

HOUSE BILL No. 1366

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-47.

Synopsis: Firearm storage. Prohibits a person from keeping or storing a loaded firearm on any premises controlled by the person if the person knows, or reasonably should know, that a child is likely to gain access to the firearm. Provides that a child's possession of a firearm resulting from a person's knowing or intentional failure to secure a firearm is a Class C misdemeanor. Provides that the offense is a Class B misdemeanor if the person has a prior unrelated conviction for the offense. Specifies certain defenses. Provides that a child's use of an unsecured firearm resulting in injury or death to any other person due to a person's knowing or intentional failure to secure a firearm is a Class A misdemeanor. Provides that the offense is a Level 6 felony if the person has a prior unrelated conviction for the offense. Specifies certain defenses. Specifies certain sign requirements for retail dealers. Defines certain terms. Makes conforming amendments.

Effective: July 1, 2023.

Gore, Hamilton

January 17, 2023, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1366

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 35-31.5-2-19.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: **Sec. 19.5. "Antique firearm", for**
4 **purposes of IC 35-47-1.5, has the meaning set forth in**
5 **IC 35-47-1.5-1.**

6 SECTION 2. IC 35-31.5-2-38, AS AMENDED BY P.L.252-2017,
7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2023]: Sec. 38. "Child", for purposes of IC 35-46-1-8,
9 IC 35-47-10, ~~and~~ IC 35-44.1-5-5, **and IC 35-47-1.5**, has the meaning
10 set forth in IC 35-47-10-3.

11 SECTION 3. IC 35-31.5-2-171.3 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2023]: **Sec. 171.3. "Inoperable firearm", for**
14 **purposes of IC 35-47-1.5, has the meaning set forth in**
15 **IC 35-47-1.5-3.**

16 SECTION 4. IC 35-31.5-2-188.1 IS ADDED TO THE INDIANA
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2023]: **Sec. 188.1. "Loaded firearm", for**
 2 **purposes of IC 35-47-1.5, has the meaning set forth in**
 3 **IC 35-47-1.5-4.**

4 SECTION 5. IC 35-31.5-2-288.5 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2023]: **Sec. 288.5. "Secures", for purposes of**
 7 **IC 35-47-1.5, has the meaning set forth in IC 35-47-1.5-5.**

8 SECTION 6. IC 35-47-1.5 IS ADDED TO THE INDIANA CODE
 9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2023]:

11 **Chapter 1.5. Storage of Firearms**

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

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

16 **Sec. 3. As used in this chapter, "inoperable firearm" means a**
 17 **firearm that is permanently unable to discharge or expel a**
 18 **projectile by means of an explosion. The term does not include any**
 19 **firearm that may be modified to discharge or expel a projectile by**
 20 **means of an explosion.**

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

23 **(1) A bullet, cartridge, projectile, or round in the breech,**
 24 **chamber, or cylinder of the firearm.**

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

27 **(3) Ammunition that is:**

28 **(A) inserted or stored inside:**

29 **(i) the firing chamber;**

30 **(ii) a cylinder; or**

31 **(iii) a fixed magazine;**

32 **of the firearm; or**

33 **(B) housed or stored inside a detachable magazine for the**
 34 **firearm.**

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

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

38 **(2) Temporarily rendering the firearm inoperable by:**

39 **(A) use of a trigger lock, bore lock, cable lock, or**
 40 **comparable device; or**

41 **(B) disassembling the firearm in a manner that prevents**
 42 **the firearm from operating.**



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

2 **(1) Antique firearms.**

3 **(2) Inoperable firearms.**

4 **(3) A person who secures a firearm against unauthorized**
5 **access.**

6 **(4) A person who carries a firearm:**

7 **(A) on his or her person; or**

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

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

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

12 **(b) It is unlawful for a person to knowingly or intentionally**
13 **store or keep a loaded firearm on any premises under the person's**
14 **control if the person knows, or reasonably should know, that a**
15 **child is likely to gain access to the firearm.**

16 **(c) If:**

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

19 **(2) a child obtains possession of the unsecured firearm;**
20 **the person responsible for control of the premises commits unsafe**
21 **storage of a firearm, a Class C misdemeanor. However, the offense**
22 **is a Class B misdemeanor if the person has a prior, unrelated**
23 **conviction for an offense under this section.**

24 **(d) If:**

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

27 **(2) use of the unsecured firearm by a child results in:**

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

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

30 **any other person;**

31 **the person responsible for control of the premises commits**
32 **dangerous storage of a firearm, a Class A misdemeanor. However,**
33 **the offense is a Level 6 felony if the person has a prior, unrelated**
34 **conviction for an offense under this section.**

35 **(e) It is a defense to a prosecution under subsection (c) that the**
36 **possession of the firearm by a child was the result of the**
37 **commission of an act that would be an offense described in one (1)**
38 **or more of the following sections if committed by an adult:**

39 **(1) Burglary (IC 35-43-2-1).**

40 **(2) Residential entry (IC 35-43-2-1.5).**

41 **(3) Robbery (IC 35-42-5-1).**

42 **(4) Theft (IC 35-43-4-2).**



1 **(5) Criminal conversion (IC 35-43-4-3).**
2 **(f) It is a defense to a prosecution under subsection (d) that the**
3 **injury or death inflicted on the other person occurred during a**
4 **lawful act of:**
5 **(1) self-defense; or**
6 **(2) defense of a third party.**
7 SECTION 7. IC 35-47-2-14.5 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2023]: **Sec. 14.5. (a) A retail dealer shall**
10 **conspicuously display at the site of the retail dealer's business a**
11 **sign with the following language:**
12 **"IT IS UNLAWFUL TO LEAVE AN UNSECURED FIREARM**
13 **IN A LOCATION WHERE CHILDREN ARE LIKELY TO BE**
14 **AND MAY OBTAIN ACCESS TO THE FIREARM."**
15 **(b) A retail dealer who knowingly or intentionally violates**
16 **subsection (a) commits a Class C infraction. However, the violation**
17 **is a Class A infraction if the retail dealer has a prior unrelated**
18 **adjudication for the violation.**

