



February 28, 2020

ENGROSSED

HOUSE BILL No. 1132

DIGEST OF HB 1132 (Updated February 25, 2020 1:02 pm - DI 106)

Citations Affected: IC 31-37; IC 31-39; IC 33-24; IC 35-31.5; IC 35-41; IC 35-44.1; IC 35-47; IC 35-50.

Synopsis: Criminal and juvenile law matters. Provides that the alteration or obliteration of certain markings on a firearm is a Level 5 felony. Provides that the possession of a firearm with altered or obliterated markings is a Level 5 felony. Requires a defendant to serve the sum of all executed time imposed under consecutive sentences before serving any suspended part imposed under consecutive sentences. Prohibits 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 (serious delinquent) from possessing a firearm unless the person is at least: (1) 26 years of age, in the case of less serious acts; or (2) 28 years of age, in the case of more serious acts. Makes possession of a firearm by a serious delinquent a Level 6 felony, and increases the penalty to a Level 5 felony for a second or subsequent offense. 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
(Continued next page)

Effective: July 1, 2020.

Steuerwald, McNamara, Hatfield

(SENATE SPONSORS — FREEMAN, YOUNG M, HOUCHIN)

January 8, 2020, read first time and referred to Committee on Courts and Criminal Code.
January 23, 2020, amended, reported — Do Pass.
January 27, 2020, read second time, ordered engrossed. Engrossed.
January 28, 2020, read third time, passed. Yeas 97, nays 1.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Corrections and Criminal Law.
February 27, 2020, amended, reported favorably — Do Pass.

EH 1132—LS 6855/DI 123



Digest Continued

consider the certain factors when evaluating a petition to expunge certain juvenile adjudications. Beginning January 1, 2021: (1) requires the office of judicial administration to collect and publish certain statistics related to the confiscation and retention of firearms; and (2) requires a court to provide certain information to the office of judicial administration after issuing a finding concerning a person's dangerousness. Provides that a person who knowingly makes a false report that another person is dangerous commits false informing, a Class B misdemeanor. Makes a technical correction and conforming amendments.

EH 1132—LS 6855/DI 123



February 28, 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.

ENGROSSED HOUSE BILL No. 1132

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 **would be a serious violent felony (as defined in IC 35-47-4-5) if**
11 **committed by an adult, the juvenile court shall, notwithstanding**
12 **IC 31-39-1, transmit the finding to the office of judicial**
13 **administration for transmission to NICS (as defined in**
14 **IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**
15 SECTION 2. IC 31-39-8-3, AS AMENDED BY P.L.86-2017,
16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2020]: Sec. 3. (a) A person may initiate a petition for the

EH 1132—LS 6855/DI 123



1 expungement of records of a child alleged to be a delinquent child or
2 a child in need of services by filing a verified petition in the juvenile
3 court in the county of the original action. The petition must set forth the
4 following:

5 (1) The allegations and date of adjudication, if applicable, of the
6 juvenile delinquency or child in need of services adjudications.

7 (2) The court in which juvenile delinquency or child in need of
8 services allegations or petitions were filed.

9 (3) The law enforcement agency that employs the charging
10 officer, if known.

11 (4) The case number or court cause number.

12 (5) Date of birth of the petitioner.

13 (6) Petitioner's Social Security number.

14 (7) All juvenile delinquency or child in need of services
15 adjudications and criminal convictions occurring after the
16 adjudication of the action sought to be expunged.

17 (8) All pending actions under IC 31-34 or IC 31-37 or criminal
18 charges.

19 (b) A petition described in subsection (a) shall be served on:

20 (1) the prosecuting attorney; or

21 (2) in the case of a child in need of services case, the department
22 of child services.

23 (c) The prosecuting attorney or department of child services has
24 thirty (30) days in which to reply or otherwise object to the petition.
25 The court may reduce the time in which a response must be filed for a
26 show of good cause or within its discretion after a hearing is held.

27 (d) If the prosecuting attorney or department of child services timely
28 files an objection to the petition, the matter shall be set for a hearing.
29 If no objection is filed, the court may set the petition for a hearing or
30 rule on the petition without a hearing.

31 (e) In considering whether to grant the petition, the juvenile court
32 may review:

33 (1) the best interests of the child;

34 (2) the age of the person during the person's contact with the
35 juvenile court or law enforcement agency;

36 (3) the nature of any allegations;

37 (4) whether there was an informal adjustment or an adjudication;

38 (5) the disposition of the case;

39 (6) the manner in which the person participated in any court
40 ordered or supervised services;

41 (7) the time during which the person has been without contact
42 with the juvenile court or with any law enforcement agency;



- 1 (8) whether the person acquired a criminal record; ~~and~~
- 2 (9) the person's current status;
- 3 **(10) whether the person has been:**
- 4 **(A) charged with; or**
- 5 **(B) convicted of;**
- 6 **murder or another felony offense as an adult;**
- 7 **(11) whether the person was waived to an adult criminal court**
- 8 **for a reason described in IC 31-30-3;**
- 9 **(12) whether an adult sentence for the person was not**
- 10 **suspended for a reason described in IC 35-50-2-2.1;**
- 11 **(13) whether the person has been adjudicated a delinquent**
- 12 **child for committing an act that would be a serious violent**
- 13 **felony (as defined in IC 35-47-4-5) if committed by an adult;**
- 14 **and**
- 15 **(14) whether:**
- 16 **(A) the person is currently suffering from a mental health**
- 17 **issue;**
- 18 **(B) the mental health issue described in clause (A) is**
- 19 **chronic or ongoing;**
- 20 **(C) the person has received, or is receiving, treatment for**
- 21 **a current or chronic mental health issue; and**
- 22 **(D) the person is compliant with a treatment regimen**
- 23 **recommended by a mental health professional, if**
- 24 **applicable.**

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

- 29 (1) Examine the administrative and business methods and systems
- 30 employed in the offices of the clerks of court and other offices
- 31 related to and serving the courts and make recommendations for
- 32 necessary improvement.
- 33 (2) Collect and compile statistical data and other information on
- 34 the judicial work of the courts in Indiana. All justices of the
- 35 supreme court, judges of the court of appeals, judges of all trial
- 36 courts, and any city or town courts, whether having general or
- 37 special jurisdiction, court clerks, court reporters, and other
- 38 officers and employees of the courts shall, upon notice by the
- 39 chief administrative officer and in compliance with procedures
- 40 prescribed by the chief administrative officer, furnish the chief
- 41 administrative officer the information as is requested concerning
- 42 the nature and volume of judicial business. The information must



- 1 include the following:
- 2 (A) The volume, condition, and type of business conducted by
- 3 the courts.
- 4 (B) The methods of procedure in the courts.
- 5 (C) The work accomplished by the courts.
- 6 (D) The receipt and expenditure of public money by and for
- 7 the operation of the courts.
- 8 (E) The methods of disposition or termination of cases.
- 9 (3) Prepare and publish reports, not less than one (1) or more than
- 10 two (2) times per year, on the nature and volume of judicial work
- 11 performed by the courts as determined by the information
- 12 required in subdivision (2).
- 13 (4) Serve the judicial nominating commission and the judicial
- 14 qualifications commission in the performance by the commissions
- 15 of their statutory and constitutional functions.
- 16 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 17 (6) Administer the court technology fund established by section
- 18 12 of this chapter.
- 19 (7) By December 31, 2013, develop and implement a standard
- 20 protocol for sending and receiving court data:
- 21 (A) between the protective order registry, established by
- 22 IC 5-2-9-5.5, and county court case management systems;
- 23 (B) at the option of the county prosecuting attorney, for:
- 24 (i) a prosecuting attorney's case management system;
- 25 (ii) a county court case management system; and
- 26 (iii) a county court case management system developed and
- 27 operated by the office of judicial administration;
- 28 to interface with the electronic traffic tickets, as defined by
- 29 IC 9-30-3-2.5; and
- 30 (C) between county court case management systems and the
- 31 case management system developed and operated by the office
- 32 of judicial administration.
- 33 The standard protocol developed and implemented under this
- 34 subdivision shall permit private sector vendors, including vendors
- 35 providing service to a local system and vendors accessing the
- 36 system for information, to send and receive court information on
- 37 an equitable basis and at an equitable cost.
- 38 (8) Establish and administer an electronic system for receiving
- 39 information that relates to certain individuals who may be
- 40 prohibited from possessing a firearm **and for the purpose of:**
- 41 (A) transmitting this information to the Federal Bureau of
- 42 Investigation for inclusion in the NICS; **and**



- 1 **(B) beginning July 1, 2021, compiling and publishing**
 2 **certain statistics related to the confiscation and retention**
 3 **of firearms as described under section 14 of this chapter.**
 4 (9) Establish and administer an electronic system for receiving
 5 drug related felony conviction information from courts. The office
 6 of judicial administration shall notify NPLEx of each drug related
 7 felony entered after June 30, 2012, and do the following:
 8 (A) Provide NPLEx with the following information:
 9 (i) The convicted individual's full name.
 10 (ii) The convicted individual's date of birth.
 11 (iii) The convicted individual's driver's license number, state
 12 personal identification number, or other unique number, if
 13 available.
 14 (iv) The date the individual was convicted of the felony.
 15 Upon receipt of the information from the office of judicial
 16 administration, a stop sale alert must be generated through
 17 NPLEx for each individual reported under this clause.
 18 (B) Notify NPLEx if the felony of an individual reported under
 19 clause (A) has been:
 20 (i) set aside;
 21 (ii) reversed;
 22 (iii) expunged; or
 23 (iv) vacated.
 24 Upon receipt of information under this clause, NPLEx shall
 25 remove the stop sale alert issued under clause (A) for the
 26 individual.
 27 (10) Staff the judicial technology oversight committee established
 28 by IC 33-23-17-2.
 29 (11) After July 1, 2018, establish and administer an electronic
 30 system for receiving from courts felony conviction information for
 31 each felony described in IC 20-28-5-8(c). The office of judicial
 32 administration shall notify the department of education at least
 33 one (1) time each week of each felony described in
 34 IC 20-28-5-8(c) entered after July 1, 2018, and do the following:
 35 (A) Provide the department of education with the following
 36 information:
 37 (i) The convicted individual's full name.
 38 (ii) The convicted individual's date of birth.
 39 (iii) The convicted individual's driver's license number, state
 40 personal identification number, or other unique number, if
 41 available.
 42 (iv) The date the individual was convicted of the felony.



- 1 (B) Notify the department of education if the felony of an
 2 individual reported under clause (A) has been:
 3 (i) set aside;
 4 (ii) reversed; or
 5 (iii) vacated.
- 6 (12) Perform legal and administrative duties for the justices as
 7 determined by the justices.
- 8 (13) Provide staff support for the judicial conference of Indiana
 9 established in IC 33-38-9.
- 10 (14) Work with the United States Department of Veterans Affairs
 11 to identify and address the needs of veterans in the court system.
- 12 (b) All forms to be used in gathering data must be approved by the
 13 supreme court and shall be distributed to all judges and clerks before
 14 the start of each period for which reports are required.
- 15 (c) The office of judicial administration may adopt rules to
 16 implement this section.
- 17 SECTION 4. IC 33-24-6-14 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2020]: **Sec. 14. (a) The following definitions apply throughout
 20 this section:**
- 21 (1) "Dangerous" has the meaning set forth in IC 35-47-14-1.
 22 (2) "Firearm" has the meaning set forth in IC 35-47-1-5.
 23 (3) "Office" means the office of judicial administration
 24 created by section 1 of this chapter.
- 25 (b) Beginning July 1, 2021, the office shall collect and record the
 26 following information:
- 27 (1) The law enforcement agency responsible for each
 28 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 county in which a court issues an order that finds or
 41 does not find an individual to be dangerous under
 42 IC 35-47-14-6.



1 (c) The office shall, beginning July 1, 2021, not later than
 2 January 1 of each year, submit a report to the legislative council in
 3 an electronic format under IC 5-14-6 that consolidates and
 4 presents the information described in subsection (b).

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

10 (1) The:

11 (A) name;

12 (B) date of birth;

13 (C) Social Security number;

14 (D) address; or

15 (E) other unique identifier;

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

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

22 (e) Information:

23 (1) collected by the office; or

24 (2) used by the office;

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

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

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

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

36 SECTION 6. IC 35-41-3-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) A person other
 38 than a law enforcement officer is justified in using reasonable force
 39 against another person to effect an arrest or prevent the other person's
 40 escape if:

41 (1) a felony has been committed; and

42 (2) there is probable cause to believe the other person committed



1 that felony.
2 However, such a person is not justified in using deadly force unless that
3 force is justified under section 2 of this chapter.

4 (b) A law enforcement officer is justified in using reasonable force
5 if the officer reasonably believes that the force is necessary to effect a
6 lawful arrest. However, an officer is justified in using deadly force only
7 if the officer:

8 (1) has probable cause to believe that that deadly force is
9 necessary:

10 (A) to prevent the commission of a forcible felony; or

11 (B) to effect an arrest of a person who the officer has probable
12 cause to believe poses a threat of serious bodily injury to the
13 officer or a third person; and

14 (2) has given a warning, if feasible, to the person against whom
15 the deadly force is to be used.

16 (c) A law enforcement officer making an arrest under an invalid
17 warrant is justified in using force as if the warrant was valid, unless the
18 officer knows that the warrant is invalid.

19 (d) A law enforcement officer who has an arrested person in custody
20 is justified in using the same force to prevent the escape of the arrested
21 person from custody that the officer would be justified in using if the
22 officer was arresting that person. However, an officer is justified in
23 using deadly force only if the officer:

24 (1) has probable cause to believe that deadly force is necessary to
25 prevent the escape from custody of a person who the officer has
26 probable cause to believe poses a threat of serious bodily injury
27 to the officer or a third person; and

28 (2) has given a warning, if feasible, to the person against whom
29 the deadly force is to be used.

30 (e) A guard or other official in a penal facility or a law enforcement
31 officer is justified in using reasonable force, including deadly force, if
32 the officer has probable cause to believe that the force is necessary to
33 prevent the escape of a person who is detained in the penal facility.

34 (f) Notwithstanding subsection (b), (d), or (e), a law enforcement
35 officer who is a defendant in a criminal prosecution has the same right
36 as a person who is not a law enforcement officer to assert self-defense
37 under ~~IC 35-41-3-2~~ **section 2 of this chapter**.

38 SECTION 7. IC 35-41-3-9 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) It is a defense
40 that:

41 (1) the prohibited conduct of the person was the product of a law
42 enforcement officer, or ~~his~~ **the officer's** agent, using persuasion



1 or other means likely to cause the person to engage in the
2 conduct; and

3 (2) the person was not predisposed to commit the offense.

4 (b) Conduct merely affording a person an opportunity to commit the
5 offense does not constitute entrapment.

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

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

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

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

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

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

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

23 (d) A person who:

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

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

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

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

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

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

41 (B) knowing the complaint to be false;

42 (6) makes a false report of a missing person, knowing the report



1 or information is false; or
 2 (7) gives a false report of actions, behavior, or conditions
 3 concerning:
 4 (A) a septic tank soil absorption system under IC 8-1-2-125 or
 5 IC 13-26-5-2.5; or
 6 (B) a septic tank soil absorption system or constructed wetland
 7 septic system under IC 36-9-23-30.1;
 8 knowing the report or information to be false; or
 9 **(8) makes a false report that a person is dangerous (as defined**
 10 **in IC 35-47-14-1) knowing the report or information to be**
 11 **false;**
 12 commits false informing, a Class B misdemeanor. However, the offense
 13 is a Class A misdemeanor if it substantially hinders any law
 14 enforcement process or if it results in harm to another person.
 15 SECTION 9. IC 35-47-2-18, AS AMENDED BY P.L.158-2013,
 16 SECTION 582, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2020]: Sec. 18. (a) No person shall:
 18 ~~(1) change, alter, remove, or obliterate the name of the maker,~~
 19 ~~model, manufacturer's serial number, or other mark of~~
 20 ~~identification on any handgun; or~~
 21 ~~(2) possess any handgun on which the name of the maker, model,~~
 22 ~~manufacturer's serial number, or other mark of identification has~~
 23 ~~been changed, altered, removed, or obliterated;~~
 24 except as provided by applicable United States statute:
 25 **(1) remove, obliterate, or alter the importer or**
 26 **manufacturer's serial number on any firearm; or**
 27 **(2) possess any firearm on which the importer or**
 28 **manufacturer's serial number has been removed, obliterated,**
 29 **or altered.**
 30 (b) A person who knowingly or intentionally violates this section
 31 commits a Level 5 felony.
 32 SECTION 10. IC 35-47-4-9 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2020]: Sec. 9. (a) As used in this section, "serious violent felony"
 35 has the meaning set forth in section 5 of this chapter.
 36 (b) A person who:
 37 (1) has been adjudicated a delinquent child for committing an
 38 act while armed with a firearm that would be a serious violent
 39 felony if committed by an adult;
 40 (2) is less than:
 41 (A) twenty-six (26) years of age, if the delinquent act, if
 42 committed by an adult, would have been a:



1 (i) Level 6 felony;
 2 (ii) Level 5 felony;
 3 (iii) Level 4 felony; or
 4 (iv) Level 3 felony; or
 5 (B) twenty-eight (28) years of age, if the delinquent act, if
 6 committed by an adult, would have been:
 7 (i) a Level 2 felony;
 8 (ii) a Level 1 felony; or
 9 (iii) murder; and
 10 (3) knowingly or intentionally possesses a firearm;
 11 commits unlawful possession of a firearm by a dangerous person,
 12 a Level 6 felony. However, the offense is a Level 5 felony if the
 13 person has a prior unrelated conviction under this section.
 14 SECTION 11. IC 35-47-14-2, AS AMENDED BY P.L.289-2019,
 15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 2. (a) A circuit or superior court may issue a
 17 warrant to search for and seize a firearm in the possession of an
 18 individual who is dangerous if:
 19 (1) a law enforcement officer provides the court a sworn affidavit
 20 that:
 21 (A) states why the law enforcement officer believes that the
 22 individual is dangerous and in possession of a firearm; and
 23 (B) describes the law enforcement officer's interactions and
 24 conversations with:
 25 (i) the individual who is alleged to be dangerous; or
 26 (ii) another individual, if the law enforcement officer
 27 believes that information obtained from this individual is
 28 credible and reliable;
 29 that have led the law enforcement officer to believe that the
 30 individual is dangerous and in possession of a firearm;
 31 (2) the affidavit specifically describes the location of the firearm;
 32 and
 33 (3) the circuit or superior court determines that probable cause
 34 exists to believe that the individual is:
 35 (A) dangerous; and
 36 (B) in possession of a firearm.
 37 (b) A law enforcement agency responsible for the seizure of the
 38 firearm under this section shall file a search warrant return with the
 39 court setting forth the:
 40 (1) quantity; and
 41 (2) type;
 42 of each firearm seized from an individual under this section. **Beginning**



1 **July 1, 2021, the court shall provide information described under**
 2 **this subsection to the office of judicial administration in a manner**
 3 **required by the office.**

4 SECTION 12. IC 35-47-14-3, AS AMENDED BY P.L.289-2019,
 5 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 3. (a) If a law enforcement officer seizes a firearm
 7 from an individual whom the law enforcement officer believes to be
 8 dangerous without obtaining a warrant, the law enforcement officer
 9 shall submit to the circuit or superior court having jurisdiction over the
 10 individual believed to be dangerous an affidavit describing the basis for
 11 the law enforcement officer's belief that the individual is dangerous.

12 (b) An affidavit described in subsection (a) shall:

13 **(1) set forth the quantity and type of each firearm seized from**
 14 **the individual under this section; and**

15 **(2) be submitted to a circuit or superior court having jurisdiction**
 16 **over the individual believed to be dangerous not later than**
 17 **forty-eight (48) hours after the seizure of the firearm.**

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

20 (d) If the court finds that probable cause exists to believe that the
 21 individual is dangerous, the court shall order the law enforcement
 22 agency having custody of the firearm to retain the firearm. **Beginning**
 23 **July 1, 2021, the court shall provide information described under**
 24 **this subsection and subsection (b)(1) to the office of judicial**
 25 **administration in a manner required by the office.**

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

29 ~~(1) quantity; and~~

30 ~~(2) type;~~

31 ~~of each firearm seized from an individual under this section:~~

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

37 SECTION 13. IC 35-47-14-6, AS AMENDED BY P.L.289-2019,
 38 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 6. (a) The court shall conduct a hearing as
 40 required under this chapter.

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



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

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

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

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

10 (4) enjoining the individual from:

11 (A) renting;

12 (B) receiving transfer of;

13 (C) owning; or

14 (D) possessing;

15 a firearm; and

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

19 (d) If the court finds that the individual is dangerous under
 20 subsection (c), the clerk shall transmit the order of the court to the
 21 office of judicial administration:

22 (1) for transmission to NICS (as defined in IC 35-47-2.5-2.5); **and**

23 (2) **beginning July 1, 2021, for the collection of certain data**
 24 **related to the confiscation and retention of firearms taken**
 25 **from dangerous individuals;**

26 in accordance with IC 33-24-6-3.

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

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

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

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

39 SECTION 14. IC 35-47-14-8, AS AMENDED BY P.L.289-2019,
 40 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2020]: Sec. 8. (a) At least one hundred eighty (180) days after
 42 the date on which a court orders a law enforcement agency to retain an



1 individual's firearm under section 6(c) of this chapter, the individual
2 may petition the court for a finding that the individual is no longer
3 dangerous.

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

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

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

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

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

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

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

- 24 (1) issue a court order that finds that the individual is no longer
25 dangerous;
26 (2) order the law enforcement agency having custody of any
27 firearm to return the firearm as quickly as practicable, but not
28 later than five (5) days after the date of the order, to the
29 individual;
30 (3) terminate any injunction issued under section 6 of this
31 chapter; and
32 (4) terminate the suspension of the individual's license to carry a
33 handgun so that the individual may reapply for a license.

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

37 (h) If a court issues an order described under subsection (f), the
38 court's order shall be transmitted, as soon as practicable, to the office
39 of judicial administration for transmission to the NICS (as defined in
40 IC 35-47-2.5-2.5) **and, beginning July 1, 2021, for the collection of**
41 **certain data related to the confiscation and retention of firearms**
42 **taken from dangerous individuals** in accordance with IC 33-24-6-3.



1 SECTION 15. IC 35-50-1-2, AS AMENDED BY P.L.184-2019,
 2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 2. (a) As used in this section, "crime of violence"
 4 means the following:

- 5 (1) Murder (IC 35-42-1-1).
- 6 (2) Attempted murder (IC 35-41-5-1).
- 7 (3) Voluntary manslaughter (IC 35-42-1-3).
- 8 (4) Involuntary manslaughter (IC 35-42-1-4).
- 9 (5) Reckless homicide (IC 35-42-1-5).
- 10 (6) Battery (IC 35-42-2-1) as a:
 - 11 (A) Level 2 felony;
 - 12 (B) Level 3 felony;
 - 13 (C) Level 4 felony; or
 - 14 (D) Level 5 felony.
- 15 (7) Aggravated battery (IC 35-42-2-1.5).
- 16 (8) Kidnapping (IC 35-42-3-2).
- 17 (9) Rape (IC 35-42-4-1).
- 18 (10) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 19 (11) Child molesting (IC 35-42-4-3).
- 20 (12) Sexual misconduct with a minor as a Level 1 felony under
- 21 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
- 22 (13) Robbery as a Level 2 felony or a Level 3 felony
- 23 (IC 35-42-5-1).
- 24 (14) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
- 25 or Level 4 felony (IC 35-43-2-1).
- 26 (15) Operating a vehicle while intoxicated causing death or
- 27 catastrophic injury (IC 9-30-5-5).
- 28 (16) Operating a vehicle while intoxicated causing serious bodily
- 29 injury to another person (IC 9-30-5-4).
- 30 (17) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
- 31 or a Level 4 felony under IC 35-42-4-4(c).
- 32 (18) Resisting law enforcement as a felony (IC 35-44.1-3-1).
- 33 (19) Unlawful possession of a firearm by a serious violent felon
- 34 (IC 35-47-4-5).

35 (b) As used in this section, "episode of criminal conduct" means
 36 offenses or a connected series of offenses that are closely related in
 37 time, place, and circumstance.

38 (c) Except as provided in subsection (e) or (f), the court shall
 39 determine whether terms of imprisonment shall be served concurrently
 40 or consecutively. The court may consider the:

- 41 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- 42 (2) mitigating circumstances in IC 35-38-1-7.1(b);



1 in making a determination under this subsection. The court may order
 2 terms of imprisonment to be served consecutively even if the sentences
 3 are not imposed at the same time. However, except for crimes of
 4 violence, the total of the consecutive terms of imprisonment, exclusive
 5 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
 6 (before its repeal) to which the defendant is sentenced for felony
 7 convictions arising out of an episode of criminal conduct shall not
 8 exceed the period described in subsection (d).

9 (d) Except as provided in subsection (c), the total of the consecutive
 10 terms of imprisonment to which the defendant is sentenced for felony
 11 convictions arising out of an episode of criminal conduct may not
 12 exceed the following:

13 (1) If the most serious crime for which the defendant is sentenced
 14 is a Level 6 felony, the total of the consecutive terms of
 15 imprisonment may not exceed four (4) years.

16 (2) If the most serious crime for which the defendant is sentenced
 17 is a Level 5 felony, the total of the consecutive terms of
 18 imprisonment may not exceed seven (7) years.

19 (3) If the most serious crime for which the defendant is sentenced
 20 is a Level 4 felony, the total of the consecutive terms of
 21 imprisonment may not exceed fifteen (15) years.

22 (4) If the most serious crime for which the defendant is sentenced
 23 is a Level 3 felony, the total of the consecutive terms of
 24 imprisonment may not exceed twenty (20) years.

25 (5) If the most serious crime for which the defendant is sentenced
 26 is a Level 2 felony, the total of the consecutive terms of
 27 imprisonment may not exceed thirty-two (32) years.

28 (6) If the most serious crime for which the defendant is sentenced
 29 is a Level 1 felony, the total of the consecutive terms of
 30 imprisonment may not exceed forty-two (42) years.

31 (e) If, after being arrested for one (1) crime, a person commits
 32 another crime:

33 (1) before the date the person is discharged from probation,
 34 parole, or a term of imprisonment imposed for the first crime; or

35 (2) while the person is released:

36 (A) upon the person's own recognizance; or

37 (B) on bond;

38 the terms of imprisonment for the crimes shall be served consecutively,
 39 regardless of the order in which the crimes are tried and sentences are
 40 imposed.

41 (f) If the factfinder determines under IC 35-50-2-11 that a person
 42 used a firearm in the commission of the offense for which the person



1 was convicted, the term of imprisonment for the underlying offense and
 2 the additional term of imprisonment imposed under IC 35-50-2-11
 3 must be served consecutively.

4 **(g) If the court imposes consecutive sentences and suspends part**
 5 **of one (1) or all sentences, the defendant must serve the total of the**
 6 **executed time imposed before serving any suspended part of the**
 7 **sentences.**

8 SECTION 16. IC 35-50-2-2.2, AS AMENDED BY P.L.252-2017,
 9 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 2.2. (a) Except as provided in subsection (b), (c),
 11 (d), or (e), the court may suspend any part of a sentence for a felony.

12 (b) Except as provided in subsection (d), if a person is convicted of
 13 a Level 2 felony or a Level 3 felony, except a Level 2 felony or a Level
 14 3 felony concerning a controlled substance under IC 35-48-4, and has
 15 any prior unrelated felony conviction, the court may suspend only that
 16 part of a sentence that is in excess of the minimum sentence for the:

- 17 (1) Level 2 felony; or
- 18 (2) Level 3 felony.

19 (c) If:

- 20 (1) a person has a prior unrelated felony conviction in any
- 21 jurisdiction for dealing in a controlled substance that is not
- 22 marijuana, hashish, hash oil, salvia divinorum, or a synthetic
- 23 drug, including an attempt or conspiracy to commit the offense;
- 24 and

- 25 (2) the person is convicted of a Level 2 felony under
- 26 IC 35-48-4-1.1 or IC 35-48-4-1.2;

27 the court may suspend only that part of a sentence that is in excess of
 28 the minimum sentence for the Level 2 felony.

29 (d) If a person:

- 30 (1) is convicted of dealing in heroin as a Level 2 or Level 3 felony
- 31 under IC 35-48-4-1 or IC 35-48-4-2; and
- 32 (2) has a prior unrelated felony conviction;

33 the court may suspend only that part of a sentence that is in excess of
 34 the minimum sentence for the Level 2 or Level 3 felony.

35 (e) The court may suspend only that part of a sentence for murder
 36 or a Level 1 felony conviction that is in excess of the minimum
 37 sentence for murder or the Level 1 felony conviction.

38 **(f) If the court imposes consecutive sentences and suspends part**
 39 **of one (1) or all sentences, the defendant must serve the total of the**
 40 **executed time imposed before serving any suspended part of the**
 41 **sentences.**

42 SECTION 17. IC 35-50-2-14, AS AMENDED BY P.L.125-2009,



1 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2020]: Sec. 14. (a) As used in this section, "sex offense"
 3 means a felony conviction:

4 (1) under IC 35-42-4-1 through IC 35-42-4-9 or under
 5 IC 35-46-1-3;

6 (2) for an attempt or conspiracy to commit an offense described
 7 in subdivision (1); or

8 (3) for an offense under the laws of another jurisdiction, including
 9 a military court, that is substantially similar to an offense
 10 described in subdivision (1).

11 (b) The state may seek to have a person sentenced as a repeat sexual
 12 offender for a sex offense described in subsection (a)(1) or (a)(2) by
 13 alleging, on a page separate from the rest of the charging instrument,
 14 that the person has accumulated one (1) prior unrelated felony
 15 conviction for a sex offense described in subsection (a).

16 (c) After a person has been convicted and sentenced for a felony
 17 described in subsection ~~(a)(1) or (a)(2) after having been sentenced for~~
 18 ~~a prior unrelated sex offense described in subsection~~ (a), the person has
 19 accumulated one (1) prior unrelated felony sex offense conviction.
 20 However, a conviction does not count for purposes of this subsection,
 21 if:

22 (1) it has been set aside; or

23 (2) it is a conviction for which the person has been pardoned.

24 (d) If the person was convicted of the sex offense in a jury trial, the
 25 jury shall reconvene to hear evidence in the enhancement hearing. If
 26 the trial was to the court, or the judgment was entered on a guilty plea,
 27 the court alone shall hear evidence in the enhancement hearing.

28 (e) A person is a repeat sexual offender if the jury (if the hearing is
 29 by jury) or the court (if the hearing is to the court alone) finds that the
 30 state has proved beyond a reasonable doubt that the person had
 31 accumulated one (1) prior unrelated felony sex offense conviction.

32 (f) The court may sentence a person found to be a repeat sexual
 33 offender to an additional fixed term that is the advisory sentence for the
 34 underlying offense. However, the additional sentence may not exceed
 35 ten (10) years.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1132, 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 1, delete lines 1 through 17.
 Delete pages 2 through 4.
 Page 5, delete lines 1 through 23.
 Page 6, delete lines 26 through 42.
 Page 7, delete lines 1 through 13.
 Page 7, delete lines 24 through 42.
 Delete pages 8 through 9.
 Page 10, delete lines 1 through 27.
 Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1132 as introduced.)

MCNAMARA

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1132, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-37-13-5, AS AMENDED BY P.L.168-2014, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5. **(a)** If a finding of delinquency is based on a delinquent act that would be a felony if committed by an adult, the juvenile court shall state in the findings the following:

- (1) The specific statute that was violated.
- (2) The class or level of the felony had the violation been committed by an adult.

(b) If a finding of delinquency is based on a delinquent act that

EH 1132—LS 6855/DI 123



would be a serious violent felony (as defined in IC 35-47-4-5) if committed by an adult, the juvenile court shall, notwithstanding IC 31-39-1, transmit the finding to the office of judicial administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

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

- (1) The allegations and date of adjudication, if applicable, of the juvenile delinquency or child in need of services adjudications.
 - (2) The court in which juvenile delinquency or child in need of services allegations or petitions were filed.
 - (3) The law enforcement agency that employs the charging officer, if known.
 - (4) The case number or court cause number.
 - (5) Date of birth of the petitioner.
 - (6) Petitioner's Social Security number.
 - (7) All juvenile delinquency or child in need of services adjudications and criminal convictions occurring after the adjudication of the action sought to be expunged.
 - (8) All pending actions under IC 31-34 or IC 31-37 or criminal charges.
- (b) A petition described in subsection (a) shall be served on:
- (1) the prosecuting attorney; or
 - (2) in the case of a child in need of services case, the department of child services.

(c) The prosecuting attorney or department of child services has thirty (30) days in which to reply or otherwise object to the petition. The court may reduce the time in which a response must be filed for a show of good cause or within its discretion after a hearing is held.

(d) If the prosecuting attorney or department of child services timely files an objection to the petition, the matter shall be set for a hearing. If no objection is filed, the court may set the petition for a hearing or rule on the petition without a hearing.

(e) In considering whether to grant the petition, the juvenile court may review:

- (1) the best interests of the child;
- (2) the age of the person during the person's contact with the



- juvenile court or law enforcement agency;
- (3) the nature of any allegations;
- (4) whether there was an informal adjustment or an adjudication;
- (5) the disposition of the case;
- (6) the manner in which the person participated in any court ordered or supervised services;
- (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency;
- (8) whether the person acquired a criminal record; ~~and~~
- (9) the person's current status;
- (10) whether the person has been:**
- (A) charged with; or**
- (B) convicted of;**
- murder or another felony offense as an adult;**
- (11) whether the person was waived to an adult criminal court for a reason described in IC 31-30-3;**
- (12) whether an adult sentence for the person was not suspended for a reason described in IC 35-50-2-2.1;**
- (13) whether the person has been adjudicated a delinquent child for committing an act that would be a serious violent felony (as defined in IC 35-47-4-5) if committed by an adult; and**
- (14) whether:**
- (A) the person is currently suffering from a mental health issue;**
- (B) the mental health issue described in clause (A) is chronic or ongoing;**
- (C) the person has received, or is receiving, treatment for a current or chronic mental health issue; and**
- (D) the person is compliant with a treatment regimen recommended by a mental health professional, if applicable.**

SECTION 3. IC 33-24-6-3, AS AMENDED BY P.L.207-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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) **beginning July 1, 2021, compiling 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 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 14. (a) The following definitions apply throughout 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) Beginning July 1, 2021, the office shall collect and record the following information:

- (1) 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 county in which a court issues an order that finds or does not find an individual to be dangerous under IC 35-47-14-6.

(c) The office shall, beginning July 1, 2021, not later than January 1 of each year, submit a report to the legislative council 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 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.

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



~~IC 35-47-4-5(b)~~; **IC 35-47-4-5.**"

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 9. 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:

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(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 2, delete lines 38 through 42, begin a new paragraph, and insert:

"SECTION 10. IC 35-47-2-18, AS AMENDED BY P.L.158-2013, SECTION 582, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 18. (a) No person shall:

(1) ~~change, alter, remove, or obliterate the name of the maker, model, manufacturer's serial number, or other mark of identification on any handgun; or~~

(2) ~~possess any handgun on which the name of the maker, model, manufacturer's serial number, or other mark of identification has been changed, altered, removed, or obliterated;~~

~~except as provided by applicable United States statute.~~

(1) remove, obliterate, or alter the importer or manufacturer's serial number on any firearm; or

(2) possess any firearm on which the importer or manufacturer's serial number has been removed, obliterated, or altered.

(b) A person who knowingly or intentionally violates this section commits a Level 5 felony."

Page 3, delete lines 1 through 7.

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 11. IC 35-47-4-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) **As used in this section, "serious violent felony" has the meaning set forth in section 5 of this chapter.**

(b) A person who:

(1) 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;

(2) is less than:

(A) twenty-six (26) years of age, if the delinquent act, if



committed by an adult, would have been a:

- (i) Level 6 felony;**
- (ii) Level 5 felony;**
- (iii) Level 4 felony; or**
- (iv) Level 3 felony; or**

(B) twenty-eight (28) years of age, if the delinquent act, if committed by an adult, would have been:

- (i) a Level 2 felony;**
- (ii) a Level 1 felony; or**
- (iii) murder; and**

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

SECTION 12. IC 35-47-14-2, AS AMENDED BY P.L.289-2019, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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. **Beginning July 1, 2021, the court shall provide information described under this subsection to the office of judicial administration in a manner required by the office."**

Page 3, line 26, after "firearm." insert "**Beginning July 1, 2021, the court shall provide information described under this subsection and subsection (b)(1) to the office of judicial administration in a manner required by the office."**

Page 3, between lines 37 and 38, begin a new paragraph and insert:
"SECTION 17. 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:

- (1) for transmission to NICS (as defined in IC 35-47-2.5-2.5); **and**
- (2) **beginning July 1, 2021, 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 18. 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, beginning July 1, 2021, 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 1132 as printed January 24, 2020.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 0.

