



January 25, 2017

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## SENATE BILL No. 191

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DIGEST OF SB 191 (Updated January 24, 2017 9:59 am - DI 84)

**Citations Affected:** IC 35-47.

**Synopsis:** Disposal of firearms. Establishes a procedure for the return or disposal of certain firearms in the custody of a law enforcement agency.

**Effective:** July 1, 2017.

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January 4, 2017, read first time and referred to Committee on Rules and Legislative Procedure.

January 12, 2017, amended; reassigned to Committee on Homeland Security and Transportation.

January 24, 2017, reported favorably — Do Pass.

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SB 191—LS 6037/DI 13





January 25, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## SENATE BILL No. 191

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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 35-47-3-2, AS AMENDED BY P.L.157-2014,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 2. (a) This section applies only to firearms which  
4 are not required to be registered in the National Firearms Registration  
5 and Transfer Record.  
6 (b) Firearms shall be returned to the rightful owner at once  
7 following final disposition of the cause if a return has not already  
8 occurred under the terms of IC 35-33-5. If the rightful ownership is not  
9 known the law enforcement agency holding the firearm shall make a  
10 reasonable attempt to ascertain the rightful ownership and cause the  
11 return of the firearm. However, nothing in this chapter shall be  
12 construed as requiring the return of firearms to rightful owners who  
13 have been convicted for the misuse of firearms. In such cases, the court  
14 may provide for the return of the firearm in question or order that the  
15 firearm be at once delivered:  
16 (1) except as provided in subdivision (2), to the sheriff's  
17 department of the county in which the offense occurred; or

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- 1 (2) to the city or town police force law enforcement agency that  
 2 confiscated the firearm.
- 3 (c) **If at least one hundred eighty (180) days have elapsed since**  
 4 **the sheriff's department or law enforcement agency received the**  
 5 **firearm, and:**
- 6 (1) **all reasonable attempts to locate the rightful owner of the**  
 7 **firearm have failed; or**
- 8 (2) **the rightful owner has been convicted of an offense related**  
 9 **to the misuse of a firearm;**
- 10 **the sheriff's department or law enforcement agency shall dispose**  
 11 **of the firearm as described in subsection (d).**
- 12 (d) **Subject to subsection (c),** the receiving law enforcement agency  
 13 shall dispose of firearms under subsection (b), at the discretion of the  
 14 law enforcement agency, **not more than one hundred twenty (120) days**  
 15 **following receipt** by use of any of the following procedures:
- 16 (1) Public sale of the firearms to the general public as follows:
- 17 (A) Notice of the sale shall be:
- 18 (i) posted for ten (10) days in the county courthouse in a  
 19 place readily accessible to the general public; and
- 20 (ii) advertised in the principal newspaper of the county for  
 21 two (2) days in an advertisement that appears in the  
 22 newspaper at least five (5) days prior to the sale.
- 23 (B) Disposition of the firearm shall be by public auction in a  
 24 place convenient to the general public, with disposition going  
 25 to the highest bidder. However, no firearm shall be transferred  
 26 to any bidder if that bidder is not lawfully eligible to receive  
 27 and possess firearms according to the laws of the United States  
 28 and Indiana.
- 29 (C) All handguns transferred under this subdivision shall also  
 30 be transferred according to the transfer procedures set forth in  
 31 this article.
- 32 (D) Money collected pursuant to the sales shall first be used to  
 33 defray the necessary costs of administering this subdivision  
 34 with any surplus to be:
- 35 (i) deposited into the receiving law enforcement agency's  
 36 firearms training fund, other appropriate training activities  
 37 fund, or any other fund that may be used by the receiving  
 38 law enforcement agency for the purchase and maintenance  
 39 of firearms, ammunition, vests, and other law enforcement  
 40 equipment; and
- 41 (ii) used by the agency exclusively to train law enforcement  
 42 officers in the proper use of firearms or other law



- 1 enforcement duties, and to purchase and maintain firearms,  
 2 ammunition, vests, and other law enforcement equipment.  
 3 A law enforcement agency may not sell a firearm to the general  
 4 public if the firearm is unsafe to operate because it has been  
 5 damaged or altered.
- 6 (2) Sale of the firearms to a licensed firearms dealer as follows:  
 7 (A) Notice of the sale must be:  
 8 (i) posted for ten (10) days in the county courthouse in a  
 9 place readily accessible to the general public; and  
 10 (ii) advertised in the principal newspaper of the county for  
 11 two (2) days in an advertisement that appears in the  
 12 newspaper at least five (5) days before the sale.  
 13 (B) Disposition of the firearm shall be by auction with  
 14 disposition going to the highest bidder who is a licensed  
 15 firearms dealer.  
 16 (C) Money collected from the sales shall first be used to defray  
 17 the necessary costs of administering this subdivision and any  
 18 surplus shall be:  
 19 (i) deposited into the receiving law enforcement agency's  
 20 firearms training fund, other appropriate training activities  
 21 fund, or any other fund that may be used by the receiving  
 22 law enforcement agency for the purchase and maintenance  
 23 of firearms, ammunition, vests, and other law enforcement  
 24 equipment; and  
 25 (ii) used by the agency exclusively to train law enforcement  
 26 officers in the proper use of firearms or other law  
 27 enforcement duties, and to purchase and maintain firearms,  
 28 ammunition, vests, and other law enforcement equipment.
- 29 A law enforcement agency may sell a firearm to a licensed  
 30 firearms dealer for salvage or repair, even if the firearm is unsafe  
 31 to operate because it has been damaged or altered.
- 32 (3) Sale or transfer of the firearms to another law enforcement  
 33 agency.
- 34 (4) Release to the state police department laboratory or other  
 35 forensic laboratory administered by the state or a political  
 36 subdivision (as defined in IC 36-1-2-13) for the purposes of  
 37 research, training, and comparison in conjunction with the  
 38 forensic examination of firearms evidence.
- 39 (5) Destruction of the firearms. A firearm that is to be destroyed  
 40 may be sold to a salvage company and destroyed by dismantling  
 41 the firearm for parts, scrap metal, or recycling, or for resale as  
 42 parts for other firearms.



1           (d) (e) Notwithstanding the requirement of this section mandating  
2 disposal of firearms not more than one hundred twenty (120) days  
3 following receipt, the receiving law enforcement agency may at its  
4 discretion hold firearms it may receive until a sufficient number has  
5 accumulated to defray the costs of administering this section if a delay  
6 does not exceed one hundred eighty (180) days from the date of receipt  
7 of the first firearm in the sale lot. In addition, the A receiving law  
8 enforcement agency may, at its discretion, jointly sell firearms it has  
9 received with another law enforcement agency, or permit another law  
10 enforcement agency to sell firearms it has received on behalf of the  
11 receiving law enforcement agency. In any event, all confiscated  
12 firearms shall be disposed of as promptly as possible.  
13 (e) (f) When a firearm is delivered to the state police department  
14 laboratory or other forensic laboratory under subsection (c)(4)  
15 subsection (d)(4) and the state police department laboratory or other  
16 forensic laboratory determines the laboratory has no further need for  
17 the firearm in question, the laboratory shall return the firearm to the  
18 law enforcement agency for disposal under subsection (c): subsection  
19 (d).



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 191, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security and Transportation.

(Reference is to SB 191 as introduced.)

LONG, Chairperson

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 191, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 191 as printed January 13, 2017.)

CRIDER, Chairperson

Committee Vote: Yeas 9, Nays 0

