

HOUSE BILL No. 1383

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-24-6; IC 35-47-14.

Synopsis: Information concerning seizure of firearms. 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. Requires a court to provide certain information to the office of judicial administration after issuing a finding concerning a person's dangerousness. Defines certain terms.

Effective: July 1, 2020.

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January 15, 2020, read first time and referred to Committee on Courts and Criminal Code.



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. 1383

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 33-24-6-3, AS AMENDED BY P.L.207-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 3. (a) The office of judicial administration shall
4 do the following:

5 (1) Examine the administrative and business methods and systems
6 employed in the offices of the clerks of court and other offices
7 related to and serving the courts and make recommendations for
8 necessary improvement.

9 (2) Collect and compile statistical data and other information on
10 the judicial work of the courts in Indiana. All justices of the
11 supreme court, judges of the court of appeals, judges of all trial
12 courts, and any city or town courts, whether having general or
13 special jurisdiction, court clerks, court reporters, and other
14 officers and employees of the courts shall, upon notice by the
15 chief administrative officer and in compliance with procedures
16 prescribed by the chief administrative officer, furnish the chief
17 administrative officer the information as is requested concerning



1 the nature and volume of judicial business. The information must
2 include the following:

3 (A) The volume, condition, and type of business conducted by
4 the courts.

5 (B) The methods of procedure in the courts.

6 (C) The work accomplished by the courts.

7 (D) The receipt and expenditure of public money by and for
8 the operation of the courts.

9 (E) The methods of disposition or termination of cases.

10 (3) Prepare and publish reports, not less than one (1) or more than
11 two (2) times per year, on the nature and volume of judicial work
12 performed by the courts as determined by the information
13 required in subdivision (2).

14 (4) Serve the judicial nominating commission and the judicial
15 qualifications commission in the performance by the commissions
16 of their statutory and constitutional functions.

17 (5) Administer the civil legal aid fund as required by IC 33-24-12.

18 (6) Administer the court technology fund established by section
19 12 of this chapter.

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

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

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

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

26 (ii) a county court case management system; and

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

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

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

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

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

42 (A) transmitting this information to the Federal Bureau of



- 1 Investigation for inclusion in the NICS; and
 2 **(B) collecting, monitoring, and publishing certain statistics**
 3 **related to the confiscation and retention of firearms as**
 4 **described under section 14 of this chapter.**
 5 (9) Establish and administer an electronic system for receiving
 6 drug related felony conviction information from courts. The office
 7 of judicial administration shall notify NPLeX of each drug related
 8 felony entered after June 30, 2012, and do the following:
 9 (A) Provide NPLeX with the following information:
 10 (i) The convicted individual's full name.
 11 (ii) The convicted individual's date of birth.
 12 (iii) The convicted individual's driver's license number, state
 13 personal identification number, or other unique number, if
 14 available.
 15 (iv) The date the individual was convicted of the felony.
 16 Upon receipt of the information from the office of judicial
 17 administration, a stop sale alert must be generated through
 18 NPLeX for each individual reported under this clause.
 19 (B) Notify NPLeX if the felony of an individual reported under
 20 clause (A) has been:
 21 (i) set aside;
 22 (ii) reversed;
 23 (iii) expunged; or
 24 (iv) vacated.
 25 Upon receipt of information under this clause, NPLeX shall
 26 remove the stop sale alert issued under clause (A) for the
 27 individual.
 28 (10) Staff the judicial technology oversight committee established
 29 by IC 33-23-17-2.
 30 (11) After July 1, 2018, establish and administer an electronic
 31 system for receiving from courts felony conviction information for
 32 each felony described in IC 20-28-5-8(c). The office of judicial
 33 administration shall notify the department of education at least
 34 one (1) time each week of each felony described in
 35 IC 20-28-5-8(c) entered after July 1, 2018, and do the following:
 36 (A) Provide the department of education with the following
 37 information:
 38 (i) The convicted individual's full name.
 39 (ii) The convicted individual's date of birth.
 40 (iii) The convicted individual's driver's license number, state
 41 personal identification number, or other unique number, if
 42 available.



- 1 (iv) The date the individual was convicted of the felony.
 2 (B) Notify the department of education if the felony of an
 3 individual reported under clause (A) has been:
 4 (i) set aside;
 5 (ii) reversed; or
 6 (iii) vacated.
 7 (12) Perform legal and administrative duties for the justices as
 8 determined by the justices.
 9 (13) Provide staff support for the judicial conference of Indiana
 10 established in IC 33-38-9.
 11 (14) Work with the United States Department of Veterans Affairs
 12 to identify and address the needs of veterans in the court system.
 13 (b) All forms to be used in gathering data must be approved by the
 14 supreme court and shall be distributed to all judges and clerks before
 15 the start of each period for which reports are required.
 16 (c) The office of judicial administration may adopt rules to
 17 implement this section.
 18 SECTION 2. IC 33-24-6-14 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2020]: **Sec. 14. (a) The following terms are defined for this**
 21 **section:**
 22 (1) "Dangerous" has the meaning set forth in IC 35-47-14-1.
 23 (2) "Firearm" has the meaning set forth in IC 35-47-1-5.
 24 (3) "Office" means the office of judicial administration
 25 created by section 1 of this chapter.
 26 (b) The office shall track and record the following information:
 27 (1) The name of the law enforcement agency responsible for
 28 each confiscation of a firearm under IC 35-47-14-2 and
 29 IC 35-47-14-3.
 30 (2) The number of:
 31 (A) warrant based firearm confiscations under
 32 IC 35-47-14-2; and
 33 (B) warrantless firearm confiscations under IC 35-47-14-3;
 34 for each county, as applicable, each year.
 35 (3) The total number of:
 36 (A) handguns; and
 37 (B) long guns;
 38 confiscated under IC 35-47-14 for each county, as applicable,
 39 each year.
 40 (4) The:
 41 (A) county;
 42 (B) court of origin; and



- 1 (C) judge;
 2 responsible for each written court order that finds or does not
 3 find an individual to be dangerous under IC 35-47-14-6.
 4 (5) The:
 5 (A) county;
 6 (B) court of origin; and
 7 (C) judge;
 8 for each appeal of or reversal of a written court order that
 9 finds an individual to be dangerous under IC 35-47-14-6.
 10 (6) The:
 11 (A) county;
 12 (B) court of origin; and
 13 (C) judge;
 14 responsible for enacting or enforcing an agreed entry.
 15 (c) The office shall, not later than January 1 of each year,
 16 submit a report to the general assembly in an electronic format
 17 under IC 5-14-6 that consolidates and presents the information
 18 described in subsection (b).
 19 (d) Notwithstanding subsections (b) and (c), the office shall not
 20 collect, store, disclose, distribute, transfer, or provide the following
 21 information to any assembly, person, entity, agency, or
 22 department:
 23 (1) The:
 24 (A) name;
 25 (B) date of birth;
 26 (C) Social Security number;
 27 (D) address; or
 28 (E) other unique identifier;
 29 belonging to or associated with an individual alleged to be
 30 dangerous by a law enforcement officer or found to be
 31 dangerous by a circuit or superior court.
 32 (2) The make, model, or serial number of any handgun, long
 33 gun, or firearm seized, confiscated, retained, disposed of, or
 34 sold under IC 35-47-14.
 35 (e) Information:
 36 (1) collected by the office; or
 37 (2) used by the office;
 38 to prepare the report described in subsection (c) is confidential and
 39 not subject to public inspection or copying under IC 5-14-3-3.
 40 (f) The office shall make the report described in subsection (c)
 41 available to the public.
 42 (g) The office may adopt rules under IC 4-22-2 to implement



1 **this section.**

2 SECTION 3. IC 35-47-14-2, AS AMENDED BY P.L.289-2019,
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 2. (a) A circuit or superior court may issue a
5 warrant to search for and seize a firearm in the possession of an
6 individual who is dangerous if:

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

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

11 (B) describes the law enforcement officer's interactions and
12 conversations with:

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

14 (ii) another individual, if the law enforcement officer
15 believes that information obtained from this individual is
16 credible and reliable;

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

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

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

23 (A) dangerous; and

24 (B) in possession of a firearm.

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

28 (1) quantity; and

29 (2) type;

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

33 SECTION 4. IC 35-47-14-3, AS AMENDED BY P.L.289-2019,
34 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2020]: Sec. 3. (a) If a law enforcement officer seizes a firearm
36 from an individual whom the law enforcement officer believes to be
37 dangerous without obtaining a warrant, the law enforcement officer
38 shall submit to the circuit or superior court having jurisdiction over the
39 individual believed to be dangerous an affidavit describing the basis for
40 the law enforcement officer's belief that the individual is dangerous.

41 (b) An affidavit described in subsection (a) shall be submitted to a
42 circuit or superior court having jurisdiction over the individual believed



1 to be dangerous not later than forty-eight (48) hours after the seizure of
2 the firearm.

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

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

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

11 (1) quantity; and

12 (2) type;

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

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

21 SECTION 5. IC 35-47-14-6, AS AMENDED BY P.L.289-2019,
22 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2020]: Sec. 6. (a) The court shall conduct a hearing as
24 required under this chapter.

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

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

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

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

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

36 (4) enjoining the individual from:

37 (A) renting;

38 (B) receiving transfer of;

39 (C) owning; or

40 (D) possessing;

41 a firearm; and

42 determine whether the individual should be referred to further



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

3 (d) If the court finds that the individual is dangerous under
4 subsection (c), the clerk shall transmit the order of the court to the
5 office of judicial administration for transmission to NICS (as defined
6 in IC 35-47-2.5-2.5) **and for the collection of certain data related to**
7 **the confiscation and retention of firearms taken from dangerous**
8 **individuals** in accordance with IC 33-24-6-3.

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

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

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

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

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

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

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

31 (2) inform the prosecuting attorney of the date, time, and location
32 of the hearing.

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

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

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

38 (1) not later than one (1) year after the date of the order issued
39 under section 6(c) of this chapter, the individual must prove by a
40 preponderance of the evidence that the individual is no longer
41 dangerous; and

42 (2) later than one (1) year after the date of the order issued under



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

