



January 24, 2020

HOUSE BILL No. 1159

DIGEST OF HB 1159 (Updated January 22, 2020 3:52 pm - DI 131)

Citations Affected: IC 31-37; IC 31-39; IC 33-24; IC 35-31.5; IC 35-44.1; IC 35-47.

Synopsis: Juvenile expungements and firearms matters. Requires a juvenile court to transmit certain findings to the office of judicial administration for transmission to the National Instant Criminal Background Check System (NICS) upon a finding of delinquency for an act that would be a serious violent felony if committed by an adult. Allows a court to consider the following factors when evaluating a petition to expunge certain juvenile adjudications: (1) Whether a person has been charged with or convicted of murder or another felony offense as an adult. (2) Whether a person has ever been waived to adult court for an offense. (3) Whether a person has ever received a nonsuspendable sentence as a juvenile. (4) Whether the person has been adjudicated a delinquent child for committing an act while armed with a firearm that would be a serious violent felony if committed by an adult. (5) Whether the person: (A) is currently suffering from a mental health issue; (B) has an ongoing or chronic mental health issue; (C) has received or is receiving treatment for a mental health issue; or (D) is complying with a treatment regimen recommended by a mental health professional, if applicable. Prohibits a court from expunging certain records in the absence of a petition requesting the expungement. Requires a court to transmit certain court orders to the office of judicial administration when granting a petition requesting the expungement of certain juvenile records. Provides that a person who: (1) has been adjudicated a delinquent child for the commission of an act while armed with a firearm that would be a serious violent felony
(Continued next page)

Effective: July 1, 2020; January 1, 2021.

Schaibley, Torr

January 8, 2020, read first time and referred to Committee on Courts and Criminal Code.
January 23, 2020, amended, reported — Do Pass.

HB 1159—LS 6886/DI 123



Digest Continued

if committed by an adult; (2) has not had the juvenile adjudication expunged; and (3) knowingly or intentionally possesses a firearm; commits unlawful possession of a firearm by a dangerous person, a Class A misdemeanor. Specifies that the offense is enhanced to a Level 4 felony if the person has a prior unrelated conviction for the offense. Provides that a person who has been adjudicated a delinquent child for committing an act while armed with a firearm that would be a serious violent felony if committed by an adult is not a proper person for the purpose of receiving a license to carry a handgun. Beginning January 1, 2021: (1) requires the office of judicial administration to collect, monitor, and publish certain statistics related to the confiscation and retention of firearms taken from dangerous individuals; and (2) requires a court to provide certain information to the office of judicial administration after issuing a finding concerning a person's dangerousness. Allows the office of judicial administration to provide certain information to a law enforcement agency for the purposes of handgun licenses. Provides that a person who makes a false report that another person is dangerous, for purposes of seizure and retention of firearms proceedings, knowing the report or information to be false, commits false informing, a Class B misdemeanor. Defines certain terms. Makes conforming amendments.

HB 1159—LS 6886/DI 123



January 24, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1159

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 31-37-13-5, AS AMENDED BY P.L.168-2014,
2 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 5. **(a)** If a finding of delinquency is based on a
4 delinquent act that would be a felony if committed by an adult, the
5 juvenile court shall state in the findings the following:
6 (1) The specific statute that was violated.
7 (2) The class or level of the felony had the violation been
8 committed by an adult.
9 **(b) If a finding of delinquency is based on a delinquent act that:**
10 **(1) was committed while armed with a firearm; and**
11 **(2) would be a serious violent felony (as defined in**
12 **IC 35-47-4-5) if committed by an adult;**
13 **the juvenile court shall, notwithstanding IC 31-39-1, transmit the**
14 **finding to the office of judicial administration for transmission to**
15 **NICS (as defined in IC 35-47-2.5-2.5) in accordance with**

HB 1159—LS 6886/DI 123



1 **IC 33-24-6-3.**

2 SECTION 2. IC 31-39-8-3, AS AMENDED BY P.L.86-2017,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 3. (a) A person may initiate a petition for the
5 expungement of records of a child alleged to be a delinquent child or
6 a child in need of services by filing a verified petition in the juvenile
7 court in the county of the original action. The petition must set forth the
8 following:

- 9 (1) The allegations and date of adjudication, if applicable, of the
10 juvenile delinquency or child in need of services adjudications.
11 (2) The court in which juvenile delinquency or child in need of
12 services allegations or petitions were filed.
13 (3) The law enforcement agency that employs the charging
14 officer, if known.
15 (4) The case number or court cause number.
16 (5) Date of birth of the petitioner.
17 (6) Petitioner's Social Security number.
18 (7) All juvenile delinquency or child in need of services
19 adjudications and criminal convictions occurring after the
20 adjudication of the action sought to be expunged.
21 (8) All pending actions under IC 31-34 or IC 31-37 or criminal
22 charges.
- 23 (b) A petition described in subsection (a) shall be served on:
24 (1) the prosecuting attorney; or
25 (2) in the case of a child in need of services case, the department
26 of child services.
- 27 (c) The prosecuting attorney or department of child services has
28 thirty (30) days in which to reply or otherwise object to the petition.
29 The court may reduce the time in which a response must be filed for a
30 show of good cause or within its discretion after a hearing is held.
- 31 (d) If the prosecuting attorney or department of child services timely
32 files an objection to the petition, the matter shall be set for a hearing.
33 If no objection is filed, the court may set the petition for a hearing or
34 rule on the petition without a hearing.
- 35 (e) In considering whether to grant the petition, the juvenile court
36 may review:
37 (1) the best interests of the child;
38 (2) the age of the person during the person's contact with the
39 juvenile court or law enforcement agency;
40 (3) the nature of any allegations;
41 (4) whether there was an informal adjustment or an adjudication;
42 (5) the disposition of the case;



- 1 (6) the manner in which the person participated in any court
 2 ordered or supervised services;
 3 (7) the time during which the person has been without contact
 4 with the juvenile court or with any law enforcement agency;
 5 (8) whether the person acquired a criminal record; ~~and~~
 6 (9) the person's current status;
 7 **(10) whether the person has been:**
 8 **(A) charged with; or**
 9 **(B) convicted of;**
 10 **murder or another felony offense as an adult;**
 11 **(11) whether the person was waived to an adult criminal court**
 12 **for a reason described in IC 31-30-3;**
 13 **(12) whether an adult sentence for the person was not**
 14 **suspended for a reason described in IC 35-50-2-2.1;**
 15 **(13) whether the person has been adjudicated a delinquent**
 16 **child for committing an act that would be a serious violent**
 17 **felony (as defined in IC 35-47-4-5) if committed by an adult;**
 18 **and**
 19 **(14) whether:**
 20 **(A) the person is currently suffering from a mental health**
 21 **issue;**
 22 **(B) the mental health issue described in clause (A) is**
 23 **chronic or ongoing;**
 24 **(C) the person has received, or is receiving, treatment for**
 25 **a current or chronic mental health issue; or**
 26 **(D) the person is compliant with a treatment regimen**
 27 **recommended by a mental health professional, if**
 28 **applicable.**
 29 **(f) If a court issues an order requiring the expungement of**
 30 **records for a child found to be a delinquent child for an offense**
 31 **that:**
 32 **(1) was committed while armed with a firearm; and**
 33 **(2) would be a serious violent felony (as defined in**
 34 **IC 35-47-4-5) if committed by an adult;**
 35 **the court shall transmit the order of the court to the office of**
 36 **judicial administration for transmission to NICS (as defined in**
 37 **IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**
 38 SECTION 3. IC 33-24-6-3, AS AMENDED BY P.L.207-2019,
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JANUARY 1, 2021]: Sec. 3. (a) The office of judicial administration
 41 shall do the following:
 42 (1) Examine the administrative and business methods and systems



- 1 employed in the offices of the clerks of court and other offices
 2 related to and serving the courts and make recommendations for
 3 necessary improvement.
- 4 (2) Collect and compile statistical data and other information on
 5 the judicial work of the courts in Indiana. All justices of the
 6 supreme court, judges of the court of appeals, judges of all trial
 7 courts, and any city or town courts, whether having general or
 8 special jurisdiction, court clerks, court reporters, and other
 9 officers and employees of the courts shall, upon notice by the
 10 chief administrative officer and in compliance with procedures
 11 prescribed by the chief administrative officer, furnish the chief
 12 administrative officer the information as is requested concerning
 13 the nature and volume of judicial business. The information must
 14 include the following:
- 15 (A) The volume, condition, and type of business conducted by
 16 the courts.
 - 17 (B) The methods of procedure in the courts.
 - 18 (C) The work accomplished by the courts.
 - 19 (D) The receipt and expenditure of public money by and for
 20 the operation of the courts.
 - 21 (E) The methods of disposition or termination of cases.
- 22 (3) Prepare and publish reports, not less than one (1) or more than
 23 two (2) times per year, on the nature and volume of judicial work
 24 performed by the courts as determined by the information
 25 required in subdivision (2).
- 26 (4) Serve the judicial nominating commission and the judicial
 27 qualifications commission in the performance by the commissions
 28 of their statutory and constitutional functions.
- 29 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 30 (6) Administer the court technology fund established by section
 31 12 of this chapter.
- 32 (7) By December 31, 2013, develop and implement a standard
 33 protocol for sending and receiving court data:
- 34 (A) between the protective order registry, established by
 35 IC 5-2-9-5.5, and county court case management systems;
 - 36 (B) at the option of the county prosecuting attorney, for:
 - 37 (i) a prosecuting attorney's case management system;
 - 38 (ii) a county court case management system; and
 - 39 (iii) a county court case management system developed and
 40 operated by the office of judicial administration;
- 41 to interface with the electronic traffic tickets, as defined by
 42 IC 9-30-3-2.5; and



- 1 (C) between county court case management systems and the
 2 case management system developed and operated by the office
 3 of judicial administration.
 4 The standard protocol developed and implemented under this
 5 subdivision shall permit private sector vendors, including vendors
 6 providing service to a local system and vendors accessing the
 7 system for information, to send and receive court information on
 8 an equitable basis and at an equitable cost.
- 9 (8) Establish and administer an electronic system for receiving
 10 information that relates to certain individuals who may be
 11 prohibited from possessing a firearm ~~and~~ **for the purpose of:**
 12 (A) transmitting this information to the Federal Bureau of
 13 Investigation for inclusion in the NICS; **and**
 14 (B) **collecting, monitoring, and publishing certain statistics**
 15 **related to the confiscation and retention of firearms as**
 16 **described under section 14 of this chapter.**
- 17 (9) Establish and administer an electronic system for receiving
 18 drug related felony conviction information from courts. The office
 19 of judicial administration shall notify NPLeX of each drug related
 20 felony entered after June 30, 2012, and do the following:
 21 (A) Provide NPLeX with the following information:
 22 (i) The convicted individual's full name.
 23 (ii) The convicted individual's date of birth.
 24 (iii) The convicted individual's driver's license number, state
 25 personal identification number, or other unique number, if
 26 available.
 27 (iv) The date the individual was convicted of the felony.
 28 Upon receipt of the information from the office of judicial
 29 administration, a stop sale alert must be generated through
 30 NPLeX for each individual reported under this clause.
 31 (B) Notify NPLeX if the felony of an individual reported under
 32 clause (A) has been:
 33 (i) set aside;
 34 (ii) reversed;
 35 (iii) expunged; or
 36 (iv) vacated.
 37 Upon receipt of information under this clause, NPLeX shall
 38 remove the stop sale alert issued under clause (A) for the
 39 individual.
- 40 (10) Staff the judicial technology oversight committee established
 41 by IC 33-23-17-2.
 42 (11) After July 1, 2018, establish and administer an electronic



1 system for receiving from courts felony conviction information for
 2 each felony described in IC 20-28-5-8(c). The office of judicial
 3 administration shall notify the department of education at least
 4 one (1) time each week of each felony described in
 5 IC 20-28-5-8(c) entered after July 1, 2018, and do the following:

6 (A) Provide the department of education with the following
 7 information:

8 (i) The convicted individual's full name.

9 (ii) The convicted individual's date of birth.

10 (iii) The convicted individual's driver's license number, state
 11 personal identification number, or other unique number, if
 12 available.

13 (iv) The date the individual was convicted of the felony.

14 (B) Notify the department of education if the felony of an
 15 individual reported under clause (A) has been:

16 (i) set aside;

17 (ii) reversed; or

18 (iii) vacated.

19 (12) Perform legal and administrative duties for the justices as
 20 determined by the justices.

21 (13) Provide staff support for the judicial conference of Indiana
 22 established in IC 33-38-9.

23 (14) Work with the United States Department of Veterans Affairs
 24 to identify and address the needs of veterans in the court system.

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

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

30 SECTION 4. IC 33-24-6-14 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2020]: **Sec. 14. (a) The following terms are defined for this
 33 section:**

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

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

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

38 (b) The office shall track and record the following information:

39 (1) The name of the law enforcement agency responsible for
 40 each confiscation of a firearm under IC 35-47-14-2 and
 41 IC 35-47-14-3.

42 (2) The number of:



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



1 **dangerous by a law enforcement officer or found to be**
 2 **dangerous by a circuit or superior court.**

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

6 **(e) Information:**

7 **(1) collected by the office; or**

8 **(2) used by the office;**

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

11 **(f) The office shall make the report described in subsection (c)**
 12 **available to the public.**

13 **(g) The office may adopt rules under IC 4-22-2 to implement**
 14 **this section.**

15 SECTION 5. IC 35-31.5-2-294, AS ADDED BY P.L.114-2012,
 16 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 294. "Serious violent felony", for purposes of
 18 IC 35-47-4-5 **and IC 35-47-4-9**, has the meaning set forth in
 19 ~~IC 35-47-4-5(b)~~: **IC 35-47-4-5.**

20 SECTION 6. IC 35-44.1-2-3, AS AMENDED BY P.L.107-2016,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2020]: Sec. 3. (a) As used in this section, "consumer product"
 23 has the meaning set forth in IC 35-45-8-1.

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

26 (c) A person who reports, by telephone, telegraph, mail, or other
 27 written or oral communication, that:

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

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

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

35 knowing the report to be false, commits false reporting, a Level 6
 36 felony.

37 (d) A person who:

38 (1) gives a false report of the commission of a crime or gives false
 39 information in the official investigation of the commission of a
 40 crime, knowing the report or information to be false;

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



- 1 (3) makes a false request for ambulance service to an ambulance
 2 service provider, knowing the request to be false;
 3 (4) gives a false report concerning a missing child (as defined in
 4 IC 10-13-5-4) or missing endangered adult (as defined in
 5 IC 12-7-2-131.3) or gives false information in the official
 6 investigation of a missing child or missing endangered adult
 7 knowing the report or information to be false;
 8 (5) makes a complaint against a law enforcement officer to the
 9 state or municipality (as defined in IC 8-1-13-3(b)) that employs
 10 the officer:
 11 (A) alleging the officer engaged in misconduct while
 12 performing the officer's duties; and
 13 (B) knowing the complaint to be false;
 14 (6) makes a false report of a missing person, knowing the report
 15 or information is false; ~~or~~
 16 (7) gives a false report of actions, behavior, or conditions
 17 concerning:
 18 (A) a septic tank soil absorption system under IC 8-1-2-125 or
 19 IC 13-26-5-2.5; or
 20 (B) a septic tank soil absorption system or constructed wetland
 21 septic system under IC 36-9-23-30.1;
 22 knowing the report or information to be false; **or**
 23 **(8) makes a false report that a person is dangerous (as defined**
 24 **in IC 35-47-14-1) knowing the report or information to be**
 25 **false;**
 26 commits false informing, a Class B misdemeanor. However, the offense
 27 is a Class A misdemeanor if it substantially hinders any law
 28 enforcement process or if it results in harm to another person.
 29 SECTION 7. IC 35-47-1-7, AS AMENDED BY P.L.289-2019,
 30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 7. "Proper person" means a person who:
 32 (1) does not have a conviction for resisting law enforcement
 33 under IC 35-44.1-3-1 within five (5) years before the person
 34 applies for a license or permit under this chapter;
 35 (2) does not have a conviction for a crime for which the person
 36 could have been sentenced for more than one (1) year;
 37 (3) does not have a conviction for a crime of domestic violence
 38 (as defined in IC 35-31.5-2-78), unless a court has restored the
 39 person's right to possess a firearm under IC 35-47-4-7;
 40 (4) is not prohibited by a court order from possessing a handgun;
 41 (5) does not have a record of being an alcohol or drug abuser as
 42 defined in this chapter;



- 1 (6) does not have documented evidence which would give rise to
- 2 a reasonable belief that the person has a propensity for violent or
- 3 emotionally unstable conduct;
- 4 (7) does not make a false statement of material fact on the
- 5 person's application;
- 6 (8) does not have a conviction for any crime involving an inability
- 7 to safely handle a handgun;
- 8 (9) does not have a conviction for violation of the provisions of
- 9 this article within five (5) years of the person's application;
- 10 (10) does not have an adjudication as a delinquent child for an act
- 11 that:
- 12 (A) would be a felony if committed by an adult, if the person
- 13 applying for a license or permit under this chapter is less than
- 14 twenty-three (23) years of age; or
- 15 (B) was committed:
- 16 (i) on or after July 1, 2020; and
- 17 (ii) while armed with a firearm and that would be a
- 18 serious violent felony (as defined in IC 35-47-4-5) if
- 19 committed by an adult;
- 20 (11) has not been involuntarily committed, other than a temporary
- 21 commitment for observation or evaluation, to a mental institution
- 22 by a court, board, commission, or other lawful authority;
- 23 (12) has not been the subject of a:
- 24 (A) ninety (90) day commitment as a result of proceeding
- 25 under IC 12-26-6; or
- 26 (B) regular commitment under IC 12-26-7;
- 27 (13) has not been found by a court to be mentally incompetent,
- 28 including being found:
- 29 (A) not guilty by reason of insanity;
- 30 (B) guilty but mentally ill; or
- 31 (C) incompetent to stand trial; or
- 32 (14) is not currently designated as dangerous (as defined in
- 33 IC 35-47-14-1) by a court following a hearing under
- 34 IC 35-47-14-6.

35 SECTION 8. IC 35-47-4-9 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2020]: **Sec. 9. A person who:**

- 38 (1) has been adjudicated a delinquent child for committing an
- 39 act while armed with a firearm that:
- 40 (A) occurred on or after July 1, 2020; and
- 41 (B) would be a serious violent felony (as defined in
- 42 IC 35-47-4-5) if committed by an adult;



1 **(2) has not had the adjudication described in subdivision (1)**
 2 **expunged; and**

3 **(3) knowingly or intentionally possesses a firearm;**
 4 **commits unlawful possession of a firearm by a dangerous person,**
 5 **a Class A misdemeanor. However, the offense is a Level 4 felony if**
 6 **the person has a prior unrelated conviction under this section.**

7 SECTION 9. IC 35-47-14-2, AS AMENDED BY P.L.289-2019,
 8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2021]: Sec. 2. (a) A circuit or superior court may issue
 10 a warrant to search for and seize a firearm in the possession of an
 11 individual who is dangerous if:

12 (1) a law enforcement officer provides the court a sworn affidavit
 13 that:

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

16 (B) describes the law enforcement officer's interactions and
 17 conversations with:

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

19 (ii) another individual, if the law enforcement officer
 20 believes that information obtained from this individual is
 21 credible and reliable;

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

24 (2) the affidavit specifically describes the location of the firearm;
 25 and

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

28 (A) dangerous; and

29 (B) in possession of a firearm.

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

33 (1) quantity; and

34 (2) type;

35 of each firearm seized from an individual under this section. **The court**
 36 **shall provide information described under this subsection to the**
 37 **office of judicial administration in a manner required by the office.**

38 SECTION 10. IC 35-47-14-3, AS AMENDED BY P.L.289-2019,
 39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 3. (a) If a law enforcement officer seizes a firearm
 41 from an individual whom the law enforcement officer believes to be
 42 dangerous without obtaining a warrant, the law enforcement officer



1 shall submit to the circuit or superior court having jurisdiction over the
 2 individual believed to be dangerous an affidavit describing the basis for
 3 the law enforcement officer's belief that the individual is dangerous.

4 (b) An affidavit described in subsection (a) shall be submitted to a
 5 circuit or superior court having jurisdiction over the individual believed
 6 to be dangerous not later than forty-eight (48) hours after the seizure of
 7 the firearm.

8 (c) The court shall review the affidavit described in subsection (a)
 9 as soon as possible.

10 (d) If the court finds that probable cause exists to believe that the
 11 individual is dangerous, the court shall order the law enforcement
 12 agency having custody of the firearm to retain the firearm.

13 (e) A law enforcement agency responsible for the seizure of the
 14 firearm under this section shall file a search warrant return with the
 15 court setting forth the:

16 (1) quantity; and

17 (2) type;

18 of each firearm seized from an individual under this section. **The court**
 19 **shall provide information described under this subsection to the**
 20 **office of judicial administration in a manner required by the office.**

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

26 SECTION 11. IC 35-47-14-6, AS AMENDED BY P.L.289-2019,
 27 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2020]: Sec. 6. (a) The court shall conduct a hearing as
 29 required under this chapter.

30 (b) The state has the burden of proving all material facts by clear
 31 and convincing evidence.

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

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

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

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

41 (4) enjoining the individual from:

42 (A) renting;



- 1 (B) receiving transfer of;
 2 (C) owning; or
 3 (D) possessing;
 4 a firearm; and
 5 determine whether the individual should be referred to further
 6 proceedings to consider whether the individual should be involuntarily
 7 detained or committed under IC 12-26-6-2(a)(2)(B).
- 8 (d) If the court finds that the individual is dangerous under
 9 subsection (c), the clerk shall transmit the order of the court to the
 10 office of judicial administration for transmission to NICS (as defined
 11 in IC 35-47-2.5-2.5) **and for the collection of certain data related to**
 12 **the confiscation and retention of firearms taken from dangerous**
 13 **individuals** in accordance with IC 33-24-6-3.
- 14 (e) If the court orders a law enforcement agency to retain a firearm,
 15 the law enforcement agency shall retain the firearm until the court
 16 orders the firearm returned or otherwise disposed of.
- 17 (f) If the court determines that the state has failed to prove by clear
 18 and convincing evidence that the individual is dangerous, the court
 19 shall issue a written order that:
- 20 (1) the individual is not dangerous (as defined in section 1 of this
 21 chapter); and
 22 (2) the law enforcement agency having custody of the firearm
 23 shall return the firearm as quickly as practicable, but not later
 24 than five (5) days after the date of the order, to the individual
 25 from whom it was seized.
- 26 SECTION 12. IC 35-47-14-8, AS AMENDED BY P.L.289-2019,
 27 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2020]: Sec. 8. (a) At least one hundred eighty (180) days after
 29 the date on which a court orders a law enforcement agency to retain an
 30 individual's firearm under section 6(c) of this chapter, the individual
 31 may petition the court for a finding that the individual is no longer
 32 dangerous.
- 33 (b) Upon receipt of a petition described in subsection (a), the court
 34 shall:
- 35 (1) enter an order setting a date for a hearing on the petition; and
 36 (2) inform the prosecuting attorney of the date, time, and location
 37 of the hearing.
- 38 (c) The prosecuting attorney shall represent the state at the hearing
 39 on a petition under this section.
- 40 (d) In a hearing on a petition under this section, the individual may
 41 be represented by an attorney.
- 42 (e) In a hearing on a petition under this section filed:



- 1 (1) not later than one (1) year after the date of the order issued
2 under section 6(c) of this chapter, the individual must prove by a
3 preponderance of the evidence that the individual is no longer
4 dangerous; and
5 (2) later than one (1) year after the date of the order issued under
6 section 6(c) of this chapter, the state must prove by clear and
7 convincing evidence that the individual is still dangerous.
- 8 (f) If, upon the completion of the hearing and consideration of the
9 record, the court finds that the individual is no longer dangerous, the
10 court shall:
- 11 (1) issue a court order that finds that the individual is no longer
12 dangerous;
13 (2) order the law enforcement agency having custody of any
14 firearm to return the firearm as quickly as practicable, but not
15 later than five (5) days after the date of the order, to the
16 individual;
17 (3) terminate any injunction issued under section 6 of this
18 chapter; and
19 (4) terminate the suspension of the individual's license to carry a
20 handgun so that the individual may reapply for a license.
- 21 (g) If the court denies an individual's petition under this section, the
22 individual may not file a subsequent petition until at least one hundred
23 eighty (180) days after the date on which the court denied the petition.
- 24 (h) If a court issues an order described under subsection (f), the
25 court's order shall be transmitted, as soon as practicable, to the office
26 of judicial administration for transmission to the NICS (as defined in
27 IC 35-47-2.5-2.5) **and for the collection of certain data related to the**
28 **confiscation and retention of firearms taken from dangerous**
29 **individuals** in accordance with IC 33-24-6-3.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1159, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 3. IC 33-24-6-3, AS AMENDED BY P.L.207-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 3. (a) The office of judicial administration shall do the following:

- (1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
- (2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the chief administrative officer and in compliance with procedures prescribed by the chief administrative officer, furnish the chief administrative officer the information as is requested concerning the nature and volume of judicial business. The information must include the following:
 - (A) The volume, condition, and type of business conducted by the courts.
 - (B) The methods of procedure in the courts.
 - (C) The work accomplished by the courts.
 - (D) The receipt and expenditure of public money by and for the operation of the courts.
 - (E) The methods of disposition or termination of cases.
- (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).
- (4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.
- (5) Administer the civil legal aid fund as required by IC 33-24-12.
- (6) Administer the court technology fund established by section



12 of this chapter.

(7) By December 31, 2013, develop and implement a standard protocol for sending and receiving court data:

(A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;

(B) at the option of the county prosecuting attorney, for:

(i) a prosecuting attorney's case management system;

(ii) a county court case management system; and

(iii) a county court case management system developed and operated by the office of judicial administration;

to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and

(C) between county court case management systems and the case management system developed and operated by the office of judicial administration.

The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost.

(8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm **and for the purpose of:**

(A) transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS; **and**

(B) collecting, monitoring, and publishing certain statistics related to the confiscation and retention of firearms as described under section 14 of this chapter.

(9) Establish and administer an electronic system for receiving drug related felony conviction information from courts. The office of judicial administration shall notify NPLeX of each drug related felony entered after June 30, 2012, and do the following:

(A) Provide NPLeX with the following information:

(i) The convicted individual's full name.

(ii) The convicted individual's date of birth.

(iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.

(iv) The date the individual was convicted of the felony.

Upon receipt of the information from the office of judicial administration, a stop sale alert must be generated through NPLeX for each individual reported under this clause.



(B) Notify NPLeX if the felony of an individual reported under clause (A) has been:

- (i) set aside;
- (ii) reversed;
- (iii) expunged; or
- (iv) vacated.

Upon receipt of information under this clause, NPLeX shall remove the stop sale alert issued under clause (A) for the individual.

(10) Staff the judicial technology oversight committee established by IC 33-23-17-2.

(11) After July 1, 2018, establish and administer an electronic system for receiving from courts felony conviction information for each felony described in IC 20-28-5-8(c). The office of judicial administration shall notify the department of education at least one (1) time each week of each felony described in IC 20-28-5-8(c) entered after July 1, 2018, and do the following:

(A) Provide the department of education with the following information:

- (i) The convicted individual's full name.
- (ii) The convicted individual's date of birth.
- (iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.
- (iv) The date the individual was convicted of the felony.

(B) Notify the department of education if the felony of an individual reported under clause (A) has been:

- (i) set aside;
- (ii) reversed; or
- (iii) vacated.

(12) Perform legal and administrative duties for the justices as determined by the justices.

(13) Provide staff support for the judicial conference of Indiana established in IC 33-38-9.

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

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

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

SECTION 4. IC 33-24-6-14 IS ADDED TO THE INDIANA CODE

HB 1159—LS 6886/DI 123



AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) The following terms are defined for this section:

- (1) "Dangerous" has the meaning set forth in IC 35-47-14-1.
- (2) "Firearm" has the meaning set forth in IC 35-47-1-5.
- (3) "Office" means the office of judicial administration created by section 1 of this chapter.

(b) The office shall track and record the following information:

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

(2) The number of:

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

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

(3) The total number of:

- (A) handguns; and
- (B) long guns;

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

(4) The:

- (A) county;
- (B) court of origin; and
- (C) judge;

responsible for each written court order that finds or does not find an individual to be dangerous under IC 35-47-14-6.

(5) The:

- (A) county;
- (B) court of origin; and
- (C) judge;

for each appeal of or reversal of a written court order that finds an individual to be dangerous under IC 35-47-14-6.

(6) The:

- (A) county;
- (B) court of origin; and
- (C) judge;

responsible for enacting or enforcing an agreed entry.

(c) The office shall, not later than January 1 of each year, submit a report to the general assembly in an electronic format under IC 5-14-6 that consolidates and presents the information described in subsection (b).



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

(1) The:

- (A) name;**
- (B) date of birth;**
- (C) Social Security number;**
- (D) address; or**
- (E) other unique identifier;**

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

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

(e) Information:

- (1) collected by the office; or**
- (2) used by the office;**

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

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

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

Page 3, after line 42, begin a new paragraph and insert:

"SECTION 5. IC 35-44.1-2-3, AS AMENDED BY P.L.107-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

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

(c) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

- (1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;
- (2) there has been or there will be tampering with a consumer product introduced into commerce; or
- (3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;



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

(d) A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

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

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

(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or missing endangered adult (as defined in IC 12-7-2-131.3) or gives false information in the official investigation of a missing child or missing endangered adult knowing the report or information to be false;

(5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3(b)) that employs the officer:

(A) alleging the officer engaged in misconduct while performing the officer's duties; and

(B) knowing the complaint to be false;

(6) makes a false report of a missing person, knowing the report or information is false; **or**

(7) gives a false report of actions, behavior, or conditions concerning:

(A) a septic tank soil absorption system under IC 8-1-2-125 or IC 13-26-5-2.5; or

(B) a septic tank soil absorption system or constructed wetland septic system under IC 36-9-23-30.1;

knowing the report or information to be false; **or**

(8) makes a false report that a person is dangerous (as defined in IC 35-47-14-1) knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to another person."

Page 5, after line 20, begin a new paragraph and insert:

"SECTION 8. IC 35-47-14-2, AS AMENDED BY P.L.289-2019, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 2. (a) A circuit or superior court may issue a warrant to search for and seize a firearm in the possession of an individual who is dangerous if:



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

(A) states why the law enforcement officer believes that the individual is dangerous and in possession of a firearm; and
(B) describes the law enforcement officer's interactions and conversations with:

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

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

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

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

(A) dangerous; and
(B) in possession of a firearm.

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

(1) quantity; and
(2) type;

of each firearm seized from an individual under this section. **The court shall provide information described under this subsection to the office of judicial administration in a manner required by the office.**

SECTION 9. IC 35-47-14-3, AS AMENDED BY P.L.289-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) If a law enforcement officer seizes a firearm from an individual whom the law enforcement officer believes to be dangerous without obtaining a warrant, the law enforcement officer shall submit to the circuit or superior court having jurisdiction over the individual believed to be dangerous an affidavit describing the basis for the law enforcement officer's belief that the individual is dangerous.

(b) An affidavit described in subsection (a) shall be submitted to a circuit or superior court having jurisdiction over the individual believed to be dangerous not later than forty-eight (48) hours after the seizure of the firearm.

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

(d) If the court finds that probable cause exists to believe that the individual is dangerous, the court shall order the law enforcement



agency having custody of the firearm to retain the firearm.

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

- (1) quantity; and
- (2) type;

of each firearm seized from an individual under this section. **The court shall provide information described under this subsection to the office of judicial administration in a manner required by the office.**

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

SECTION 10. IC 35-47-14-6, AS AMENDED BY P.L.289-2019, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) The court shall conduct a hearing as required under this chapter.

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

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

- (1) finding the individual is dangerous (as defined in section 1 of this chapter);
- (2) ordering the law enforcement agency having custody of the seized firearm to retain the firearm;
- (3) ordering the individual's license to carry a handgun, if applicable, suspended; and
- (4) enjoining the individual from:
 - (A) renting;
 - (B) receiving transfer of;
 - (C) owning; or
 - (D) possessing;

a firearm; and

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

(d) If the court finds that the individual is dangerous under subsection (c), the clerk shall transmit the order of the court to the office of judicial administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) **and for the collection of certain data related to**



the confiscation and retention of firearms taken from dangerous individuals in accordance with IC 33-24-6-3.

(e) If the court orders a law enforcement agency to retain a firearm, the law enforcement agency shall retain the firearm until the court orders the firearm returned or otherwise disposed of.

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

- (1) the individual is not dangerous (as defined in section 1 of this chapter); and
- (2) the law enforcement agency having custody of the firearm shall return the firearm as quickly as practicable, but not later than five (5) days after the date of the order, to the individual from whom it was seized.

SECTION 11. IC 35-47-14-8, AS AMENDED BY P.L.289-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) At least one hundred eighty (180) days after the date on which a court orders a law enforcement agency to retain an individual's firearm under section 6(c) of this chapter, the individual may petition the court for a finding that the individual is no longer dangerous.

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

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

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

(d) In a hearing on a petition under this section, the individual may be represented by an attorney.

(e) In a hearing on a petition under this section filed:

- (1) not later than one (1) year after the date of the order issued under section 6(c) of this chapter, the individual must prove by a preponderance of the evidence that the individual is no longer dangerous; and
- (2) later than one (1) year after the date of the order issued under section 6(c) of this chapter, the state must prove by clear and convincing evidence that the individual is still dangerous.

(f) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is no longer dangerous, the court shall:

- (1) issue a court order that finds that the individual is no longer



dangerous;

(2) order the law enforcement agency having custody of any firearm to return the firearm as quickly as practicable, but not later than five (5) days after the date of the order, to the individual;

(3) terminate any injunction issued under section 6 of this chapter; and

(4) terminate the suspension of the individual's license to carry a handgun so that the individual may reapply for a license.

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

(h) If a court issues an order described under subsection (f), the court's order shall be transmitted, as soon as practicable, to the office of judicial administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) **and for the collection of certain data related to the confiscation and retention of firearms taken from dangerous individuals** in accordance with IC 33-24-6-3."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1159 as introduced.)

MCNAMARA

Committee Vote: yeas 11, nays 0.

