



February 24, 2014

**ENGROSSED
SENATE BILL No. 169**

DIGEST OF SB 169 (Updated February 24, 2014 12:57 pm - DI 69)

Citations Affected: IC 35-43; IC 35-47; IC 35-50.

Synopsis: Providing firearms to an ineligible person; firearm theft. Makes it a Level 5 felony for a person to provide an individual with a firearm if the person knows that the individual: (1) is legally ineligible to possess a firearm; or (2) intends to use the firearm to commit a crime. Makes theft a Level 6 felony instead of a Class A misdemeanor if the property involved is a firearm. Allows the state to seek a sentencing enhancement of from five years to 20 years if a person uses a firearm to commit: (1) a felony against the person that results in death or serious bodily injury; (2) kidnapping; or (3) criminal confinement as a Level 2 or Level 3 felony.

Effective: July 1, 2014.

**Young R Michael, Merritt, Steele,
Arnold J**

(HOUSE SPONSORS — MCMILLIN, FRIZZELL, LUCAS, MOED)

January 8, 2014, read first time and referred to Committee on Corrections & Criminal Law.
January 30, 2014, amended, reported favorably — Do Pass.
February 3, 2014, read second time, amended, ordered engrossed.
February 4, 2014, engrossed. Read third time, passed. Yeas 43, nays 5.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Courts and Criminal Code.
February 24, 2014, amended, reported — Do Pass.

ES 169—LS 6733/DI 106



February 24, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 169

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 35-43-4-2, AS AMENDED BY P.L.158-2013,
2 SECTION 463, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who knowingly or
4 intentionally exerts unauthorized control over property of another
5 person, with intent to deprive the other person of any part of its value
6 or use, commits theft, a Class A misdemeanor. However, the offense is:
7 (1) a Level 6 felony if:
8 (A) the value of the property is at least seven hundred fifty
9 dollars (\$750) and less than fifty thousand dollars (\$50,000);
10 **(B) the property is a firearm;** or
11 ~~(B)~~ (C) the person has a prior unrelated conviction for:
12 (i) theft under this section; or
13 (ii) criminal conversion under section 3 of this chapter; and
14 (2) a Level 5 felony if:
15 (A) the value of the property is at least fifty thousand dollars
16 (\$50,000); or

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- 1 (B) the property that is the subject of the theft is a valuable
 2 metal (as defined in IC 25-37.5-1-1) and:
 3 (i) relates to transportation safety;
 4 (ii) relates to public safety; or
 5 (iii) is taken from a hospital or other health care facility,
 6 telecommunications provider, public utility (as defined in
 7 IC 32-24-1-5.9(a)), or key facility;
 8 and the absence of the property creates a substantial risk of
 9 bodily injury to a person.
- 10 (b) In determining the value of property under this section, acts of
 11 theft committed in a single episode of criminal conduct (as defined in
 12 IC 35-50-1-2(b)) may be charged in a single count.
- 13 (c) For purposes of this section, "the value of property" means:
 14 (1) the fair market value of the property at the time and place the
 15 offense was committed; or
 16 (2) if the fair market value of the property cannot be satisfactorily
 17 determined, the cost to replace the property within a reasonable
 18 time after the offense was committed.
- 19 A price tag or price marking on property displayed or offered for sale
 20 constitutes prima facie evidence of the value of the property.
- 21 SECTION 2. IC 35-47-2-7, AS AMENDED BY P.L.158-2013,
 22 SECTION 577, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) Except an individual acting
 24 within a parent-minor child or guardian-minor protected person
 25 relationship or any other individual who is also acting in compliance
 26 with IC 35-47-10 (**governing children and firearms**), a person may
 27 not sell, give, or in any other manner transfer the ownership or
 28 possession of a handgun or assault weapon to any person under
 29 eighteen (18) years of age.
- 30 (b) ~~It is unlawful for a person to sell, give, or in any manner transfer~~
 31 **A person who knowingly or intentionally sells, gives, or in any**
 32 **other manner transfers** the ownership or possession of a handgun to
 33 another person who the person **knows: has reasonable cause to believe:**
 34 ~~(1) has been:~~
 35 ~~(A) convicted of a felony; or~~
 36 ~~(B) adjudicated a delinquent child for an act that would be a~~
 37 ~~felony if committed by an adult; if the person seeking to obtain~~
 38 ~~ownership or possession of the handgun is less than~~
 39 ~~twenty-three (23) years of age;~~
 40 ~~(2) is a drug abuser;~~
 41 ~~(3) is an alcohol abuser; or~~
 42 ~~(4) is mentally incompetent;~~



1 **(1) is ineligible for any reason other than the person's age to**
 2 **purchase or otherwise receive from a dealer a handgun; or**
 3 **(2) intends to use the handgun to commit a crime;**
 4 **commits criminal transfer of a handgun, a Level 5 felony.**

5 (c) ~~A person who knowingly or intentionally violates this section~~
 6 ~~commits a Level 5 felony. A person who purchases a handgun with~~
 7 ~~the intent to:~~

8 **(1) resell or otherwise provide the handgun to another person**
 9 **who the person knows is ineligible for any reason to purchase**
 10 **or otherwise receive from a dealer a handgun;**

11 **(2) resell or otherwise provide the handgun to another person**
 12 **who the person knows intends to use the handgun to commit**
 13 **a crime; or**

14 **(3) transport the handgun outside Indiana to be resold or**
 15 **otherwise provided to another person who the transferor**
 16 **knows:**

17 **(A) is ineligible to purchase or otherwise receive a**
 18 **handgun; or**

19 **(B) intends to use the handgun to commit a crime;**
 20 **commits the straw purchase of a handgun, a Level 5 felony.**

21 SECTION 3. IC 35-47-2.5-1, AS AMENDED BY P.L.190-2006,
 22 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2014]: Sec. 1. (a) **Sections 2 through 5 of this chapter ~~does~~**
 24 ~~do~~ not apply to the following:

25 (1) Transactions between persons who are licensed as firearms
 26 importers or collectors or firearms manufacturers or dealers under
 27 18 U.S.C. 923.

28 (2) Purchases by or sales to a law enforcement officer or agent of
 29 the United States, the state, or a county or local government.

30 (3) Indiana residents licensed to carry handguns under
 31 IC 35-47-2-3.

32 (b) Notwithstanding any other provision of this chapter, the state
 33 shall participate in the NICS if federal funds are available to assist the
 34 state in participating in the NICS. If:

35 (1) the state participates in the NICS; and

36 (2) there is a conflict between:

37 (A) a provision of this chapter; and

38 (B) a procedure required under the NICS;

39 the procedure required under the NICS prevails over the conflicting
 40 provision of this chapter.

41 SECTION 4. IC 35-47-2.5-14 IS REPEALED [EFFECTIVE JULY
 42 1, 2014]. Sec. 14. (a) ~~This section does not apply to a person who~~



1 provides a handgun to the following:

2 (1) A child who is attending a hunters safety course or a firearms
3 safety course or an adult who is supervising the child during the
4 course:

5 (2) A child engaging in practice in using a firearm for target
6 shooting at an established range or in an area where the discharge
7 of a firearm is not prohibited or is supervised by:

8 (A) a qualified firearms instructor; or

9 (B) an adult who is supervising the child while the child is at
10 the range:

11 (3) A child engaging in an organized competition involving the
12 use of a firearm or participating in or practicing for a performance
13 by an organized group under Section 501(c)(3) of the Internal
14 Revenue Code that uses firearms as a part of a performance or an
15 adult who is involved in the competition or performance:

16 (4) A child who is hunting or trapping under a valid license issued
17 to the child under IC 14-22:

18 (5) A child who is traveling with an unloaded firearm to or from
19 an activity described in this section:

20 (6) A child who:

21 (A) is on real property that is under the control of the child's
22 parent, an adult family member of the child, or the child's legal
23 guardian; and

24 (B) has permission from the child's parent or legal guardian to
25 possess a firearm:

26 (b) A person who purchases a handgun with the intent to:

27 (1) resell or otherwise provide the handgun to another person who
28 the person knows or has reason to believe is ineligible for any
29 reason to purchase or otherwise receive from a dealer a handgun;
30 or

31 (2) transport the handgun out of the state to be resold or otherwise
32 provided to another person who the transferor knows is ineligible
33 to purchase or otherwise receive a firearm;

34 commits a Level 6 felony:

35 (c) If the violation of this section involves a transfer of more than
36 one (1) handgun, the offense is a Level 5 felony:

37 SECTION 5. IC 35-47-2.5-15 IS REPEALED [EFFECTIVE JULY
38 1, 2014]. Sec. 15. (a) A person who is ineligible to purchase or
39 otherwise receive or possess a handgun in Indiana who knowingly or
40 intentionally solicits, employs, or assists any person in violating section
41 14 of this chapter commits a Level 6 felony:

42 (b) If the violation involves a transfer of more than one (1) handgun;



- 1 the offense is a Level 5 felony.
- 2 SECTION 6. IC 35-47-2.5-16 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2014]: **Sec. 16. (a) This section does not apply**
- 5 **to a person who complies with IC 35-47-10 (governing children and**
- 6 **firearms).**
- 7 **(b) A person who provides a firearm to an individual who the**
- 8 **person knows:**
- 9 **(1) is ineligible to purchase or otherwise receive or possess a**
- 10 **firearm for any reason other than the person's age; or**
- 11 **(2) intends to use the firearm to commit a crime;**
- 12 **commits criminal transfer of a firearm, a Level 5 felony.**
- 13 SECTION 7. IC 35-47-10-1 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 1. (a) This section**
- 15 **does not apply to section 7 of this chapter.**
- 16 **(b) Except as provided in subsection (c), this chapter does not**
- 17 **apply to the following:**
- 18 (1) A child who is attending a hunters safety course or a firearms
- 19 safety course or an adult who is supervising the child during the
- 20 course.
- 21 (2) A child engaging in practice in using a firearm for target
- 22 shooting at an established range or in an area where the discharge
- 23 of a firearm is not prohibited or supervised by:
- 24 (A) a qualified firearms instructor; or
- 25 (B) an adult who is supervising the child while the child is at
- 26 the range.
- 27 (3) A child engaging in an organized competition involving the
- 28 use of a firearm or participating in or practicing for a performance
- 29 by an organized group under Section 501(c)(3) of the Internal
- 30 Revenue Code that uses firearms as a part of a performance or an
- 31 adult who is involved in the competition or performance.
- 32 (4) A child who is hunting or trapping under a valid license issued
- 33 to the child under IC 14-22.
- 34 (5) A child who is traveling with an unloaded firearm to or from
- 35 an activity described in this section.
- 36 (6) A child who:
- 37 (A) is on real property that is under the control of the child's
- 38 parent, an adult family member of the child, or the child's legal
- 39 guardian; and
- 40 (B) has permission from the child's parent or legal guardian to
- 41 possess a firearm.
- 42 (7) A child who:



- 1 (A) is at the child's residence; and
 2 (B) has the permission of the child's parent, an adult family
 3 member of the child, or the child's legal guardian to possess a
 4 firearm.

5 **(c) This chapter applies to a child, and to a person who provides**
 6 **a firearm to a child, if the child:**

- 7 **(1) is ineligible to purchase or possess a firearm for any**
 8 **reason other than the child's age; or**
 9 **(2) if the child intends to use a firearm to commit a crime.**

10 SECTION 8. IC 35-47-10-5, AS AMENDED BY P.L.158-2013,
 11 SECTION 602, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2014]: Sec. 5. **(a)** A child who knowingly,
 13 intentionally, or recklessly

- 14 ~~(1) possesses a firearm for any purpose other than a purpose~~
 15 ~~described in section 1 of this chapter or~~
 16 ~~(2) provides a firearm to another child with or without~~
 17 ~~remuneration for any purpose other than a purpose described in~~
 18 ~~section 1 of this chapter;~~

19 commits dangerous possession of a firearm, a Class A misdemeanor.
 20 However, the offense is a Level 5 felony if the child has a prior
 21 conviction under this section or has been adjudicated a delinquent for
 22 an act that would be an offense under this section if committed by an
 23 adult.

24 **(b) A child who knowingly or intentionally provides a firearm**
 25 **to another child whom the child knows:**

- 26 **(1) is ineligible for any reason to purchase or otherwise**
 27 **receive from a dealer a firearm; or**
 28 **(2) intends to use the firearm to commit a crime;**

29 **commits a Level 5 felony.**

30 SECTION 9. IC 35-47-10-6, AS AMENDED BY P.L.158-2013,
 31 SECTION 603, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2014]: Sec. 6. An adult who knowingly **or**
 33 ~~intentionally or recklessly~~ provides a firearm to a child ~~for any purpose~~
 34 ~~other than those described in section 1 of this chapter, with or without~~
 35 ~~remuneration, whom the adult knows:~~

- 36 **(1) is ineligible for any reason to purchase or otherwise**
 37 **receive from a dealer a firearm; or**
 38 **(2) intends to use the firearm to commit a crime;**

39 commits dangerous control of a firearm, a Level 5 felony. However, the
 40 offense is a Level 4 felony if the adult has a prior conviction under this
 41 section.

42 SECTION 10. IC 35-50-2-11, AS AMENDED BY P.L.158-2013,



1 SECTION 665, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) As used in this section,
3 "firearm" has the meaning set forth in IC 35-47-1-5.

4 (b) As used in this section, "offense" means:

5 (1) a felony under IC 35-42 that resulted in death or serious bodily
6 injury;

7 (2) kidnapping; or

8 (3) criminal confinement as a Level 2 or Level 3 felony.

9 (c) The state may seek, on a page separate from the rest of a
10 charging instrument, to have a person who allegedly committed an
11 offense sentenced to an additional fixed term of imprisonment if the
12 state can show beyond a reasonable doubt that the person knowingly or
13 intentionally used a firearm in the commission of the offense.

14 (d) If the person was convicted of the offense in a jury trial, the jury
15 shall reconvene to hear evidence in the enhancement hearing. If the
16 trial was to the court, or the judgment was entered on a guilty plea, the
17 court alone shall hear evidence in the enhancement hearing.

18 (e) If the jury (if the hearing is by jury) or the court (if the hearing
19 is to the court alone) finds that the state has proved beyond a
20 reasonable doubt that the person knowingly or intentionally used a
21 firearm in the commission of the offense, the court may sentence the
22 person to an additional fixed term of imprisonment of **between** five (5)
23 **years and twenty (20) years.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 169, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-43-4-2, AS AMENDED BY P.L.158-2013, SECTION 463, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. However, the offense is:

- (1) a Level 6 felony if:
 - (A) the value of the property is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000);
 - (B) the property is a firearm; or**
 - ~~(B)~~ (C) the person has a prior unrelated conviction for:
 - (i) theft under this section; or
 - (ii) criminal conversion under section 3 of this chapter; and
- (2) a Level 5 felony if:
 - (A) the value of the property is at least fifty thousand dollars (\$50,000); or
 - (B) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:
 - (i) relates to transportation safety;
 - (ii) relates to public safety; or
 - (iii) is taken from a hospital or other health care facility, telecommunications provider, public utility (as defined in IC 32-24-1-5.9(a)), or key facility;

and the absence of the property creates a substantial risk of bodily injury to a person.
- (b) In determining the value of property under this section, acts of theft committed in a single episode of criminal conduct (as defined in IC 35-50-1-2(b)) may be charged in a single count.
- (c) For purposes of this section, "the value of property" means:
 - (1) the fair market value of the property at the time and place the offense was committed; or
 - (2) if the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable



time after the offense was committed.

A price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value of the property.

SECTION 2. IC 35-47-2-7, AS AMENDED BY P.L.158-2013, SECTION 577, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) Except an individual acting within a parent-minor child or guardian-minor protected person relationship or any other individual who is also acting in compliance with IC 35-47-10 (**governing children and firearms**), a person may not sell, give, or in any other manner transfer the ownership or possession of a handgun or assault weapon to any person under eighteen (18) years of age.

(b) ~~It is unlawful for a person to sell, give, or in any manner transfer~~ **A person who knowingly or intentionally sells, gives, or in any other manner transfers** the ownership or possession of a handgun to another person who the person **knows or** has reasonable cause to believe:

(1) ~~has been:~~

(A) ~~convicted of a felony; or~~

(B) ~~adjudicated a delinquent child for an act that would be a felony if committed by an adult; if the person seeking to obtain ownership or possession of the handgun is less than twenty-three (23) years of age;~~

(2) ~~is a drug abuser;~~

(3) ~~is an alcohol abuser; or~~

(4) ~~is mentally incompetent;~~

(1) is ineligible for any reason other than the person's age to purchase or otherwise receive from a dealer a handgun; or

(2) intends to use the handgun to commit a crime;

commits criminal transfer of a handgun, a Level 5 felony. However, the offense is a Level 2 felony if a person uses the handgun to commit murder (IC 35-42-1-1).

(c) ~~A person who knowingly or intentionally violates this section commits a Level 5 felony. A person who purchases a handgun with the intent to:~~

(1) resell or otherwise provide the handgun to another person who the person knows or has reasonable cause to believe is ineligible for any reason to purchase or otherwise receive from a dealer a handgun;

(2) resell or otherwise provide the handgun to another person who the person knows or has reasonable cause to believe intends to use the handgun to commit a crime; or



(3) transport the handgun outside Indiana to be resold or otherwise provided to another person who the transferor knows or has reasonable cause to believe:

(A) is ineligible to purchase or otherwise receive a handgun; or

(B) intends to use the handgun to commit a crime; commits the straw purchase of a handgun, a Level 5 felony. However, the offense is a Level 2 felony if a person uses the handgun to commit murder (IC 35-42-1-1)."

Page 2, delete lines 5 through 42, begin a new paragraph and insert:
"SECTION 3. IC 35-47-2.5-14 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 14. (a) This section does not apply to a person who provides a handgun to the following:

(1) A child who is attending a hunters safety course or a firearms safety course or an adult who is supervising the child during the course.

(2) A child engaging in practice in using a firearm for target shooting at an established range or in an area where the discharge of a firearm is not prohibited or is supervised by:

(A) a qualified firearms instructor; or

(B) an adult who is supervising the child while the child is at the range.

(3) A child engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group under Section 501(c)(3) of the Internal Revenue Code that uses firearms as a part of a performance or an adult who is involved in the competition or performance.

(4) A child who is hunting or trapping under a valid license issued to the child under IC 14-22.

(5) A child who is traveling with an unloaded firearm to or from an activity described in this section.

(6) A child who:

(A) is on real property that is under the control of the child's parent; an adult family member of the child; or the child's legal guardian; and

(B) has permission from the child's parent or legal guardian to possess a firearm.

(b) A person who purchases a handgun with the intent to:

(1) resell or otherwise provide the handgun to another person who the person knows or has reason to believe is ineligible for any reason to purchase or otherwise receive from a dealer a handgun;

or



(2) transport the handgun out of the state to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm;
 commits a Level 6 felony:

(c) If the violation of this section involves a transfer of more than one (1) handgun, the offense is a Level 5 felony:

SECTION 4. IC 35-47-2.5-15 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 15. (a) A person who is ineligible to purchase or otherwise receive or possess a handgun in Indiana who knowingly or intentionally solicits, employs, or assists any person in violating section 14 of this chapter commits a Level 6 felony:

(b) If the violation involves a transfer of more than one (1) handgun, the offense is a Level 5 felony."

Page 3, delete lines 1 through 4.

Page 3, line 8, delete "provides a firearm to the following:" and insert "**complies with IC 35-47-10 (governing children and firearms).**".

Page 3, delete lines 9 through 33.

Page 3, line 35, delete "reason" and insert "**reasonable cause**".

Page 3, line 37, delete "due to the commission of a crime" and insert "**for any reason other than the person's age**".

Page 3, line 39, delete "Level 6" and insert "**Level 5**".

Page 3, line 39, after "felony." insert "**However, the offense is a Level 2 felony if a person uses the firearm to commit murder (IC 35-42-1-1).**".

Page 3, delete lines 40 through 42, begin a new paragraph and insert:

"SECTION 6. IC 35-47-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. **(a) This section does not apply to section 7 of this chapter.**

(b) Except as provided in subsection (c), this chapter does not apply to the following:

(1) A child who is attending a hunters safety course or a firearms safety course or an adult who is supervising the child during the course.

(2) A child engaging in practice in using a firearm for target shooting at an established range or in an area where the discharge of a firearm is not prohibited or supervised by:

(A) a qualified firearms instructor; or

(B) an adult who is supervising the child while the child is at the range.

(3) A child engaging in an organized competition involving the



use of a firearm or participating in or practicing for a performance by an organized group under Section 501(c)(3) of the Internal Revenue Code that uses firearms as a part of a performance or an adult who is involved in the competition or performance.

(4) A child who is hunting or trapping under a valid license issued to the child under IC 14-22.

(5) A child who is traveling with an unloaded firearm to or from an activity described in this section.

(6) A child who:

(A) is on real property that is under the control of the child's parent, an adult family member of the child, or the child's legal guardian; and

(B) has permission from the child's parent or legal guardian to possess a firearm.

(7) A child who:

(A) is at the child's residence; and

(B) has the permission of the child's parent, an adult family member of the child, or the child's legal guardian to possess a firearm.

(c) This chapter applies to a child, and to a person who provides a firearm to a child, if the child:

(1) is ineligible to purchase or possess a firearm for any reason other than the child's age; or

(2) if the child intends to use a firearm to commit a crime.

SECTION 7. IC 35-47-10-5, AS AMENDED BY P.L.158-2013, SECTION 602, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. **(a)** A child who knowingly, intentionally, or recklessly

~~(1) possesses a firearm for any purpose other than a purpose described in section 1 of this chapter or~~

~~(2) provides a firearm to another child with or without remuneration for any purpose other than a purpose described in section 1 of this chapter;~~

commits dangerous possession of a firearm, a Class A misdemeanor. However, the offense is a Level 5 felony if the child has a prior conviction under this section or has been adjudicated a delinquent for an act that would be an offense under this section if committed by an adult.

(b) A child who knowingly or intentionally provides a firearm to another child whom the child knows or has reasonable cause to believe:

(1) is ineligible for any reason to purchase or otherwise



receive from a dealer a firearm; or
(2) intends to use the firearm to commit a crime;
commits a Level 5 felony. However, the offense is a Level 2 felony if a person uses the firearm to commit murder (IC 35-42-1-1).

SECTION 8. IC 35-47-10-6, AS AMENDED BY P.L.158-2013, SECTION 603, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. An adult who knowingly or intentionally or recklessly provides a firearm to a child for any purpose other than those described in section † of this chapter, with or without remuneration; whom the adult knows or has reasonable cause to believe:

(1) is ineligible for any reason to purchase or otherwise receive from a dealer a firearm; or

(2) intends to use the firearm to commit a crime;

commits dangerous control of a firearm, a Level 5 felony. However, the offense is a Level 4 felony if the adult has a prior conviction under this section, **and a Level 2 felony if a person, including the child, uses the firearm to commit murder (IC 35-42-1-1).**

SECTION 9. IC 35-47-10-7, AS AMENDED BY P.L.158-2013, SECTION 604, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. A child's parent or legal guardian who knowingly, intentionally, or recklessly permits the child to possess a firearm:

(1) while:

(A) aware of a substantial risk that the child will use the firearm to commit a felony; and

(B) failing to make reasonable efforts to prevent the use of a firearm by the child to commit a felony; or

(2) when the child has been convicted of a crime of violence or has been adjudicated as a juvenile for an offense that would constitute a crime of violence if the child were an adult;

commits dangerous control of a child, a Level 5 felony. However, the offense is a Level 4 felony if the child's parent or legal guardian has a prior conviction under this section, **and a Level 2 felony if a person uses the firearm to commit murder (IC 35-42-1-1).**

SECTION 10. IC 35-50-2-11, AS AMENDED BY P.L.158-2013, SECTION 665, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "offense" means:

(1) a felony under IC 35-42 that resulted in death or serious bodily injury;



(2) kidnapping; or

(3) criminal confinement as a Level 2 or Level 3 felony.

(c) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

(d) If the person was convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(e) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense, the court may sentence the person to an additional fixed term of imprisonment of ~~five (5)~~ **between ten (10) and twenty (20) years**".

Delete pages 4 through 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 169 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 169 be amended to read as follows:

Page 2, line 33, delete "knows or" and insert "**knows:**".

Page 2, line 33, strike "has reasonable cause to".

Page 2, strike line 34.

Page 3, line 12, delete "or has reasonable cause to believe".

Page 3, line 16, delete "or has reasonable cause to believe".

Page 3, line 20, delete "knows or has reasonable cause to believe:" and insert "**knows:**".

Page 5, line 14, delete "knows or has reasonable cause to believe:" and insert "**knows:**".

Page 6, line 33, delete "knows or has reasonable cause to" and insert

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"knows:".

Page 6, delete line 34.

Page 7, line 3, delete "knows or has reasonable cause to" and insert

"knows:".

Page 7, delete line 4.

(Reference is to SB 169 as printed January 31, 2014.)

YOUNG R MICHAEL

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 169, 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 5 through 6.

Page 3, delete lines 23 through 24.

Page 5, line 16, delete "However,".

Page 5, delete lines 17 through 18.

Page 6, line 35, delete "However, the offense is a Level 2 felony".

Page 6, delete line 36.

Page 7, line 5, after "this" insert "section.".

Page 7, delete lines 6 through 24.

Page 8, line 5, delete "five (5) between" and insert "**between** five (5) years".

Page 8, line 6, delete "ten (10)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 169 as reprinted February 4, 2014.)

MCMILLIN, Chair

Committee Vote: yeas 8, nays 1.

