

# HOUSE BILL No. 1445

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-47-3-2.

**Synopsis:** Destruction of firearms. Removes destruction as one of the options that a law enforcement agency is permitted to use when disposing of certain firearms in the law enforcement agency's possession.

**Effective:** July 1, 2017.

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January 24, 2017, read first time and referred to Committee on Public Policy.

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First Regular Session of the 120th General Assembly (2017)

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.

## HOUSE BILL No. 1445

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

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

1 SECTION 1. IC 35-47-3-2, AS AMENDED BY P.L.157-2014,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 2. (a) This section applies only to firearms which  
4 are not required to be registered in the National Firearms Registration  
5 and Transfer Record.  
6 (b) Firearms shall be returned to the rightful owner at once  
7 following final disposition of the cause if a return has not already  
8 occurred under the terms of IC 35-33-5. If the rightful ownership is not  
9 known the law enforcement agency holding the firearm shall make a  
10 reasonable attempt to ascertain the rightful ownership and cause the  
11 return of the firearm. However, nothing in this chapter shall be  
12 construed as requiring the return of firearms to rightful owners who  
13 have been convicted for the misuse of firearms. In such cases, the court  
14 may provide for the return of the firearm in question or order that the  
15 firearm be at once delivered:  
16 (1) except as provided in subdivision (2), to the sheriff's  
17 department of the county in which the offense occurred; or



- 1 (2) to the city or town police force that confiscated the firearm.  
 2 (c) The receiving law enforcement agency shall dispose of firearms  
 3 under subsection (b), at the discretion of the law enforcement agency,  
 4 not more than one hundred twenty (120) days following receipt by use  
 5 of any of the following procedures:  
 6 (1) Public sale of the firearms to the general public as follows:  
 7 (A) Notice of the sale shall be:  
 8 (i) posted for ten (10) days in the county courthouse in a  
 9 place readily accessible to the general public; and  
 10 (ii) advertised in the principal newspaper of the county for  
 11 two (2) days in an advertisement that appears in the  
 12 newspaper at least five (5) days prior to the sale.  
 13 (B) Disposition of the firearm shall be by public auction in a  
 14 place convenient to the general public, with disposition going  
 15 to the highest bidder. However, no firearm shall be transferred  
 16 to any bidder if that bidder is not lawfully eligible to receive  
 17 and possess firearms according to the laws of the United States  
 18 and Indiana.  
 19 (C) All handguns transferred under this subdivision shall also  
 20 be transferred according to the transfer procedures set forth in  
 21 this article.  
 22 (D) Money collected pursuant to the sales shall first be used to  
 23 defray the necessary costs of administering this subdivision  
 24 with any surplus to be:  
 25 (i) deposited into the receiving law enforcement agency's  
 26 firearms training fund, other appropriate training activities  
 27 fund, or any other fund that may be used by the receiving  
 28 law enforcement agency for the purchase and maintenance  
 29 of firearms, ammunition, vests, and other law enforcement  
 30 equipment; and  
 31 (ii) used by the agency exclusively to train law enforcement  
 32 officers in the proper use of firearms or other law  
 33 enforcement duties, and to purchase and maintain firearms,  
 34 ammunition, vests, and other law enforcement equipment.  
 35 A law enforcement agency may not sell a firearm to the general  
 36 public if the firearm is unsafe to operate because it has been  
 37 damaged or altered.  
 38 (2) Sale of the firearms to a licensed firearms dealer as follows:  
 39 (A) Notice of the sale must be:  
 40 (i) posted for ten (10) days in the county courthouse in a  
 41 place readily accessible to the general public; and  
 42 (ii) advertised in the principal newspaper of the county for



- 1 two (2) days in an advertisement that appears in the  
2 newspaper at least five (5) days before the sale.
- 3 (B) Disposition of the firearm shall be by auction with  
4 disposition going to the highest bidder who is a licensed  
5 firearms dealer.
- 6 (C) Money collected from the sales shall first be used to defray  
7 the necessary costs of administering this subdivision and any  
8 surplus shall be:
- 9 (i) deposited into the receiving law enforcement agency's  
10 firearms training fund, other appropriate training activities  
11 fund, or any other fund that may be used by the receiving  
12 law enforcement agency for the purchase and maintenance  
13 of firearms, ammunition, vests, and other law enforcement  
14 equipment; and
- 15 (ii) used by the agency exclusively to train law enforcement  
16 officers in the proper use of firearms or other law  
17 enforcement duties, and to purchase and maintain firearms,  
18 ammunition, vests, and other law enforcement equipment.
- 19 A law enforcement agency may sell a firearm to a licensed  
20 firearms dealer for salvage or repair, even if the firearm is unsafe  
21 to operate because it has been damaged or altered.
- 22 (3) Sale or transfer of the firearms to another law enforcement  
23 agency.
- 24 (4) Release to the state police department laboratory or other  
25 forensic laboratory administered by the state or a political  
26 subdivision (as defined in IC 36-1-2-13) for the purposes of  
27 research, training, and comparison in conjunction with the  
28 forensic examination of firearms evidence.
- 29 ~~(5) Destruction of the firearms: A firearm that is to be destroyed  
30 may be sold to a salvage company and destroyed by dismantling  
31 the firearm for parts, scrap metal, or recycling, or for resale as  
32 parts for other firearms.~~
- 33 (d) Notwithstanding the requirement of this section mandating  
34 disposal of firearms not more than one hundred twenty (120) days  
35 following receipt, the receiving law enforcement agency may at its  
36 discretion hold firearms it may receive until a sufficient number has  
37 accumulated to defray the costs of administering this section if a delay  
38 does not exceed one hundred eighty (180) days from the date of receipt  
39 of the first firearm in the sale lot. In addition, the receiving law  
40 enforcement agency may, at its discretion, jointly sell firearms it has  
41 received with another law enforcement agency, or permit another law  
42 enforcement agency to sell firearms it has received on behalf of the



1 receiving law enforcement agency. In any event, all confiscated  
2 firearms shall be disposed of as promptly as possible.

3 (e) When a firearm is delivered to the state police department  
4 laboratory or other forensic laboratory under subsection (c)(4) and the  
5 state police department laboratory or other forensic laboratory  
6 determines the laboratory has no further need for the firearm in  
7 question, the laboratory shall return the firearm to the law enforcement  
8 agency for disposal under subsection (c).

