

HOUSE BILL No. 1558

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-24-1-4; IC 36-8-25.5.

Synopsis: Major crimes task force. Establishes the central Indiana major crimes task force (task force) to address violent crime in Boone, Hamilton, Hancock, Hendricks, Marion, Morgan, Johnson, and Shelby counties by delivering, in cooperation with state and federal officials, a uniform strategy to trace firearms used to commit crimes. Establishes an executive board to direct and oversee the task force. Makes conforming amendments.

Effective: July 1, 2021.

Steuerwald

January 14, 2021, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1558

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 34-24-1-4, AS AMENDED BY P.L.66-2019,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 4. (a) At the hearing, the prosecuting attorney
4 must show by a preponderance of the evidence that the property was
5 within the definition of property subject to seizure under section 1 of
6 this chapter. If the property seized was a vehicle, the prosecuting
7 attorney must also show by a preponderance of the evidence that a
8 person who has an ownership interest of record in the bureau of motor
9 vehicles knew or had reason to know that the vehicle was being used
10 in the commission of the offense.

11 (b) If the prosecuting attorney fails to meet the burden of proof, the
12 court shall order the property released to the owner, unless the owner's
13 possession of the property is illegal. If property is released to the owner
14 under this subsection, the owner is not subject to or responsible for any
15 charges for storage of the property or other expenses incurred in the
16 preservation of the property.

17 (c) If the court enters judgment in favor of the state, the court,



1 subject to section 5 of this chapter, shall order distribution of the
 2 property in accordance with subsection (d). The court's order may
 3 permit the law enforcement agency to use the property for a period not
 4 to exceed three (3) years. However, the order must require that, after
 5 the period specified by the court, the law enforcement agency shall
 6 deliver the property to the county sheriff for public sale.

7 (d) If the court enters judgment in favor of the state, the court shall,
 8 subject to section 5 of this chapter order that:

9 (1) the property, if it is not money or real property, be sold under
 10 section 6 of this chapter, by the sheriff of the county in which the
 11 property was seized, and if the property is a vehicle, this sale must
 12 occur after any period of use specified in subsection (c);

13 (2) the property, if it is real property, be sold in the same manner
 14 as real property is sold on execution under IC 34-55-6; and

15 (3) the proceeds of the sale or the money be distributed as
 16 follows:

17 (A) To pay attorney's fees, if outside counsel is employed
 18 under section 8 of this chapter.

19 (B) After payment of attorney's fees under clause (A), one
 20 third (1/3) of the remaining amount shall be deposited into the
 21 forfeiture fund established by the prosecuting attorney to offset
 22 expenses incurred in connection with the investigation and
 23 prosecution of the action.

24 (C) Except as provided in clause (D), after distribution of the
 25 proceeds described in clauses (A) and (B), if applicable,
 26 eighty-five percent (85%) of the remaining proceeds shall be
 27 deposited in the:

28 (i) general fund of the state;

29 (ii) general fund of the unit that employed the law
 30 enforcement officers that seized the property; **or**

31 (iii) county law enforcement fund established for the support
 32 of the drug task force; **or**

33 **(iv) central Indiana major crimes task force fund**
 34 **established for the support of the task force under**
 35 **IC 36-8-25.5-8;**

36 as determined by the court, to offset expenses incurred in the
 37 investigation of the acts giving rise to the action.

38 (D) After distribution of the proceeds described in clauses (A)
 39 and (B), if applicable, eighty-five percent (85%) of the
 40 remaining proceeds shall be deposited in the general fund of
 41 a unit if the property was seized by a local law enforcement
 42 agency of the unit for an offense, an attempted offense, or a



1 conspiracy to commit a felony terrorist offense (as defined in
2 IC 35-50-2-18) or an offense under IC 35-47 as part of or in
3 furtherance of an act of terrorism.

4 The court shall order that the proceeds remaining after the distribution
5 of funds to offset expenses described in subdivision (3) be forfeited and
6 transferred to the treasurer of state for deposit in the common school
7 fund.

8 (e) If property that is seized under this chapter (or IC 34-4-30.1-4
9 before its repeal) is transferred:

10 (1) after its seizure, but before an action is filed under section 3
11 of this chapter (or IC 34-4-30.1-3 before its repeal); or

12 (2) when an action filed under section 3 of this chapter (or
13 IC 34-4-30.1-3 before its repeal) is pending;

14 the person to whom the property is transferred must establish an
15 ownership interest of record as a bona fide purchaser for value. A
16 person is a bona fide purchaser for value under this section if the
17 person, at the time of the transfer, did not have reasonable cause to
18 believe that the property was subject to forfeiture under this chapter.

19 (f) If the property seized was an unlawful telecommunications
20 device (as defined in IC 35-45-13-6) or plans, instructions, or
21 publications used to commit an offense under IC 35-45-13, the court
22 may order the sheriff of the county in which the person was convicted
23 of an offense under IC 35-45-13 to destroy as contraband or to
24 otherwise lawfully dispose of the property.

25 SECTION 2. IC 36-8-25.5 IS ADDED TO THE INDIANA CODE
26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2021]:

28 **Chapter 25.5. Central Indiana Major Crimes Task Force**

29 **Sec. 1. The following definitions apply throughout this chapter:**

30 (1) "Executive board" means the executive board established
31 by section 3 of this chapter.

32 (2) "Police powers" has the meaning set forth in
33 IC 36-8-17-7.5.

34 (3) "Task force" means the central Indiana major crimes task
35 force established by section 2 of this chapter.

36 (4) "Task force area" means one (1) or more of the following
37 counties:

38 (A) Boone County.

39 (B) Hamilton County.

40 (C) Hancock County.

41 (D) Hendricks County.

42 (E) Marion County.



1 (F) Morgan County.

2 (G) Johnson County.

3 (H) Shelby County.

4 Sec. 2. (a) The central Indiana major crimes task force is
5 established as a body corporate and politic and an instrumentality
6 of the state. In addition to other powers specified in this chapter,
7 the task force has the following powers:

8 (1) To sue and be sued.

9 (2) To enter into a contract.

10 (3) To acquire and hold real and personal property by
11 purchase, lease, exchange, grant, or gift.

12 The task force is separate from the state or a political subdivision,
13 but the exercise of its powers constitutes an essential governmental
14 function. Except as otherwise provided in this chapter, the exercise
15 of a power by the task force is not subject to ratification by any
16 other entity. The task force does not have the power of eminent
17 domain.

18 (b) The purpose of the task force is to reduce violent crime and
19 bring violent criminals to justice by delivering, in cooperation with
20 state and federal officials, a uniform strategy to trace firearms
21 used to commit crimes.

22 (c) The task force consists of:

23 (1) the executive board;

24 (2) an executive director;

25 (3) law enforcement officers assigned to the task force by a
26 law enforcement agency located in the task force area; and

27 (4) other employees and staff, whether assigned to the task
28 force by a law enforcement agency or employed directly by
29 the task force.

30 (d) Except as otherwise provided by the executive board, a law
31 enforcement officer assigned to or employed by the task force has
32 jurisdiction to exercise police powers throughout the task force
33 area.

34 (e) The task force may receive confidential law enforcement
35 information from the state police department, the Federal Bureau
36 of Investigation, or other federal, state, or local law enforcement
37 agencies. For purposes of IC 5-14-1.5 and IC 5-14-3, information
38 received under this subsection is confidential.

39 Sec. 3. (a) The task force executive board is established to
40 oversee and direct the operations of the task force.

41 (b) The executive board consists of:

42 (1) one (1) member appointed by the mayor of Indianapolis;



- 1 (2) one (1) member appointed by the mayor of Fishers;
 2 (3) one (1) member appointed by the mayor of Carmel;
 3 (4) one (1) member appointed by a majority of the members
 4 of the advisory board established under section 6(3) of this
 5 chapter; and
 6 (5) one (1) nonvoting member appointed by:
 7 (A) the federal Bureau of Alcohol, Tobacco, Firearms and
 8 Explosives, if the bureau appoints a member to the
 9 executive board; or
 10 (B) the governor, if the bureau does not appoint a member
 11 to the executive board.

12 A member of the executive board serves at the pleasure of the
 13 appointing authority (or, in the case of the member appointed
 14 under subdivision (4), at the pleasure of a majority of the members
 15 of the advisory board), and any vacancy in the executive board
 16 shall be filled by the authority who appointed the original member.

17 (c) At the first meeting of the executive board, the executive
 18 board shall:

- 19 (1) select a chairperson and a vice chairperson from among
 20 the voting members of the executive board; and
 21 (2) establish the advisory board described in section 6(3) of
 22 this chapter.

23 If the executive board is unable to agree on a chairperson or a vice
 24 chairperson, or both, the governor shall make the appointment.
 25 The chairperson and the vice chairperson serve a one (1) year term
 26 and may be selected to serve additional terms. The vice
 27 chairperson shall act as the chairperson if the chairperson is
 28 unable to attend a meeting.

29 (d) The executive board shall hold meetings at the call of the
 30 chairperson. The executive board may establish rules governing
 31 meetings.

32 (e) Three (3) executive board members constitute a quorum for
 33 the transaction of business. Each member has one (1) vote, and
 34 action by the executive board may be taken only upon the
 35 affirmative votes of at least two (2) members. If a vote is a tie, the
 36 position for which the chairperson voted prevails, as long as that
 37 position has received the affirmative votes of at least two (2)
 38 members.

39 (f) A member of the executive board is not entitled to:

- 40 (1) the minimum salary per diem provided by
 41 IC 4-10-11-2.1(b); or
 42 (2) reimbursement for traveling and other expenses as



1 provided under IC 4-13-1-4.

2 **Sec. 4. (a) The executive board shall appoint an executive**
 3 **director to assist the executive board in the efficient administration**
 4 **of its powers and duties, and shall set the salary of the executive**
 5 **director. The person appointed as executive director must have at**
 6 **least ten (10) years of experience as a law enforcement officer, with**
 7 **at least five (5) years of command experience.**

8 **(b) The executive director:**

9 **(1) shall oversee the day to day operations of the task force,**
 10 **including supervision of task force divisions;**

11 **(2) is the executive agent of the executive board in the**
 12 **administration of the executive board's policies; and**

13 **(3) has the other powers and duties delegated to the executive**
 14 **director by the executive board.**

15 **(c) Subject to the approval of the executive board, the executive**
 16 **director shall:**

17 **(1) employ; and**

18 **(2) determine the qualifications, compensation, and duties;**
 19 **of employees and staff necessary to carry out the operations of the**
 20 **task force.**

21 **Sec. 5. (a) The chairperson is the presiding officer at the**
 22 **meetings of the executive board. The chairperson, together with the**
 23 **executive director, shall prepare, certify, and authenticate all**
 24 **proceedings, minutes, records, rules, and regulations of the**
 25 **executive board.**

26 **(b) The executive board has the general power to organize its**
 27 **work and to enforce and administer this chapter.**

28 **Sec. 6. The executive board shall do the following:**

29 **(1) Work with the executive director to develop a**
 30 **memorandum of understanding to be used with participating**
 31 **law enforcement agencies. The memorandum of**
 32 **understanding must include:**

33 **(A) staffing and personnel requirements;**

34 **(B) standard operating procedures for investigating crimes**
 35 **involving firearms; and**

36 **(C) a requirement that all participating law enforcement**
 37 **agencies use the National Integrated Ballistic Information**
 38 **Network (NIBIN).**

39 **A memorandum of understanding must comply with section**
 40 **7 of this chapter.**

41 **(2) Provide a quarterly report to the governor and the**
 42 **legislative council concerning the activities of the task force.**



- 1 **The report to the legislative council must be in an electronic**
 2 **format under IC 5-14-6.**
- 3 **(3) Appoint an advisory board to advise the executive board.**
 4 **Members of the advisory board shall be appointed by the**
 5 **executive board, and must include the head of each**
 6 **participating law enforcement agency or that person's**
 7 **designee. At its first meeting, the advisory board shall appoint**
 8 **the member of the executive board described in section 3(b)(4)**
 9 **of this chapter. The executive board shall determine the rules**
 10 **and procedures for the advisory board, including rules for the**
 11 **appointment of the executive board member.**
- 12 **(4) Authorize employees of the task force to participate in the**
 13 **public employees' retirement fund (PERF) and take or direct**
 14 **the executive director to take all necessary steps under**
 15 **IC 5-10.3 to permit employees of the task force to participate**
 16 **in the public employees' retirement fund.**
- 17 **Sec. 7. Personnel assigned to the task force by a participating**
 18 **law enforcement agency remain employees of the participating**
 19 **agency and not of the task force. The following applies to personnel**
 20 **assigned to the task force by a participating law enforcement**
 21 **agency:**
- 22 **(1) The participating agency is responsible for the conduct of**
 23 **personnel it assigned to the task force.**
- 24 **(2) The participating agency is responsible for:**
- 25 **(A) worker's compensation; and**
 26 **(B) medical expenses;**
 27 **of personnel it assigned to the task force.**
- 28 **(3) For purposes of tort liability, including liability under the**
 29 **Indiana tort claims act, personnel from a participating agency**
 30 **remain, while rendering assistance or aid to the task force, or**
 31 **while en route to or from rendering assistance or aid to the**
 32 **task force, employees of the participating law enforcement**
 33 **agency.**
- 34 **(4) A participating law enforcement agency shall provide for**
 35 **the payment of compensation and benefits to:**
- 36 **(A) an injured member; and**
 37 **(B) a representative of a deceased member;**
 38 **of the participating agency, if the member is injured or killed**
 39 **while assigned to the task force in the same manner and on**
 40 **the same terms as if the injury or death were sustained while**
 41 **the member was acting within the member's own jurisdiction.**
- 42 **(5) The task force is not responsible, in whole or in part, for**



- 1 any loss, damage, expense, or cost the participating law
2 enforcement agency incurs while participating in the task
3 force.
- 4 **Sec. 8. (a) The central Indiana major crimes task force fund is**
5 **established for the purpose of providing support for the operations**
6 **of the task force. Expenditures from the fund may be made only to**
7 **carry out the purposes of this subsection.**
- 8 **(b) The fund consists of the proceeds of civil forfeitures**
9 **deposited under IC 34-24-1-4.**
- 10 **(c) The executive board shall administer the fund.**
- 11 **(d) The expenses of administering the fund shall be paid from**
12 **the money in the fund.**
- 13 **(e) The treasurer of state shall invest the money in the fund not**
14 **currently needed to meet the obligations of the fund in the same**
15 **manner as other public money may be invested.**
- 16 **(f) Money in the fund at the end of a state fiscal year does not**
17 **revert to the state general fund.**
- 18 **Sec. 9. The expenses of the task force shall be paid:**
- 19 **(1) in accordance with the memorandum of understanding;**
20 **(2) through grants and donations made to the task force;**
21 **(3) from the central Indiana major crimes task force fund;**
22 **and**
23 **(4) from money appropriated to fund the task force.**

