

SENATE BILL No. 228

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-2-151.3; IC 35-31.5-2; IC 35-47.

Synopsis: Acquisition and storage of firearms. Prohibits a person from keeping or storing an unsecured firearm on any premises controlled by the person under certain circumstances. Makes the failure to secure a firearm a Level 6 felony if the offense results in injury or death, enhances the offense to a Level 5 felony if the person has a prior unrelated conviction, and provides a defense. Requires a person wishing to transfer a firearm to another person to transact the transfer through a firearms dealer (dealer), subject to certain exceptions, and specifies the procedure to be used by the dealer to effect the transfer. Grants a dealer who completes a transfer civil immunity. Provides that a person who makes a false statement to a dealer for the purpose of completing a third party transfer commits firearm transfer fraud, a Level 6 felony, and enhances the penalty if the person has a prior unrelated conviction. Specifies that a dealer or other person who transfers a firearm in violation of certain requirements commits unlawful transfer of a firearm, a Level 6 felony, and enhances the offense to a Level 5 felony if the dealer or person has a prior unrelated conviction. Makes conforming amendments.

Effective: July 1, 2022.

Qaddoura

January 6, 2022, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 228

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 34-30-2-151.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2022]: **Sec. 151.3. IC 35-47-2.5-4.5**
4 **(Concerning the sale, trade, and transfer of firearms by firearms**
5 **dealers).**

6 SECTION 2. IC 35-31.5-2-19.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2022]: **Sec. 19.5. "Antique firearm", for**
9 **purposes of IC 35-47-1.5, has the meaning set forth in**
10 **IC 35-47-1.5-1.**

11 SECTION 3. IC 35-31.5-2-38, AS AMENDED BY P.L.252-2017,
12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2022]: Sec. 38. "Child", for purposes of IC 35-46-1-8,
14 IC 35-47-10, ~~and~~ IC 35-44.1-5-5, **and IC 35-47-1.5**, has the meaning
15 set forth in IC 35-47-10-3.

16 SECTION 4. IC 35-31.5-2-171.3 IS ADDED TO THE INDIANA
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2022]: **Sec. 171.3. "Inoperable firearm", for**
 2 **purposes of IC 35-47-1.5, has the meaning set forth in**
 3 **IC 35-47-1.5-3.**

4 SECTION 5. IC 35-31.5-2-188.1 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2022]: **Sec. 188.1. "Loaded firearm", for**
 7 **purposes of IC 35-47-1.5, has the meaning set forth in**
 8 **IC 35-47-1.5-4.**

9 SECTION 6. IC 35-31.5-2-210.5, AS ADDED BY P.L.66-2016,
 10 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2022]: **Sec. 210.5. "NFA firearm", for purposes of**
 12 **IC 35-47-2.5-4.5 and IC 35-47-8.5, has the meaning set forth in**
 13 **IC 35-47-8.5-1.**

14 SECTION 7. IC 35-31.5-2-273.4, AS ADDED BY P.L.58-2020,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2022]: **Sec. 273.4. (a) "Relative", for purposes of IC 35-40.5,**
 17 **has the meaning set forth in IC 35-40.5-1-1.**

18 **(b) "Relative", for purposes of IC 35-47-2.5-4.5, has the**
 19 **meaning set forth in IC 35-42-2-1(b).**

20 SECTION 8. IC 35-31.5-2-288.5 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2022]: **Sec. 288.5. "Secures", for purposes of**
 23 **IC 35-47-1.5, has the meaning set forth in IC 35-47-1.5-5.**

24 SECTION 9. IC 35-47-1-6.5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2022]: **Sec. 6.5. "NFA firearm" has the meaning set forth in**
 27 **IC 35-47-8.5-1.**

28 SECTION 10. IC 35-47-1-8.5 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2022]: **Sec. 8.5. "Relative" has the meaning**
 31 **set forth in IC 35-42-2-1(b).**

32 SECTION 11. IC 35-47-1.5 IS ADDED TO THE INDIANA CODE
 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2022]:

35 **Chapter 1.5. Storage of Firearms**

36 **Sec. 1. As used in this chapter, "antique firearm" has the**
 37 **meaning set forth in 18 U.S.C. 921(a)(16).**

38 **Sec. 2. As used in this chapter, "child" has the meaning set forth**
 39 **in IC 35-47-10-3.**

40 **Sec. 3. As used in this chapter, "inoperable firearm" means a**
 41 **firearm that is permanently unable to discharge or expel a**
 42 **projectile by means of an explosion. The term does not include any**



1 firearm that may be modified to discharge or expel a projectile by
2 means of an explosion.

3 Sec. 4. As used in this chapter, "loaded firearm" means a
4 firearm with one (1) or more of the following characteristics:

5 (1) A bullet, cartridge, projectile, or round in the breech,
6 chamber, or cylinder of the firearm.

7 (2) Ammunition in close proximity to the firearm so that a
8 person can readily insert the ammunition into the firearm.

9 (3) Ammunition that is:

10 (A) inserted or stored inside the:

11 (i) breech;

12 (ii) cylinder; or

13 (iii) fixed magazine;

14 of the firearm; or

15 (B) housed or stored inside a detachable magazine of the
16 firearm.

17 Sec. 5. As used in this chapter, "secures" means to prevent
18 access to a firearm. The term includes the following:

19 (1) Placing or storing the firearm in a locked container.

20 (2) Temporarily rendering the firearm inoperable by:

21 (A) use of a trigger lock, bore lock, cable lock, or
22 comparable device; or

23 (B) disassembling the firearm in a manner that prevents
24 the firearm from operating.

25 Sec. 6. (a) This chapter does not apply to the following:

26 (1) Antique firearms.

27 (2) Inoperable firearms.

28 (3) A person who secures a firearm against unauthorized
29 access to the firearm.

30 (4) A person who carries a firearm:

31 (A) on his or her person; or

32 (B) in such proximity to his or her person that the firearm
33 may be readily retrieved and used.

34 (5) Any use of a firearm described in IC 35-47-10-1(b).

35 (6) Any possession of a firearm described in IC 34-28-7.

36 (b) It is unlawful for a person to knowingly or intentionally
37 store or keep a loaded firearm on any premises under the person's
38 control if one (1) or more of the following conditions apply:

39 (1) The person knows, or reasonably should know, that a child
40 is likely to gain access to the firearm.

41 (2) The person knows, or reasonably should know, that a
42 permanent resident or temporary occupant of the premises is



1 disqualified, ineligible, or prohibited from possessing a
2 firearm under federal or state law.

3 **(3) The person knows, or reasonably should know, that a**
4 **permanent resident or temporary occupant of the premises**
5 **poses a risk of imminent personal injury to the permanent**
6 **resident or temporary occupant or any other individual.**

7 **(c) If:**

8 **(1) a person described in subsection (b) fails to secure a**
9 **firearm; and**

10 **(2) use of the unsecured firearm by another person results in:**

11 **(A) any injury to; or**

12 **(B) the death of;**

13 **any other person;**

14 **the person responsible for control of the premises commits unsafe**
15 **storage of a firearm, a Level 6 felony. However, the offense is a**
16 **Level 5 felony if the person has a prior, unrelated conviction for an**
17 **offense under this section.**

18 **(d) It is a defense to a prosecution under subsection (c) that the**
19 **injury or death inflicted on the other person occurred during a**
20 **lawful act of:**

21 **(1) self-defense; or**

22 **(2) defense of a third party.**

23 SECTION 12. IC 35-47-2.5-4.5 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2022]: **Sec. 4.5. (a) This section does not**
26 **apply to:**

27 **(1) a law enforcement officer acting within the scope of the**
28 **officer's official duties;**

29 **(2) active duty members of the armed forces of the United**
30 **States acting within the scope of their official duties;**

31 **(3) any action or activity described in IC 35-47-10-1(b);**

32 **(4) the temporary transfer of a firearm to another person:**

33 **(A) while at a shooting range (as defined in**
34 **IC 14-22-31.5-3);**

35 **(B) for the purpose of providing or receiving instruction**
36 **during a firearms instructional course; or**

37 **(C) for the purpose of engaging in a legal hunting activity;**

38 **(5) the receipt of a firearm by a gunsmith or armorer for the**
39 **purpose of repair or modification;**

40 **(6) the receipt of a firearm by a person who is:**

41 **(A) required to carry, handle, or transport a firearm as a**
42 **result of a commercial or professional responsibility; and**



- 1 **(B) acting within the scope of the person's commercial or**
 2 **professional responsibilities at the time of the person's**
 3 **receipt, possession, or transfer of the firearm;**
 4 **(7) a dealer who is selling, trading, or transferring a firearm**
 5 **to another dealer; or**
 6 **(8) a person who transfers a firearm to a relative if the**
 7 **following conditions are met:**
 8 **(A) The transferor does not know or have reasonable cause**
 9 **to know that the recipient relative will use the firearm in**
 10 **the commission or furtherance of a crime.**
 11 **(B) The recipient relative is not prohibited from possessing**
 12 **a firearm under federal or state law.**
 13 **(C) If the firearm to be transferred is an NFA firearm, the**
 14 **transferor complies with:**
 15 **(i) IC 35-47-8.5; and**
 16 **(ii) all applicable federal laws concerning the transfer of**
 17 **an NFA firearm.**
 18 **(D) The transfer of the firearm is an intrastate transfer**
 19 **occurring between Indiana residents.**
 20 **(b) A person who wishes to sell, trade, or transfer a firearm to**
 21 **another person must:**
 22 **(1) transact the sale, trade, or transfer through a dealer; and**
 23 **(2) provide the dealer with:**
 24 **(A) the name, date of birth, and residential address of the**
 25 **seller of the firearm;**
 26 **(B) the name, date of birth, and residential address of the**
 27 **recipient of the firearm; and**
 28 **(C) any other information required by:**
 29 **(i) Form 4473 completed under section 3 of this chapter;**
 30 **or**
 31 **(ii) the dealer;**
 32 **for the purpose of submitting the respective identities of the**
 33 **seller and recipient to NICS.**
 34 **(c) A dealer must do the following before transacting any sale,**
 35 **trade, or transfer of a firearm between private parties:**
 36 **(1) Successfully contact NICS.**
 37 **(2) Receive authorization to complete the requested sale,**
 38 **trade, or transfer of the firearm from NICS before**
 39 **performing the requested sale, trade, or transfer.**
 40 **(3) Comply with all applicable federal laws concerning the**
 41 **requested sale, trade, or transfer of a firearm.**
 42 **(d) A dealer may:**



1 (1) charge a fee for the dealer's role in transacting the sale,
2 trade, or transfer of a firearm; and

3 (2) refuse to transact the sale, trade, or transfer of a firearm
4 for any reason.

5 If a dealer refuses to transact a sale, trade, or transfer, the dealer
6 must provide to the prospective recipient and prospective seller a
7 written explanation for the dealer's refusal to transact the
8 requested sale, trade, or transfer.

9 (e) Except as provided in subsections (f), (g), (h), and (i), a
10 dealer who refuses to transact the sale, trade, or transfer of a
11 firearm under subsection (d) must do the following:

12 (1) As soon as practicable, inform the seller and intended
13 recipient of the firearm of the dealer's decision to not transact
14 the sale, trade, or transfer of the firearm.

15 (2) Return any fee originally charged by the dealer for the
16 dealer's role in transacting the sale, trade, or transfer of the
17 firearm to the appropriate party or parties.

18 (3) Return the firearm to be sold, traded, or transferred to the
19 seller if:

20 (A) the firearm is in the dealer's control or possession at
21 the time the dealer refuses to transact the sale, trade, or
22 transfer of the firearm; and

23 (B) the seller is not otherwise prohibited under federal or
24 state law from possessing a firearm or NFA firearm, as
25 applicable.

26 (f) A dealer who discovers that the seller of a firearm is not
27 eligible, under federal or state law, to possess a firearm or an NFA
28 firearm, as applicable, must:

29 (1) comply with subsection (e)(1);

30 (2) maintain custody of the firearm;

31 (3) surrender the firearm to the state police not later than
32 twenty-four (24) hours after learning of the seller's inability
33 to possess the firearm or NFA firearm, as applicable; and

34 (4) comply with all applicable federal laws concerning the
35 transfer of a firearm.

36 A dealer who is unable to transact the sale, trade, or transfer of a
37 firearm due to the inability of the seller to possess a firearm or
38 NFA firearm, as applicable, is not required to return any fee
39 originally charged to the seller for the dealer's role in the
40 attempted transaction.

41 (g) A dealer who discovers that the intended recipient of a
42 firearm is not eligible, under federal or state law, to possess a



1 firearm or an NFA firearm, as applicable, must:

- 2 (1) comply with subsection (e)(1);
 3 (2) maintain custody of the firearm;
 4 (3) return the firearm to the seller as soon as practicable if the
 5 seller is not otherwise prohibited under federal or state law
 6 from possessing the firearm or NFA firearm, as applicable;
 7 and
 8 (4) comply with all applicable federal laws concerning the
 9 transfer of a firearm.

10 A dealer who is unable to transact the sale, trade, or transfer of a
 11 firearm due to the inability of the intended recipient to possess a
 12 firearm or NFA firearm, as applicable, is not required to return
 13 any fee originally charged to the intended recipient for the dealer's
 14 role in the attempted transaction.

15 (h) A dealer who discovers that the seller of a firearm and the
 16 intended recipient of the firearm are not eligible, under federal or
 17 state law, to possess a firearm or an NFA firearm, as applicable,
 18 must:

- 19 (1) comply with subsection (e)(1);
 20 (2) maintain custody of the firearm;
 21 (3) surrender the firearm to the state police not later than
 22 twenty-four (24) hours after learning of the seller's and
 23 intended recipient's ineligibility to possess a firearm or NFA
 24 firearm, as applicable; and
 25 (4) comply with all applicable federal laws concerning the
 26 transfer of a firearm.

27 A dealer who is unable to transact the sale, trade, or transfer of a
 28 firearm due to the inability of the seller and the intended recipient
 29 to possess a firearm or NFA firearm, as applicable, is not required
 30 to return any fee originally charged to the seller or the recipient
 31 for the dealer's role in the attempted transaction.

32 (i) A dealer who discovers that a firearm to be sold, traded, or
 33 transferred has been:

- 34 (1) reported:
 35 (A) lost; or
 36 (B) stolen; or
 37 (2) used in the commission of a crime;

38 must comply with subsection (e)(1), maintain custody of the
 39 firearm, and surrender the firearm to the state police not later
 40 than twenty-four (24) hours after learning of the firearm's lost,
 41 stolen, or criminal activity status and comply with all applicable
 42 federal laws concerning the transfer of a firearm. A dealer who is



1 unable to transact the sale, trade, or transfer of a firearm due to
 2 the lost, stolen, or criminal activity status of a firearm to be sold,
 3 traded, or transferred is not required to return any fee originally
 4 charged to the seller or intended recipient for the dealer's role in
 5 the attempted transaction.

6 (j) A dealer who:

7 (1) refuses to transact the sale, trade, or transfer of a firearm
 8 under subsection (d)(2) and complies with subsection (e); or

9 (2) aborts the sale, trade, or transfer of a firearm for a
 10 reason:

11 (A) described in subsection (f), (g), (h), or (i); or

12 (B) required under federal or state law;

13 shall be immune from civil liability and damages, including
 14 punitive damages, for any act or omission related to the dealer's
 15 decision to terminate a firearm sale, trade, or transfer described in
 16 subdivisions (1) and (2). If a dealer is not liable under this
 17 subsection, no person, by reason of an agency relationship with the
 18 dealer, may be held liable for any damages, including punitive
 19 damages, related to a terminated sale, trade, or transfer of a
 20 firearm.

21 (k) A person who knowingly or intentionally makes a materially
 22 false statement to a dealer for the purpose of completing a
 23 transaction described in this section commits firearm transfer
 24 fraud, a Level 6 felony. However, the offense is a Level 5 felony if
 25 the person has a prior unrelated conviction under this subsection.

26 (l) A dealer or person who knowingly or intentionally transacts
 27 the sale, trade, or transfer of a firearm:

28 (1) without:

29 (A) contacting NICS; or

30 (B) having a dealer contact NICS on the person's behalf;
 31 as applicable;

32 (2) without receiving authorization from NICS to proceed
 33 with the requested sale, trade, or transfer of the firearm
 34 before transacting the requested sale, trade, or transfer of a
 35 firearm; or

36 (3) in violation of a NICS instruction to terminate the
 37 requested sale, trade, or transfer of a firearm;

38 commits unlawful transfer of a firearm, a Level 6 felony. However,
 39 the offense is a Level 5 felony if the dealer or person, as applicable,
 40 has a prior unrelated conviction for an offense under this
 41 subsection.

42 (m) It is a defense to a prosecution under subsection (l) that a



1 **dealer or person, as applicable, received authorization from NICS**
2 **to transact a sale, trade, or transfer of a firearm.**

