

Quick Reference Guide - IC 35-47-14

Proceedings for the Seizure and Retention of a Firearm

DANGEROUS PERSON (IC 35-47-14-1)

- An individual who presents an imminent risk of personal injury to the individual or to another individual; or
- An individual who may present a risk of personal injury to the individual or to another individual in the future and the individual:
 - o Has a mental illness (as defined in IC 12-7-2-130) that may be controlled by medication, and has not demonstrated a pattern of voluntarily and consistently taking the individual's medication while not under supervision; or
 - o Is the subject of documented evidence that would give rise to a reasonable belief that the individual has a propensity for violent or emotionally unstable conduct.

WITH A WARRANT (IC 35-47-14-2)

- Apply to circuit or superior court with jurisdiction
- Prepare sworn affidavit that:
 - o States why the law enforcement officer believes that the individual is dangerous and in possession of a firearm; and
 - o Describes the law enforcement officer's interactions and conversations with:
 - the individual who is alleged to be dangerous; or
 - another individual, if the law enforcement officer believes that information obtained from this individual is credible and reliable;
 - o The affidavit specifically describes the location of the firearm
- If a court issued a warrant to seize a firearm, the officer must file return within forty-eight (48) hours after the warrant was served that:
 - o Date and time served
 - o The name and address of the individual named in the warrant;
 - o The quantity and description of any firearms seized. (IC 35-47-14-4)

WITHOUT A WARRANT (35-47-14-3)

- If weapons are seized during the normal course of law enforcement duties
- If person is believed to be dangerous (as defined above), submit a written statement to the court of jurisdiction describing basis for belief
- Court reviews statement and may order firearms retained or released

AFTER FIREARMS ARE SEIZED

- Court holds a hearing within 14 days. (IC 35-47-14-5)
- Notification to individual from whom the firearm was seized and prosecutor
- Court determines by clear and convincing evidence if person is dangerous and firearms should be retained (IC 35-47-14-6)
- If retained, law enforcement agency keeps firearm until further order of the court.
- Court shall also order License to carry handgun suspended. (IC 35-47-14-6(b))
 - o Notify ISP Firearms to insure this is completed

RETURN OF FIREARMS (IC 35-47-14-8)

- Person may petition for return after at least 180 days
- If denied at that hearing, must wait at least another 180 days
- If five years have passed, hearing may be held to destroy or permanently dispose of firearms (IC 35-47-14-9)

SALE OF FIREARM (IC 35-47-14-10)

- After order for retention, Person may petition for an order directing LE agency to sell firearm with proceeds (minus 8% administrative costs) to go to individual.

**The foregoing information is provided by the Indiana State Police Legal Staff to assist their officers with application of this procedure. This is intended as a summary and quick reference, and should not be construed as a substitute for consulting the applicable statute(s) and local prosecutor and Department attorneys.