

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 2016 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 191

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AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 35-47-3-2, AS AMENDED BY P.L.157-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) This section applies only to firearms which are not required to be registered in the National Firearms Registration and Transfer Record.

(b) Firearms shall be returned to the rightful owner at once following final disposition of the cause if a return has not already occurred under the terms of IC 35-33-5. If the rightful ownership is not known the law enforcement agency holding the firearm shall make a reasonable attempt to ascertain the rightful ownership and cause the return of the firearm. However, nothing in this chapter shall be construed as requiring the return of firearms to rightful owners who have been convicted for the misuse of firearms. In such cases, the court may provide for the return of the firearm in question or order that the firearm be at once delivered:

- (1) except as provided in subdivision (2), to the sheriff's department of the county in which the offense occurred; or
- (2) to the ~~city or town police force~~ **law enforcement agency** that confiscated the firearm.

(c) **If at least one hundred eighty (180) days have elapsed since the sheriff's department or law enforcement agency received the**

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**firearm, and:**

**(1) all reasonable attempts to locate the rightful owner of the firearm have failed; or**

**(2) the rightful owner has been convicted of an offense related to the misuse of a firearm;**

**the sheriff's department or law enforcement agency shall dispose of the firearm as described in subsection (d).**

**(d) Subject to subsection (c),** the receiving law enforcement agency shall dispose of firearms under subsection (b), at the discretion of the law enforcement agency, ~~not more than one hundred twenty (120) days following receipt~~ by use of any of the following procedures:

(1) Public sale of the firearms to the general public as follows:

(A) Notice of the sale shall be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days prior to the sale.

(B) Disposition of the firearm shall be by public auction in a place convenient to the general public, with disposition going to the highest bidder. However, no firearm shall be transferred to any bidder if that bidder is not lawfully eligible to receive and possess firearms according to the laws of the United States and Indiana.

(C) All handguns transferred under this subdivision shall also be transferred according to the transfer procedures set forth in this article.

(D) Money collected pursuant to the sales shall first be used to defray the necessary costs of administering this subdivision with any surplus to be:

(i) deposited into the receiving law enforcement agency's firearms training fund, other appropriate training activities fund, or any other fund that may be used by the receiving law enforcement agency for the purchase and maintenance of firearms, ammunition, vests, and other law enforcement equipment; and

(ii) used by the agency exclusively to train law enforcement officers in the proper use of firearms or other law enforcement duties, and to purchase and maintain firearms, ammunition, vests, and other law enforcement equipment.

A law enforcement agency may not sell a firearm to the general public if the firearm is unsafe to operate because it has been



damaged or altered.

(2) Sale of the firearms to a licensed firearms dealer as follows:

(A) Notice of the sale must be:

- (i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and
- (ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days before the sale.

(B) Disposition of the firearm shall be by auction with disposition going to the highest bidder who is a licensed firearms dealer.

(C) Money collected from the sales shall first be used to defray the necessary costs of administering this subdivision and any surplus shall be:

- (i) deposited into the receiving law enforcement agency's firearms training fund, other appropriate training activities fund, or any other fund that may be used by the receiving law enforcement agency for the purchase and maintenance of firearms, ammunition, vests, and other law enforcement equipment; and
- (ii) used by the agency exclusively to train law enforcement officers in the proper use of firearms or other law enforcement duties, and to purchase and maintain firearms, ammunition, vests, and other law enforcement equipment.

A law enforcement agency may sell a firearm to a licensed firearms dealer for salvage or repair, even if the firearm is unsafe to operate because it has been damaged or altered.

(3) Sale or transfer of the firearms to another law enforcement agency.

(4) Release to the state police department laboratory or other forensic laboratory administered by the state or a political subdivision (as defined in IC 36-1-2-13) for the purposes of research, training, and comparison in conjunction with the forensic examination of firearms evidence.

(5) Destruction of the firearms. A firearm that is to be destroyed may be sold to a salvage company and destroyed by dismantling the firearm for parts, scrap metal, or recycling, or for resale as parts for other firearms.

~~(d) (e) Notwithstanding the requirement of this section mandating disposal of firearms not more than one hundred twenty (120) days following receipt, the receiving law enforcement agency may at its discretion hold firearms it may receive until a sufficient number has~~

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accumulated to defray the costs of administering this section if a delay does not exceed one hundred eighty (180) days from the date of receipt of the first firearm in the sale lot. In addition, the A receiving law enforcement agency may, at its discretion, jointly sell firearms it has received with another law enforcement agency, or permit another law enforcement agency to sell firearms it has received on behalf of the receiving law enforcement agency. In any event, all confiscated firearms shall be disposed of as promptly as possible.

~~(e)~~ **(f)** When a firearm is delivered to the state police department laboratory or other forensic laboratory under ~~subsection (e)(4)~~ **subsection (d)(4)** and the state police department laboratory or other forensic laboratory determines the laboratory has no further need for the firearm in question, the laboratory shall return the firearm to the law enforcement agency for disposal under ~~subsection (e)~~: **subsection (d)**.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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