

HOUSE BILL No. 1040

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-47-1.5.

Synopsis: Firearm storage requirements. Prohibits a person from keeping or storing a firearm on any premises controlled by the person if one or more of the following conditions apply: (1) The person knows, or reasonably should know, that a child is likely to gain access to the firearm. (2) A permanent resident or temporary occupant of the premises is disqualified, ineligible, or prohibited from possessing a firearm under federal or state law. (3) A permanent resident or temporary occupant of the premises poses a risk of imminent personal injury to the permanent resident or temporary occupant or any other individual. Provides that a failure to secure a firearm that results in injury to, or the death of, another person is a Level 6 felony. Enhances the offense to a Level 5 felony if the person has a prior, unrelated conviction for the offense. Specifies certain defenses. Defines certain terms. Makes conforming amendments.

Effective: July 1, 2019.

Bartlett

January 3, 2019, read first time and referred to Committee on Public Policy.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1040

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, 2019]: **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, 2019]: 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 35-31.5-2-171.5 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2019]: **Sec. 171.5. "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, 2019]: **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, 2019]: **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, 2019]:

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 breech;**

30 **(ii) cylinder; or**

31 **(iii) fixed magazine;**

32 **of the firearm; or**

33 **(B) housed or stored inside a detachable magazine of 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 one (1) or more of the following conditions apply:**
15 **(1) The person knows, or reasonably should know, that a child**
16 **is likely to gain access to the firearm.**
17 **(2) The person knows, or reasonably should know, that a**
18 **permanent resident or temporary occupant of the premises is**
19 **disqualified, ineligible, or prohibited from possessing a**
20 **firearm under federal or state law.**
21 **(3) The person knows, or reasonably should know, that a**
22 **permanent resident or temporary occupant of the premises**
23 **poses a risk of imminent personal injury to the permanent**
24 **resident or temporary occupant or any other individual.**
25 **(4) The manner of firearm storage allows access to the**
26 **firearm by an unauthorized person.**
27 **(c) If:**
28 **(1) a person described in subsection (b) fails to secure a**
29 **firearm; and**
30 **(2) use of the unsecured firearm by another person results in:**
31 **(A) any injury to; or**
32 **(B) the death of;**
33 **any other person;**
34 **the person responsible for control of the premises commits unsafe**
35 **storage of a firearm, a Level 6 felony. However, the offense is a**
36 **Level 5 felony if the person has a prior, unrelated conviction for an**
37 **offense under this section.**
38 **(d) It is a defense to a prosecution under subsection (c) that the**
39 **injury or death inflicted on the other person occurred during a**
40 **lawful act of:**
41 **(1) self-defense; or**
42 **(2) defense of a third party.**

