 32 misdemeanor.
- 33 (B) Notify the department of education if the felony or  
 34 misdemeanor of an individual reported under clause (A) has  
 35 been:
- 36 (i) set aside;  
 37 (ii) reversed; or  
 38 (iii) vacated.
- 39 (11) Perform legal and administrative duties for the justices as  
 40 determined by the justices.
- 41 (12) Provide staff support for the judicial conference of Indiana  
 42 established in IC 33-38-9.



1 (13) Work with the United States Department of Veterans Affairs  
2 to identify and address the needs of veterans in the court system.

3 (14) If necessary for purposes of IC 35-47-16-1, issue a retired  
4 judicial officer an identification card identifying the retired  
5 judicial officer as a retired judicial officer.

6 (15) Establish and administer the statewide juvenile justice data  
7 aggregation plan established under section 12.5 of this chapter.

8 (16) Create and make available an application for detention to be  
9 used in proceedings under IC 12-26-5 (mental health detention,  
10 commitment, and treatment).

11 (b) All forms to be used in gathering data must be approved by the  
12 supreme court and shall be distributed to all judges and clerks before  
13 the start of each period for which reports are required.

14 (c) The office of judicial administration may adopt rules to  
15 implement this section.

16 SECTION 3. IC 33-24-6-14 IS REPEALED [EFFECTIVE JULY 1,  
17 2024]. Sec. 14. (a) The following definitions apply throughout this  
18 section:

19 (1) "Dangerous" has the meaning set forth in IC 35-47-14-1.

20 (2) "Firearm" has the meaning set forth in IC 35-47-1-5.

21 (3) "Office" means the office of judicial administration created by  
22 section 1 of this chapter.

23 (b) Beginning July 1, 2021, the office shall collect and record the  
24 following information:

25 (1) The law enforcement agency responsible for each confiscation  
26 of a firearm under IC 35-47-14-2 and IC 35-47-14-3.

27 (2) The number of:

28 (A) warrant based firearm confiscations under IC 35-47-14-2;  
29 and

30 (B) warrantless firearm confiscations under IC 35-47-14-3;  
31 for each county, as applicable, each year.

32 (3) The total number of:

33 (A) handguns; and

34 (B) long guns;

35 confiscated under IC 35-47-14 for each county, as applicable,  
36 each year.

37 (4) The county in which a court issues an order that finds or does  
38 not find an individual to be dangerous under IC 35-47-14-6.

39 (c) The office shall, beginning July 1, 2021, not later than January  
40 1 of each year, submit a report to the legislative council in an electronic  
41 format under IC 5-14-6 that consolidates and presents the information  
42 described in subsection (b):



1 (d) Notwithstanding subsections (b) and (c) and information  
 2 provided to a law enforcement agency for the purposes of handgun  
 3 licenses, the office shall not disclose, distribute, transfer, or provide the  
 4 following information to any person, entity, agency, or department:

5 (1) The:

6 (A) name;

7 (B) date of birth;

8 (C) Social Security number;

9 (D) address; or

10 (E) other unique identifier;

11 belonging to or associated with an individual alleged to be  
 12 dangerous by a law enforcement officer or found to be dangerous  
 13 by a circuit or superior court.

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

17 (e) Information:

18 (1) collected by the office; or

19 (2) used by the office;

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

22 (f) The office shall make the report described in subsection (c)  
 23 available to the public.

24 (g) The office may adopt rules under IC 4-22-2 to implement this  
 25 section.

26 SECTION 4. IC 35-31.5-2-81.5 IS REPEALED [EFFECTIVE JULY  
 27 1, 2024]. Sec. 81.5. "Dangerous", for purposes of IC 35-47-4-6.5,  
 28 IC 35-47-4-6.7, and IC 35-47-14, has the meaning set forth in  
 29 IC 35-47-14-1.

30 SECTION 5. IC 35-33-5-1, AS AMENDED BY P.L.1-2006,  
 31 SECTION 526, IS AMENDED TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) A court may issue warrants  
 33 only upon probable cause, supported by oath or affirmation, to search  
 34 any place for any of the following:

35 (1) Property which is obtained unlawfully.

36 (2) Property, the possession of which is unlawful.

37 (3) Property used or possessed with intent to be used as the means  
 38 of committing an offense or concealed to prevent an offense from  
 39 being discovered.

40 (4) Property constituting evidence of an offense or tending to  
 41 show that a particular person committed an offense.

42 (5) Any person.



1 (6) Evidence necessary to enforce statutes enacted to prevent  
2 cruelty to or neglect of children.

3 ~~(7) A firearm possessed by a person who is dangerous (as defined~~  
4 ~~in IC 35-47-14-1).~~

5 (b) As used in this section, "place" includes any location where  
6 property might be secreted or hidden, including buildings, persons, or  
7 vehicles.

8 SECTION 6. IC 35-33-5-5, AS AMENDED BY P.L.89-2022,  
9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2024]: Sec. 5. (a) All items of property seized by any law  
11 enforcement agency as a result of an arrest, search warrant, or  
12 warrantless search, shall be securely held by the law enforcement  
13 agency under the order of the court trying the cause, except as provided  
14 in this section.

15 (b) Evidence that consists of property obtained unlawfully from its  
16 owner may be returned by the law enforcement agency to the owner  
17 before trial, in accordance with IC 35-43-4-4(h).

18 (c) Following the final disposition of the cause at trial level or any  
19 other final disposition the following shall be done:

20 (1) Property which may be lawfully possessed shall be returned  
21 to its rightful owner, if known. If ownership is unknown, a  
22 reasonable attempt shall be made by the law enforcement agency  
23 holding the property to ascertain ownership of the property. After  
24 ninety (90) days from the time:

25 (A) the rightful owner has been notified to take possession of  
26 the property; or

27 (B) a reasonable effort has been made to ascertain ownership  
28 of the property;

29 the law enforcement agency holding the property shall, at a  
30 convenient time, dispose of this property at a public auction. The  
31 proceeds of this property shall be paid into the county general  
32 fund.

33 (2) Except as provided in subsection (e), property, the possession  
34 of which is unlawful, shall be destroyed by the law enforcement  
35 agency holding it sixty (60) days after final disposition of the  
36 cause.

37 (3) A firearm that has been seized from a person who is  
38 dangerous (as defined in IC 35-47-14-1 **(before its repeal)**) shall  
39 be retained, returned, or disposed of in accordance with  
40 IC 35-47-14.

41 (d) Except as provided in subsection (g), if any property described  
42 in subsection (c) was admitted into evidence in the cause, the property



1 shall be disposed of in accordance with an order of the court trying the  
2 cause.

3 (e) A law enforcement agency may destroy or cause to be destroyed  
4 chemicals, controlled substances, or chemically contaminated  
5 equipment (including drug paraphernalia as described in  
6 IC 35-48-4-8.5) associated with the illegal manufacture of drugs or  
7 controlled substances without a court order if all the following  
8 conditions are met:

9 (1) The law enforcement agency collects and preserves a  
10 sufficient quantity of the chemicals, controlled substances, or  
11 chemically contaminated equipment to demonstrate that the  
12 chemicals, controlled substances, or chemically contaminated  
13 equipment was associated with the illegal manufacture of drugs  
14 or controlled substances.

15 (2) The law enforcement agency takes photographs of the illegal  
16 drug manufacturing site that accurately depict the presence and  
17 quantity of chemicals, controlled substances, and chemically  
18 contaminated equipment.

19 (3) The law enforcement agency completes a chemical inventory  
20 report that describes the type and quantities of chemicals,  
21 controlled substances, and chemically contaminated equipment  
22 present at the illegal manufacturing site.

23 The photographs and description of the property shall be admissible  
24 into evidence in place of the actual physical evidence.

25 (f) For purposes of preserving the record of any conviction on  
26 appeal, a photograph demonstrating the nature of the property, and an  
27 adequate description of the property must be obtained before the  
28 disposition of the property. In the event of a retrial, the photograph and  
29 description of the property shall be admissible into evidence in place  
30 of the actual physical evidence. All other rules of law governing the  
31 admissibility of evidence shall apply to the photographs.

32 (g) All evidence for a violent offense (as defined in IC 11-12-3.7-6)  
33 in the law enforcement agency's possession or control that could be  
34 subjected to DNA testing and analysis shall be preserved by the law  
35 enforcement agency for the later of the following:

36 (1) Twenty (20) years from the date the defendant's conviction  
37 becomes final.

38 (2) The period of the defendant's incarceration.

39 In cases where an investigation did not result in a conviction, the  
40 evidence shall be preserved until the expiration of the statute of  
41 limitations for the alleged offense. If the preservation of the evidence  
42 is impracticable, the law enforcement agency shall remove portions of



1 the material evidence likely to contain biological evidence related to  
2 the offense, in a quantity sufficient to permit future DNA testing before  
3 returning or disposing of the physical evidence. At subsequent hearings  
4 or trials, all records, notes, identification numbers, photographs, and  
5 other documentation relating to the preservation of biological evidence  
6 shall be admissible into evidence.

7 (h) The law enforcement agency disposing of property in any  
8 manner provided in subsection (b), (c), (e), or (g), shall maintain  
9 certified records of any disposition under subsection (b), (c), (e), or (g).  
10 Disposition by destruction of property shall be witnessed by two (2)  
11 persons who shall also attest to the destruction.

12 (i) This section does not affect the procedure for the disposition of  
13 firearms seized by a law enforcement agency.

14 (j) A law enforcement agency that disposes of property by auction  
15 under this section shall permanently stamp or otherwise permanently  
16 identify the property as property sold by the law enforcement agency.

17 (k) Upon motion of the prosecuting attorney, the court shall order  
18 property seized under IC 34-24-1 transferred, subject to the perfected  
19 liens or other security interests of any person in the property, to the  
20 appropriate federal authority for disposition under 18 U.S.C. 981(e), 19  
21 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted  
22 by the United States Department of Justice.

23 (l) The law enforcement agency responsible for disposing of  
24 property under subsection (g), shall do the following:

25 (1) Maintain a record of the preserved evidence.

26 (2) Schedule a disposal date for the preserved evidence.

27 (3) Provide notice to the last known address of the defendant and  
28 the defendant's attorney:

29 (A) when the preserved evidence is removed from its secure  
30 location; or

31 (B) of the date the preserved evidence has been marked for  
32 disposal.

33 The defendant or the defendant's attorney must provide the most  
34 current address of the defendant or the defendant's attorney to the law  
35 enforcement agency responsible for disposing of property in order to  
36 effectively receive proper notice. If the law enforcement agency  
37 responsible for disposing of property does not have the defendant's or  
38 the defendant's attorney's most current address on file, then the notice  
39 requirement is deemed waived.

40 (m) Failure of a law enforcement agency to follow the procedures  
41 described in this section may constitute contempt of court. However,  
42 failure to follow the procedures described in this section shall not be



1 grounds for reversal of a conviction unless the defendant proves a  
2 violation of the defendant's due process rights.

3 (n) Nothing in subsection (g) shall preclude a law enforcement  
4 agency from submitting biological evidence to forensic DNA testing or  
5 analysis, at its own initiative or at the request of a prosecuting attorney,  
6 if such testing will not consume the remainder of the evidence. If such  
7 testing would consume the remainder of the evidence, the prosecuting  
8 attorney may seek a court order allowing such testing under  
9 IC 35-38-7-17.

10 SECTION 7. IC 35-44.1-2-3, AS AMENDED BY P.L.174-2021,  
11 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2024]: Sec. 3. (a) As used in this section, "consumer product"  
13 has the meaning set forth in IC 35-45-8-1.

14 (b) As used in this section, "misconduct" means a violation of a  
15 departmental rule or procedure of a law enforcement agency.

16 (c) A person who reports that:

17 (1) the person or another person has placed or intends to place an  
18 explosive, a destructive device, or other destructive substance in  
19 a building or transportation facility;

20 (2) there has been or there will be tampering with a consumer  
21 product introduced into commerce; or

22 (3) there has been or will be placed or introduced a weapon of  
23 mass destruction in a building or a place of assembly;

24 knowing the report to be false, commits false reporting, a Level 6  
25 felony.

26 (d) A person who:

27 (1) gives:

28 (A) a false report of the commission of a crime; or

29 (B) false information to a law enforcement officer that relates  
30 to the commission of a crime;

31 knowing the report or information to be false;

32 (2) gives a false alarm of fire to the fire department of a  
33 governmental entity, knowing the alarm to be false;

34 (3) makes a false request for ambulance service to an ambulance  
35 service provider, knowing the request to be false;

36 (4) gives a false report concerning a missing child (as defined in  
37 IC 10-13-5-4) or missing endangered adult (as defined in  
38 IC 12-7-2-131.3) or gives false information to a law enforcement  
39 officer or a governmental entity that relates to a missing child or  
40 missing endangered adult knowing the report or information to be  
41 false;

42 (5) makes a complaint against a law enforcement officer to the



1 state or municipality (as defined in IC 8-1-13-3(b)) that employs  
 2 the officer:  
 3 (A) alleging the officer engaged in misconduct while  
 4 performing the officer's duties; and  
 5 (B) knowing the complaint to be false;  
 6 (6) makes a false report of a missing person, knowing the report  
 7 or information is false; **or**  
 8 (7) gives a false report of actions, behavior, or conditions  
 9 concerning:  
 10 (A) a septic tank soil absorption system under IC 8-1-2-125 or  
 11 IC 13-26-5-2.5; or  
 12 (B) a septic tank soil absorption system or constructed wetland  
 13 septic system under IC 36-9-23-30.1;  
 14 knowing the report or information to be false; **or**  
 15 ~~(8) makes a false report that a person is dangerous (as defined in~~  
 16 ~~IC 35-47-14-1) knowing the report or information to be false;~~  
 17 commits false informing, a Class B misdemeanor. However, the offense  
 18 is a Class A misdemeanor if it substantially hinders any law  
 19 enforcement process or if it results in harm to another person.  
 20 SECTION 8. IC 35-47-1-7, AS AMENDED BY P.L.289-2019,  
 21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2024]: Sec. 7. "Proper person" means a person who:  
 23 (1) does not have a conviction for resisting law enforcement  
 24 under IC 35-44.1-3-1 within five (5) years before the person  
 25 applies for a license or permit under this chapter;  
 26 (2) does not have a conviction for a crime for which the person  
 27 could have been sentenced for more than one (1) year;  
 28 (3) does not have a conviction for a crime of domestic violence  
 29 (as defined in IC 35-31.5-2-78), unless a court has restored the  
 30 person's right to possess a firearm under IC 35-47-4-7;  
 31 (4) is not prohibited by a court order from possessing a handgun;  
 32 (5) does not have a record of being an alcohol or drug abuser as  
 33 defined in this chapter;  
 34 (6) does not have documented evidence which would give rise to  
 35 a reasonable belief that the person has a propensity for violent or  
 36 emotionally unstable conduct;  
 37 (7) does not make a false statement of material fact on the  
 38 person's application;  
 39 (8) does not have a conviction for any crime involving an inability  
 40 to safely handle a handgun;  
 41 (9) does not have a conviction for violation of the provisions of  
 42 this article within five (5) years of the person's application;



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

20 SECTION 9. IC 35-47-2-1.5, AS ADDED BY P.L.175-2022,  
 21 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2024]: Sec. 1.5. (a) The following terms are defined for this  
 23 section:

- 24 (1) "Adjudicated a mental defective" means a determination by a
- 25 court that a person:
- 26 (A) presents a danger to the person or to others; or
- 27 (B) lacks the mental capacity necessary to contract or manage
- 28 the person's affairs.
- 29 The term includes a finding of insanity by a court in a criminal
- 30 proceeding.
- 31 (2) "Alien" means any person who is not lawfully in the United
- 32 States. The term includes:
- 33 (A) any person who has:
- 34 (i) entered the United States without inspection and
- 35 authorization by an immigration officer; and
- 36 (ii) not been paroled into the United States under the federal
- 37 Immigration and Nationality Act;
- 38 (B) a nonimmigrant:
- 39 (i) whose authorized period of stay has expired; or
- 40 (ii) who has violated the terms of the nonimmigrant category
- 41 under which the person was admitted;
- 42 (C) a person paroled under the federal Immigration and



- 1 Nationality Act whose period of parole has:  
 2 (i) expired; or  
 3 (ii) been terminated; and  
 4 (D) a person subject to an order:  
 5 (i) of deportation, exclusion, or removal; or  
 6 (ii) to depart the United States voluntarily;  
 7 regardless of whether or not the person has left the United  
 8 States.
- 9 (3) "Committed to a mental institution" means the formal  
 10 commitment of a person to a mental institution by a court. The  
 11 term includes:  
 12 (A) a commitment for:  
 13 (i) a cognitive or mental defect; or  
 14 (ii) a mental illness; and  
 15 (B) involuntary commitments.
- 16 The term does not include voluntary commitments or a  
 17 commitment made for observational purposes.
- 18 (4) "Crime of domestic violence" has the meaning set forth in  
 19 IC 35-31.5-2-78.
- 20 ~~(5) "Dangerous" has the meaning set forth in IC 35-47-14-1.~~
- 21 ~~(6)~~ (5) "Fugitive from justice" means any person who:  
 22 (A) flees or leaves from any state to avoid prosecution for a  
 23 felony or misdemeanor offense; or  
 24 (B) flees or leaves any state to avoid testifying in a criminal  
 25 proceeding.
- 26 ~~(7)~~ (6) "Indictment" means any formal accusation of a crime made  
 27 by a prosecuting attorney in any court for a crime punishable by  
 28 a term of imprisonment exceeding one (1) year.
- 29 ~~(8)~~ (7) A crime or offense "punishable by a term of imprisonment  
 30 exceeding one (1) year" does not include a federal or state crime  
 31 or offense pertaining to antitrust violations, unfair trade practices,  
 32 restraints of trade, or other similar offenses relating to the  
 33 regulation of business practices.
- 34 (b) Except as provided in ~~subsections~~ **subsection** (c), ~~and (d)~~; the  
 35 following persons may not knowingly or intentionally carry a handgun:  
 36 (1) A person convicted of a federal or state offense punishable by  
 37 a term of imprisonment exceeding one (1) year.  
 38 (2) A fugitive from justice.  
 39 (3) An alien.  
 40 (4) A person convicted of:  
 41 (A) a crime of domestic violence (IC 35-31.5-2-78);  
 42 (B) domestic battery (IC 35-42-2-1.3); or



- 1 (C) criminal stalking (IC 35-45-10-5).  
 2 (5) A person restrained by an order of protection issued under  
 3 IC 34-26-5.  
 4 (6) A person under indictment.  
 5 (7) A person who has been:  
 6 ~~(A) adjudicated dangerous under IC 35-47-14-6;~~  
 7 ~~(B) (A) adjudicated a mental defective; or~~  
 8 ~~(C) (B) committed to a mental institution.~~  
 9 (8) A person dishonorably discharged from:  
 10 (A) military service; or  
 11 (B) the National Guard.  
 12 (9) A person who renounces the person's United States citizenship  
 13 in the manner described in 8 U.S.C. 1481.  
 14 (10) A person who is less than:  
 15 (A) eighteen (18) years of age; or  
 16 (B) twenty-three (23) years of age and has an adjudication as  
 17 a delinquent child for an act described by IC 35-47-4-5;  
 18 unless authorized under IC 35-47-10.  
 19 (c) Subsection (b)(4)(A) and (b)(4)(B) does not apply to a person if  
 20 a court has restored the person's right to possess a firearm under  
 21 IC 35-47-4-7.  
 22 ~~(d) A person who has:~~  
 23 ~~(1) been adjudicated dangerous under IC 35-47-14-6; and~~  
 24 ~~(2) successfully petitioned for the return of a firearm under~~  
 25 ~~IC 35-47-14-8 with respect to the adjudication under subdivision~~  
 26 ~~(1);~~  
 27 ~~is not prohibited from carrying a handgun under subsection (b) on the~~  
 28 ~~basis that the person was adjudicated dangerous under subdivision (1).~~  
 29 ~~However, the person may still be prohibited from carrying a handgun~~  
 30 ~~on one (1) or more of the other grounds listed in subsection (b).~~  
 31 ~~(e) (d) A person who violates this section commits unlawful~~  
 32 ~~carrying of a handgun, a Class A misdemeanor. However, the offense~~  
 33 ~~is a Level 5 felony if:~~  
 34 ~~(1) the offense is committed:~~  
 35 ~~(A) on or in school property;~~  
 36 ~~(B) within five hundred (500) feet of school property; or~~  
 37 ~~(C) on a school bus; or~~  
 38 ~~(2) the person:~~  
 39 ~~(A) has a prior conviction of any offense under:~~  
 40 ~~(i) this section;~~  
 41 ~~(ii) section 1 of this chapter (carrying a handgun without a~~  
 42 ~~license) (before its repeal); or~~



1 (iii) section 22 of this chapter; or  
2 (B) has been convicted of a felony within fifteen (15) years  
3 before the date of the offense.

4 SECTION 10. IC 35-47-4-6.5 IS REPEALED [EFFECTIVE JULY  
5 1, 2024]. Sec. 6.5: A person who:

6 (1) has been found to be dangerous by a circuit or superior court  
7 having jurisdiction over the person following a hearing under  
8 IC 35-47-14-6; and

9 (2) knowingly or intentionally:

- 10 (A) rents;
- 11 (B) purchases;
- 12 (C) receives transfer of;
- 13 (D) owns; or
- 14 (E) possesses;

15 a firearm commits unlawful possession of a firearm by a dangerous  
16 person; a Class A misdemeanor.

17 SECTION 11. IC 35-47-4-6.7 IS REPEALED [EFFECTIVE JULY  
18 1, 2024]. Sec. 6.7: A person who knowingly or intentionally rents,  
19 transfers; sells; or offers for sale a firearm to another person who the  
20 person knows to be found dangerous by a circuit or superior court  
21 following a hearing under IC 35-47-14-6 commits unlawful transfer of  
22 a firearm to a dangerous person; a Level 5 felony.

23 SECTION 12. IC 35-47-14-1 IS REPEALED [EFFECTIVE JULY  
24 1, 2024]. Sec. 1: (a) For the purposes of this chapter; an individual is  
25 "dangerous" if:

26 (1) the individual presents an imminent risk of personal injury to  
27 the individual or to another individual; or

28 (2) it is probable that the individual will present a risk of personal  
29 injury to the individual or to another individual in the future and  
30 the individual:

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

35 (B) is the subject of documented evidence that would give rise  
36 to a reasonable belief that the individual has a propensity for  
37 violent or suicidal conduct.

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

42 SECTION 13. IC 35-47-14-1.5, AS ADDED BY P.L.289-2019,



1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2024]: Sec. 1.5. For the purposes of this chapter, an individual  
3 is a "responsible third party" if:

4 (1) the individual does not cohabit with the person found to be  
5 dangerous **(as defined under section 1 of this chapter before its**  
6 **repeal)** in the hearing conducted under section 6 of this chapter  
7 **(before its repeal);**

8 (2) the individual is a proper person ~~(as defined under~~  
9 ~~IC 35-47-1-7) who~~ may lawfully possess a firearm; and

10 (3) the individual is willing to enter into a written court agreement  
11 to accept the transfer of the firearm as a responsible third party  
12 under section 10 of this chapter.

13 SECTION 14. IC 35-47-14-2 IS REPEALED [EFFECTIVE JULY  
14 1, 2024]. Sec. 2: (a) A circuit or superior court may issue a warrant to  
15 search for and seize a firearm in the possession of an individual who is  
16 dangerous if:

17 (1) a law enforcement officer provides the court a sworn affidavit  
18 that:

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

21 (B) describes the law enforcement officer's interactions and  
22 conversations with:

23 (i) the individual who is alleged to be dangerous; or

24 (ii) another individual; if the law enforcement officer  
25 believes that information obtained from this individual is  
26 credible and reliable;

27 that have led the law enforcement officer to believe that the  
28 individual is dangerous and in possession of a firearm;

29 (2) the affidavit specifically describes the location of the firearm;  
30 and

31 (3) the circuit or superior court determines that probable cause  
32 exists to believe that the individual is:

33 (A) dangerous; and

34 (B) in possession of a firearm.

35 (b) A law enforcement agency responsible for the seizure of the  
36 firearm under this section shall file a search warrant return with the  
37 court setting forth the:

38 (1) quantity; and

39 (2) type;

40 of each firearm seized from an individual under this section. Beginning  
41 July 1, 2021, the court shall provide information described under this  
42 subsection to the office of judicial administration in a manner required



1 by the office.

2 SECTION 15. IC 35-47-14-3 IS REPEALED [EFFECTIVE JULY  
3 1, 2024]. Sec. 3: (a) If a law enforcement officer seizes a firearm from  
4 an individual whom the law enforcement officer believes to be  
5 dangerous without obtaining a warrant, the law enforcement officer  
6 shall submit to the circuit or superior court having jurisdiction over the  
7 individual believed to be dangerous an affidavit describing the basis for  
8 the law enforcement officer's belief that the individual is dangerous.

9 (b) An affidavit described in subsection (a) shall:

10 (1) set forth the quantity and type of each firearm seized from the  
11 individual under this section; and

12 (2) be submitted to a circuit or superior court having jurisdiction  
13 over the individual believed to be dangerous not later than  
14 forty-eight (48) hours after the seizure of the firearm.

15 (c) The court shall review the affidavit described in subsection (a)  
16 as soon as possible:

17 (d) If the court finds that probable cause exists to believe that the  
18 individual is dangerous, the court shall order the law enforcement  
19 agency having custody of the firearm to retain the firearm. Beginning  
20 July 1, 2021, the court shall provide information described under this  
21 subsection and subsection (b)(1) to the office of judicial administration  
22 in a manner required by the office:

23 (e) If the court finds that there is no probable cause to believe that  
24 the individual is dangerous, the court shall order the law enforcement  
25 agency having custody of the firearm to return the firearm to the  
26 individual as quickly as practicable, but not later than five (5) days  
27 after the date of the order.

28 SECTION 16. IC 35-47-14-4 IS REPEALED [EFFECTIVE JULY  
29 1, 2024]. Sec. 4: If a court issued a warrant to seize a firearm under this  
30 chapter, the law enforcement officer who served the warrant shall, not  
31 later than forty-eight (48) hours after the warrant was served, file a  
32 return with the court that:

33 (1) states that the warrant was served; and

34 (2) sets forth:

35 (A) the time and date on which the warrant was served;

36 (B) the name and address of the individual named in the  
37 warrant; and

38 (C) the quantity and identity of any firearms seized by the law  
39 enforcement officer.

40 SECTION 17. IC 35-47-14-5 IS REPEALED [EFFECTIVE JULY  
41 1, 2024]. Sec. 5: (a) After the filing of a search warrant return under  
42 section 2 of this chapter or the filing of an affidavit under section 3 of



1 this chapter, the court shall conduct a hearing:

2 (b) The court shall make a good faith effort to conduct the hearing  
3 not later than fourteen (14) days after the filing of a search warrant  
4 return under section 2 of this chapter or the filing of an affidavit under  
5 section 3 of this chapter. If the hearing cannot be conducted within  
6 fourteen (14) days after the filing of the search warrant return or  
7 affidavit, the court shall conduct the hearing as soon as possible.  
8 However, a request for a continuance of the hearing described in this  
9 subsection for a period of not more than sixty (60) days from the  
10 individual from whom the firearm was seized shall be liberally granted.  
11 The court shall inform:

12 (1) the prosecuting attorney; and

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

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

17 SECTION 18. IC 35-47-14-6 IS REPEALED [EFFECTIVE JULY  
18 1, 2024]. Sec. 6: (a) The court shall conduct a hearing as required under  
19 this chapter:

20 (b) The state has the burden of proving all material facts by clear  
21 and convincing evidence:

22 (c) If the court determines that the state has proved by clear and  
23 convincing evidence that the individual is dangerous, the court shall  
24 issue a written order:

25 (1) finding the individual is dangerous (as defined in section 1 of  
26 this chapter);

27 (2) ordering the law enforcement agency having custody of the  
28 seized firearm to retain the firearm;

29 (3) ordering the individual's license to carry a handgun, if  
30 applicable, suspended; and

31 (4) enjoining the individual from:

32 (A) renting;

33 (B) receiving transfer of;

34 (C) owning; or

35 (D) possessing;

36 a firearm; and

37 determine whether the individual should be referred to further  
38 proceedings to consider whether the individual should be involuntarily  
39 detained or committed under IC 12-26-6-2(a)(2)(B):

40 (d) If the court finds that the individual is dangerous under  
41 subsection (c), the clerk shall transmit the order of the court to the  
42 office of judicial administration:



1 (1) for transmission to NICS (as defined in IC 35-47-2.5-2.5); and  
 2 (2) beginning July 1, 2021, for the collection of certain data  
 3 related to the confiscation and retention of firearms taken from  
 4 dangerous individuals;  
 5 in accordance with IC 33-24-6-3.

6 (e) If the court orders a law enforcement agency to retain a firearm;  
 7 the law enforcement agency shall retain the firearm until the court  
 8 orders the firearm returned or otherwise disposed of:

9 (f) If the court determines that the state has failed to prove by clear  
 10 and convincing evidence that the individual is dangerous, the court  
 11 shall issue a written order that:

12 (1) the individual is not dangerous (as defined in section 1 of this  
 13 chapter); and

14 (2) the law enforcement agency having custody of the firearm  
 15 shall return the firearm as quickly as practicable, but not later  
 16 than five (5) days after the date of the order, to the individual  
 17 from whom it was seized:

18 SECTION 19. IC 35-47-14-7 IS REPEALED [EFFECTIVE JULY  
 19 1, 2024]. Sec. 7. If the court, in a hearing conducted under section 5 of  
 20 this chapter, determines that:

21 (1) the individual from whom a firearm was seized is dangerous;  
 22 and

23 (2) the firearm seized from the individual is owned by another  
 24 individual;

25 the court may order the law enforcement agency having custody of the  
 26 firearm to return the firearm to the owner of the firearm:

27 SECTION 20. IC 35-47-14-8, AS AMENDED BY P.L.142-2020,  
 28 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2024]: Sec. 8. **(a) If a court ordered a law enforcement  
 30 agency to retain a firearm under section 3 or 6 of this chapter  
 31 (before their repeal), the law enforcement agency shall retain the  
 32 firearm until the court orders the firearm returned or otherwise  
 33 disposed of.**

34 ~~(a) (b) At least one hundred eighty (180) days After the date on~~  
 35 ~~which~~ a court orders a law enforcement agency to retain an individual's  
 36 firearm under section 6(c) of this chapter **(before its repeal)**, the  
 37 individual may petition the court for a finding that the individual is no  
 38 longer dangerous.

39 ~~(b) (c)~~ Upon receipt of a petition described in subsection ~~(a)~~; **(b)**, the  
 40 court shall:

41 (1) enter an order setting a date for a hearing on the petition; and

42 (2) inform the prosecuting attorney of the date, time, and location



- 1 of the hearing.
- 2 ~~(c)~~ (d) The prosecuting attorney shall represent the state at the
- 3 hearing on a petition under this section.
- 4 ~~(d)~~ (e) In a hearing on a petition under this section, the individual
- 5 may be represented by an attorney.
- 6 ~~(e)~~ (f) In a hearing on a petition under this section, ~~filed:~~
- 7 (1) ~~not later than one (1) year after the date of the order issued~~
- 8 ~~under section 6(c) of this chapter, the individual must prove by a~~
- 9 ~~preponderance of the evidence that the individual is no longer~~
- 10 ~~dangerous; and~~
- 11 (2) ~~later than one (1) year after the date of the order issued under~~
- 12 ~~section 6(c) of this chapter, the state must prove by clear and~~
- 13 ~~convincing evidence that the individual is still dangerous.~~
- 14 **otherwise prohibited by law from possessing a firearm.**
- 15 (f) (g) If, upon the completion of the hearing and consideration of
- 16 the record, the court finds that the individual is ~~no longer dangerous;~~
- 17 **not otherwise prohibited by law from possessing a firearm,** the
- 18 court shall:
- 19 (1) issue a court order that finds that the individual is no longer
- 20 dangerous;
- 21 (2) order the law enforcement agency having custody of any
- 22 firearm to return the firearm as quickly as practicable, but not
- 23 later than five (5) days after the date of the order, to the
- 24 individual;
- 25 (3) terminate any injunction issued under section 6 of this chapter
- 26 **(before its repeal);** and
- 27 (4) terminate the suspension of the individual's license to carry a
- 28 handgun so that the individual may reapply for a license.
- 29 ~~(g)~~ (h) If the court denies an individual's petition under this section,
- 30 the individual may not file a subsequent petition until at least one
- 31 hundred eighty (180) days after the date on which the court denied the
- 32 petition.
- 33 ~~(h)~~ (i) If a court issues an order described under subsection ~~(f); (g),~~
- 34 the court's order shall be transmitted, as soon as practicable, to the
- 35 office of judicial administration for transmission to the NICS (as
- 36 defined in IC 35-47-2.5-2.5). ~~and, beginning July 1, 2021, for the~~
- 37 ~~collection of certain data related to the confiscation and retention of~~
- 38 ~~firearms taken from dangerous individuals in accordance with~~
- 39 ~~IC 33-24-6-3.~~
- 40 SECTION 21. IC 35-47-14-10, AS AMENDED BY P.L.289-2019,
- 41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2024]: Sec. 10. (a) If a court has ordered a law enforcement



1 agency to retain an individual's firearm under section 6 of this chapter  
 2 **(before its repeal)**, the individual or the rightful owner of the firearm,  
 3 as applicable, may petition the court to order the law enforcement  
 4 agency to:

5 (1) transfer the firearm to a responsible third party as described  
 6 under section 1.5 of this chapter;

7 (2) transfer the firearm to an individual who possesses a valid  
 8 federal firearms license issued under 18 U.S.C. 923 for storage or  
 9 an eventual lawful sale whose terms are mutually agreed upon  
 10 between the licensee and the individual or rightful owner, as  
 11 applicable; or

12 (3) sell the firearm at auction under IC 35-47-3-2 and return the  
 13 proceeds to the individual or the rightful owner of the firearm, as  
 14 applicable.

15 The responsible third party who accepts transfer of the firearm from the  
 16 law enforcement agency under a court order under this section shall  
 17 enter into a written court agreement that obligates the responsible third  
 18 party to the reasonable care and storage of the firearm, including not  
 19 providing access or transferring the firearm to the individual found to  
 20 be dangerous **(as defined under section 1 of this chapter before its**  
 21 **repeal)** in a hearing under section 6 of this chapter **(before its repeal)**.

22 (b) An individual or rightful owner of the firearm may petition the  
 23 court as described in subsection (a):

24 (1) at the hearing described in section 6 ~~or~~ 9 of this chapter; or

25 (2) at any time before the hearing described in section 6 ~~or~~ 9 of  
 26 this chapter is held.

27 (c) If an individual or rightful owner timely requests a sale or  
 28 transfer of a firearm under subsection (a), the court shall order the law  
 29 enforcement agency having custody of the firearm to transfer the  
 30 firearm or sell the firearm at auction under IC 35-47-3-2, unless:

31 (1) the serial number of the firearm has been obliterated;

32 (2) the transfer of the firearm would be unlawful; or

33 (3) the requirements of subsection (a) have not been met.

34 (d) If the court issues an order under subsection (c), the court's order  
 35 must require:

36 (1) that the firearm be sold not more than one (1) year after  
 37 receipt of the order; and

38 (2) that the proceeds of the sale be returned to the individual or  
 39 rightful owner of the firearm.

40 (e) A law enforcement agency may retain not more than eight  
 41 percent (8%) of the sale price to pay the costs of the sale, including  
 42 administrative costs and the auctioneer's fee.

