

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1318, 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:

- 1           Page 1, after line 11, begin a new paragraph and insert:  
2           "SECTION 2. IC 33-23-15-2, AS ADDED BY P.L.110-2009,  
3           SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           JULY 1, 2011]: Sec. 2. (a) If a person described in section 1 of this  
5           chapter:  
6                 (1) has been released from commitment; or  
7                 (2) successfully completes a treatment or rehabilitation program;  
8           the person may petition the court (if the adjudication leading to the  
9           person's commitment, rehabilitation, or treatment program was from a  
10           court) or the department of correction (if the determination leading to  
11           the person's rehabilitation or treatment program was from a psychiatrist  
12           employed by or retained by the department of correction) to determine  
13           whether the person is prohibited from possessing a ~~handgun~~ **firearm**  
14           because the person is not a proper person under ~~IC 35-47-1-7(5) or~~  
15           ~~IC 35-47-1-7(6)~~; **IC 35-47-1-7(11) through IC 35-47-1-7(13)**.  
16           (b) In determining whether the person is prohibited from possessing  
17           a ~~handgun~~ **firearm** because the person is not a proper person under  
18           ~~IC 35-47-1-7(5) or IC 35-47-1-7(6)~~; **IC 35-47-1-7(11) through**  
19           **IC 35-47-1-7(13)**, the court or department of correction shall consider  
20           the following evidence:  
21                 (1) The facts and circumstances leading to the person being

1 included in the category of persons to whom this chapter applies.

2 (2) The person's mental health and criminal history records.

3 (3) Evidence concerning the person's reputation, including the  
4 testimony of character witnesses.

5 (4) A recent mental health evaluation by a psychiatrist or  
6 psychologist licensed to practice in Indiana.

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

10 (1) the person is not a danger to the person or to others;

11 (2) the person is not likely to act in a manner dangerous to public  
12 safety; and

13 (3) the requested relief would not be contrary to public interest;  
14 the court or department of correction shall transmit its findings to the  
15 department of state court administration, and any other information  
16 required by the division of state court administration, for transmission  
17 to the NICS in accordance with IC 33-24-6-3.

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

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

23 (1) does not have a conviction for resisting law enforcement  
24 under IC 35-44-3-3 within five (5) years before the person applies  
25 for a license or permit under this chapter;

26 (2) does not have a conviction for a crime for which the person  
27 could have been sentenced for more than one (1) year;

28 (3) does not have a conviction for a crime of domestic violence  
29 (as defined in IC 35-41-1-6.3), unless a court has restored the  
30 person's right to possess a firearm under IC 35-47-4-7;

31 (4) is not prohibited by a court order from possessing a handgun;

32 (5) does not have a record of being an alcohol or drug abuser as  
33 defined in this chapter;

34 (6) does not have documented evidence which would give rise to  
35 a reasonable belief that the person has a propensity for violent or  
36 emotionally unstable conduct;

37 (7) does not make a false statement of material fact on the  
38 person's application;

39 (8) does not have a conviction for any crime involving an inability  
40 to safely handle a handgun;

41 (9) does not have a conviction for violation of the provisions of  
42 this article within five (5) years of the person's application; ~~or~~

- 1 (10) does not have an adjudication as a delinquent child for an act  
 2 that would be a felony if committed by an adult, if the person  
 3 applying for a license or permit under this chapter is less than  
 4 twenty-three (23) years of age;
- 5 **(11) has not been involuntarily committed, other than a**  
 6 **temporary commitment for observation or evaluation, to a**  
 7 **mental institution by a court, board, commission, or other**  
 8 **lawful authority;**
- 9 **(12) has not been the subject of a:**
- 10 **(A) ninety (90) day commitment as a result of proceeding**  
 11 **under IC 12-26-6; or**
- 12 **(B) regular commitment under IC 12-26-7; or**
- 13 **(13) has not been found by a court to be mentally**  
 14 **incompetent, including being found:**
- 15 **(A) not guilty by reason of insanity;**  
 16 **(B) guilty but mentally ill; or**  
 17 **(C) incompetent to stand trial."**
- 18 Renumber all SECTIONS consecutively.  
 (Reference is to HB 1318 as printed January 25, 2011.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 9, Nays 0.

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**Senator Bray, Chairperson**