

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 2010 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1318

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-13-3-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 28. On request of an individual who has applied for employment with a noncriminal justice organization or individual, the Indiana central repository for criminal history information shall process a request for a ~~limited~~ **national fingerprint based** criminal history check of the individual making the request from the Federal Bureau of Investigation's National Crime Information Center upon:

- (1) the submission of fingerprints of the individual making the request; and
- (2) the payment of a fifteen dollar (\$15) fee.

SECTION 2. IC 33-23-15-2, AS ADDED BY P.L.110-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) If a person described in section 1 of this chapter:

- (1) has been released from commitment; or
 - (2) successfully completes a treatment or rehabilitation program;
- the person may petition the court (if the adjudication leading to the person's commitment, rehabilitation, or treatment program was from a court) or the department of correction (if the determination leading to the person's rehabilitation or treatment program was from a psychiatrist employed by or retained by the department of correction) to determine

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whether the person is prohibited from possessing a **handgun firearm** because the person is not a proper person under ~~IC 35-47-1-7(5) or IC 35-47-1-7(6)~~; **IC 35-47-1-7(11) through IC 35-47-1-7(13)**.

(b) In determining whether the person is prohibited from possessing a **handgun firearm** because the person is not a proper person under ~~IC 35-47-1-7(5) or IC 35-47-1-7(6)~~; **IC 35-47-1-7(11) through IC 35-47-1-7(13)**, the court or department of correction shall consider the following evidence:

- (1) The facts and circumstances leading to the person being included in the category of persons to whom this chapter applies.
- (2) The person's mental health and criminal history records.
- (3) Evidence concerning the person's reputation, including the testimony of character witnesses.
- (4) A recent mental health evaluation by a psychiatrist or psychologist licensed to practice in Indiana.

(c) If the court or the department of correction, after considering the evidence described in subsection (b), finds by clear and convincing evidence that:

- (1) the person is not a danger to the person or to others;
- (2) the person is not likely to act in a manner dangerous to public safety; and
- (3) the requested relief would not be contrary to public interest;

the court or department of correction shall transmit its findings to the department of state court administration, and any other information required by the division of state court administration, for transmission to the NICS in accordance with IC 33-24-6-3.

(d) A determination under this section may be appealed only in accordance with section 3 of this chapter.

SECTION 3. IC 35-47-1-7, AS AMENDED BY P.L.118-2007, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. "Proper person" means a person who:

- (1) does not have a conviction for resisting law enforcement under IC 35-44-3-3 within five (5) years before the person applies for a license or permit under this chapter;
- (2) does not have a conviction for a crime for which the person could have been sentenced for more than one (1) year;
- (3) does not have a conviction for a crime of domestic violence (as defined in IC 35-41-1-6.3), unless a court has restored the person's right to possess a firearm under IC 35-47-4-7;
- (4) is not prohibited by a court order from possessing a handgun;
- (5) does not have a record of being an alcohol or drug abuser as defined in this chapter;

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- (6) does not have documented evidence which would give rise to a reasonable belief that the person has a propensity for violent or emotionally unstable conduct;
- (7) does not make a false statement of material fact on the person's application;
- (8) does not have a conviction for any crime involving an inability to safely handle a handgun;
- (9) does not have a conviction for violation of the provisions of this article within five (5) years of the person's application; or
- (10) does not have an adjudication as a delinquent child for an act that would be a felony if committed by an adult, if the person applying for a license or permit under this chapter is less than twenty-three (23) years of age;
- (11) has not been involuntarily committed, other than a temporary commitment for observation or evaluation, to a mental institution by a court, board, commission, or other lawful authority;**
- (12) has not been the subject of a:**
 - (A) ninety (90) day commitment as a result of proceeding under IC 12-26-6; or**
 - (B) regular commitment under IC 12-26-7; or**
- (13) has not been found by a court to be mentally incompetent, including being found:**
 - (A) not guilty by reason of insanity;**
 - (B) guilty but mentally ill; or**
 - (C) incompetent to stand trial.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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HEA 1318 — Concur+

