



January 27, 2025

HOUSE BILL No. 1137

DIGEST OF HB 1137 (Updated January 22, 2025 1:06 pm - DI 106)

Citations Affected: IC 35-47.

Synopsis: Expungement of red flag law records. Requires a court to expunge certain records related to the red flag law if the court finds that an individual is not dangerous, and permits a court to expunge certain records related to the red flag law if the court finds that an individual previously found dangerous is no longer dangerous.

Effective: July 1, 2025.

Smaltz, Lucas, Teshka

January 8, 2025, read first time and referred to Committee on Courts and Criminal Code.
January 27, 2025, amended, reported — Do Pass.

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January 27, 2025

First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

HOUSE BILL No. 1137

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 35-47-14-6, AS AMENDED BY P.L.142-2020,
2 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2025]: Sec. 6. (a) The court shall conduct a hearing as
4 required under this chapter.
5 (b) The state has the burden of proving all material facts by clear
6 and convincing evidence.
7 (c) If the court determines that the state has proved by clear and
8 convincing evidence that the individual is dangerous, the court shall
9 issue a written order:
10 (1) finding the individual is dangerous (as defined in section 1 of
11 this chapter);
12 (2) ordering the law enforcement agency having custody of the
13 seized firearm to retain the firearm;
14 (3) ordering the individual's license to carry a handgun, if
15 applicable, suspended; and
16 (4) enjoining the individual from:
17 (A) renting;

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- 1 (B) receiving transfer of;
 2 (C) owning; or
 3 (D) possessing;
 4 a firearm; and
 5 determine whether the individual should be referred to further
 6 proceedings to consider whether the individual should be involuntarily
 7 detained or committed under IC 12-26-6-2(a)(2)(B).
 8 (d) If the court finds that the individual is dangerous under
 9 subsection (c), the clerk shall transmit the order of the court to the
 10 office of judicial administration:
 11 (1) for transmission to NICS (as defined in IC 35-47-2.5-2.5); and
 12 (2) beginning July 1, 2021, for the collection of certain data
 13 related to the confiscation and retention of firearms taken from
 14 dangerous individuals;
 15 in accordance with IC 33-24-6-3.
 16 (e) If the court orders a law enforcement agency to retain a firearm,
 17 the law enforcement agency shall retain the firearm until the court
 18 orders the firearm returned or otherwise disposed of.
 19 (f) If the court determines that the state has failed to prove by clear
 20 and convincing evidence that the individual is dangerous, the court
 21 shall issue a written order that:
 22 (1) the individual is not dangerous (as defined in section 1 of this
 23 chapter); ~~and~~
 24 (2) the law enforcement agency having custody of the firearm
 25 shall return the firearm as quickly as practicable, but not later
 26 than five (5) days after the date of the order, to the individual
 27 from whom it was seized; **and**
 28 **(3) the following records shall be sealed and expunged:**
 29 **(A) The court's file.**
 30 **(B) The records of any law enforcement agency or other**
 31 **person involved in the:**
 32 **(i) investigation of the individual under this chapter;**
 33 **(ii) filing of a search warrant return under section 2 of**
 34 **this chapter; or**
 35 **(iii) filing of an affidavit under section 3 of this chapter.**
 36 **(C) The records contained in any central repository for**
 37 **criminal history or civil litigation information, including**
 38 **the repository maintained by the state police department.**
 39 **This clause does not require the state police department to**
 40 **seal any record the state police department does not have**
 41 **legal authority to seal.**
 42 **A record sealed under this subdivision may not be disclosed**



1 to any individual or be accessible to any person unless
2 authorized by a court order.

3 (g) If, before July 1, 2025, the court issued an order that an
4 individual is not dangerous under subsection (f), and the individual
5 subsequently files a motion to amend that order to include the
6 expungement provisions of subsection (f)(3), the court shall grant
7 the motion and issue an amended order accordingly.

8 SECTION 2. IC 35-47-14-8, AS AMENDED BY P.L.142-2020,
9 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2025]: Sec. 8. (a) At least one hundred eighty (180) days after
11 the date on which a court orders a law enforcement agency to retain an
12 individual's firearm under section 6(c) of this chapter, the individual
13 may petition the court for a finding that the individual is no longer
14 dangerous.

15 (b) Upon receipt of a petition described in subsection (a), the court
16 shall:

17 (1) enter an order setting a date for a hearing on the petition; and
18 (2) inform the prosecuting attorney of the date, time, and location
19 of the hearing.

20 (c) The prosecuting attorney shall represent the state at the hearing
21 on a petition under this section.

22 (d) In a hearing on a petition under this section, the individual may
23 be represented by an attorney.

24 (e) In a hearing on a petition under this section filed:

25 (1) not later than one (1) year after the date of the order issued
26 under section 6(c) of this chapter, the individual must prove by a
27 preponderance of the evidence that the individual is no longer
28 dangerous; and

29 (2) later than one (1) year after the date of the order issued under
30 section 6(c) of this chapter, the state must prove by clear and
31 convincing evidence that the individual is still dangerous.

32 (f) If, upon the completion of the hearing and consideration of the
33 record, the court finds that the individual is no longer dangerous, the
34 court:

35 (1) shall:

36 (1) (A) issue a court order that finds that the individual is no
37 longer dangerous;

38 (2) (B) order the law enforcement agency having custody of
39 any firearm to return the firearm as quickly as practicable, but
40 not later than five (5) days after the date of the order, to the
41 individual;

42 (3) (C) terminate any injunction issued under section 6 of this



- 1 chapter; and
 2 ~~(4)~~ **(D)** terminate the suspension of the individual's license to
 3 carry a handgun so that the individual may reapply for a
 4 license; **and**
 5 **(2) may order that one (1) or more of the following records be**
 6 **sealed and expunged:**
 7 **(A) The court's file.**
 8 **(B) The records of any law enforcement agency or other**
 9 **person involved in the:**
 10 **(i) investigation of the individual under this chapter;**
 11 **(ii) filing of a search warrant return under section 2 of**
 12 **this chapter; or**
 13 **(iii) filing of an affidavit under section 3 of this chapter.**
 14 **(C) The records contained in any central repository for**
 15 **criminal history or civil litigation information, including**
 16 **the repository maintained by the state police department.**
 17 **This clause does not require the state police department to**
 18 **seal any record the state police department does not have**
 19 **legal authority to seal.**
 20 **A record sealed under this subdivision may not be disclosed**
 21 **to any individual or be accessible to any person unless**
 22 **authorized by a court order.**
 23 **(g) If, before July 1, 2025, the court issued an order that an**
 24 **individual is no longer dangerous under subsection (f), and the**
 25 **individual subsequently files a motion to amend that order to**
 26 **include the expungement provisions of subsection (f)(2), the court**
 27 **may grant the motion and issue an amended order accordingly.**
 28 ~~(g)~~ **(h)** If the court denies an individual's petition under this section,
 29 the individual may not file a subsequent petition until at least one
 30 hundred eighty (180) days after the date on which the court denied the
 31 petition.
 32 ~~(h)~~ **(i)** If a court issues an order described under subsection (f), the
 33 court's order shall be transmitted, as soon as practicable, to the office
 34 of judicial administration for transmission to the NICS (as defined in
 35 IC 35-47-2.5-2.5) and, beginning July 1, 2021, for the collection of
 36 certain data related to the confiscation and retention of firearms taken
 37 from dangerous individuals in accordance with IC 33-24-6-3.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1137, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 32 through 42, begin a new paragraph and insert:

"(f) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is no longer dangerous, the court:

(1) shall:

~~(1)~~ **(A)** issue a court order that finds that the individual is no longer dangerous;

~~(2)~~ **(B)** order the law enforcement agency having custody of any firearm to return the firearm as quickly as practicable, but not later than five (5) days after the date of the order, to the individual;

~~(3)~~ **(C)** terminate any injunction issued under section 6 of this chapter; and

~~(4)~~ **(D)** terminate the suspension of the individual's license to carry a handgun so that the individual may reapply for a license; **and**

(2) may order that one (1) or more of the following records be sealed and expunged:

(A) The court's file.

(B) The records of any law enforcement agency or other person involved in the:

(i) investigation of the individual under this chapter;

(ii) filing of a search warrant return under section 2 of this chapter; or

(iii) filing of an affidavit under section 3 of this chapter.

(C) The records contained in any central repository for criminal history or civil litigation information, including the repository maintained by the state police department. This clause does not require the state police department to seal any record the state police department does not have legal authority to seal.

A record sealed under this subdivision may not be disclosed to any individual or be accessible to any person unless authorized by a court order.

(g) If, before July 1, 2025, the court issued an order that an individual is no longer dangerous under subsection (f), and the



individual subsequently files a motion to amend that order to include the expungement provisions of subsection (f)(2), the court may grant the motion and issue an amended order accordingly."

Page 4, delete lines 1 through 24.

and when so amended that said bill do pass.

(Reference is to HB 1137 as introduced.)

MCNAMARA

Committee Vote: yeas 11, nays 0.

