



February 28, 2003

SENATE BILL No. 487

DIGEST OF SB 487 (Updated February 25, 2003 4:10 PM - DI 106)

Citations Affected: IC 35-47.

Synopsis: Handgun background checks. Provides that a person may not receive a handgun license if the person is prohibited from owning a firearm under state or federal law. Specifies that a dealer may not immediately sell a handgun to a prospective purchaser if a state police background investigation is pending. (The introduced version of this bill was prepared by the criminal law study commission).

Effective: July 1, 2003.

Bray

January 21, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.
February 27, 2003, amended, reported favorably — Do Pass.

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SB 487—LS 7246/DI 106+



February 28, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 487

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-47-1-2.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 2.5. As used in this chapter, "conditional proceed"**
4 **means a firearms transaction in which a dealer may lawfully**
5 **transfer a firearm to a person because the state police department**
6 **has not received disposition information concerning the person.**
7 SECTION 2. IC 35-47-2-3, AS AMENDED BY P.L.120-2001,
8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2003]: Sec. 3. (a) A person desiring a license to carry a
10 handgun shall apply:
11 (1) to the chief of police or corresponding law enforcement officer
12 of the municipality in which the applicant resides;
13 (2) if that municipality has no such officer, or if the applicant does
14 not reside in a municipality, to the sheriff of the county in which
15 the applicant resides after the applicant has obtained an
16 application form prescribed by the superintendent; or
17 (3) if the applicant is a resident of another state and has a regular

SB 487—LS 7246/DI 106+



1 place of business or employment in Indiana, to the sheriff of the
 2 county in which the applicant has a regular place of business or
 3 employment.

4 (b) The law enforcement agency which accepts an application for a
 5 handgun license shall collect a ten dollar (\$10) application fee, five
 6 dollars (\$5) of which shall be refunded if the license is not issued.
 7 Except as provided in subsection (h), the fee shall be:

- 8 (1) deposited into the law enforcement agency's firearms training
 9 fund or other appropriate training activities fund; and
 10 (2) used by the agency for the purpose of:
 11 (A) training law enforcement officers in the proper use of
 12 firearms or other law enforcement duties; or
 13 (B) purchasing for the law enforcement officers employed by
 14 the law enforcement agency firearms, or firearm related
 15 equipment, or both.

16 The state board of accounts shall establish rules for the proper
 17 accounting and expenditure of funds collected under this subsection.

18 (c) The officer to whom the application is made shall ascertain the
 19 applicant's name, full address, length of residence in the community,
 20 whether the applicant's residence is located within the limits of any city
 21 or town, the applicant's occupation, place of business or employment,
 22 criminal record, if any, and convictions (minor traffic offenses
 23 excepted), age, race, sex, nationality, date of birth, citizenship, height,
 24 weight, build, color of hair, color of eyes, scars and marks, whether the
 25 applicant has previously held an Indiana license to carry a handgun
 26 and, if so, the serial number of the license and year issued, whether the
 27 applicant's license has ever been suspended or revoked, and if so, the
 28 year and reason for the suspension or revocation, and the applicant's
 29 reason for desiring a license. The officer to whom the application is
 30 made shall conduct an investigation into the applicant's official records
 31 and verify thereby the applicant's character and reputation, and shall in
 32 addition verify for accuracy the information contained in the
 33 application, and shall forward this information together with his
 34 recommendation for approval or disapproval and one (1) set of legible
 35 and classifiable fingerprints of the applicant to the superintendent.

36 (d) The superintendent may make whatever further investigation the
 37 superintendent deems necessary. Whenever disapproval is
 38 recommended, the officer to whom the application is made shall
 39 provide the superintendent and the applicant with the officer's complete
 40 and specific reasons, in writing, for the recommendation of
 41 disapproval.

42 (e) If it appears to the superintendent that the applicant has a proper

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1 reason for carrying a handgun, ~~and~~ is of good character and reputation
 2 and a proper person to be so licensed, **and is otherwise eligible to**
 3 **possess a firearm under state and federal law**, the superintendent
 4 shall issue to the applicant a qualified or an unlimited license to carry
 5 any handgun lawfully possessed by the applicant. The original license
 6 shall be delivered to the licensee. A copy shall be delivered to the
 7 officer to whom the application for license was made. A copy shall be
 8 retained by the superintendent for at least four (4) years. This license
 9 shall be valid for a period of four (4) years from the date of issue. The
 10 license of police officers, sheriffs or their deputies, and law
 11 enforcement officers of the United States government who have been
 12 honorably retired by a lawfully created pension board or its equivalent
 13 after twenty (20) or more years of service, shall be valid for the life of
 14 such individuals. However, such lifetime licenses are automatically
 15 revoked if the license holder does not remain a proper person.

16 (f) At the time a license is issued and delivered to a licensee under
 17 subsection (e), the superintendent shall include with the license
 18 information concerning handgun safety rules that:

- 19 (1) neither opposes nor supports an individual's right to bear
 20 arms; and
 21 (2) is:
 22 (A) recommended by a nonprofit educational organization that
 23 is dedicated to providing education on safe handling and use
 24 of firearms;
 25 (B) prepared by the state police department; and
 26 (C) approved by the superintendent.

27 The superintendent may not deny a license under this section because
 28 the information required under this subsection is unavailable at the
 29 time the superintendent would otherwise issue a license. The state
 30 police department may accept private donations or grants to defray the
 31 cost of printing and mailing the information required under this
 32 subsection.

33 (g) A license to carry a handgun shall not be issued to any person
 34 who:

- 35 (1) has been convicted of a felony;
 36 (2) is under eighteen (18) years of age;
 37 (3) is under twenty-three (23) years of age if the person has been
 38 adjudicated a delinquent child for an act that would be a felony if
 39 committed by an adult; or
 40 (4) has been arrested for a Class A or Class B felony, or any other
 41 felony that was committed while armed with a deadly weapon or
 42 that involved the use of violence, if a court has found probable



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1 cause to believe that the person committed the offense charged.
 2 In the case of an arrest under subdivision (4), a license to carry a
 3 handgun may be issued to a person who has been acquitted of the
 4 specific offense charged or if the charges for the specific offense are
 5 dismissed. The superintendent shall prescribe all forms to be used in
 6 connection with the administration of this chapter.

7 (h) If the law enforcement agency that charges a fee under
 8 subsection (b) is a city or town law enforcement agency, the fee shall
 9 be deposited in the law enforcement continuing education fund
 10 established under IC 5-2-8-2.

11 (i) If a person who holds a valid license to carry a handgun issued
 12 under this chapter:

13 (1) changes the person's name; or

14 (2) changes the person's address;

15 the person shall, not later than sixty (60) days after the date of the
 16 change, notify the superintendent, in writing, of the person's new name
 17 or new address.

18 (j) The state police shall indicate on the form for a license to carry
 19 a handgun the notification requirements of subsection (i).

20 SECTION 3. IC 35-47-2.5-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The state police
 22 department shall provide its response to a requesting dealer under
 23 section 6 of this chapter during the dealer's call, or by return call
 24 without delay.

25 (b) If a criminal history check indicates that a prospective purchaser
 26 or transferee has a disqualifying criminal record or has been acquitted
 27 by reason of insanity and committed to the custody of the division of
 28 mental health, the state police department has until the end of the next
 29 business day of the state police department to advise the dealer that the
 30 records indicate the buyer or transferee is prohibited from possessing
 31 or transporting a firearm by state or federal law.

32 (c) If a dealer:

33 (1) is not advised of a prohibition before the end of the next
 34 business day of the state police department; ~~and~~

35 **(2) is not advised by the state police department that an**
 36 **investigation into the prospective purchaser's or transferee's**
 37 **criminal history record is pending because the review of**
 38 **criminal history information under section 6 of this chapter**
 39 **reveals that the person has been charged with a crime for**
 40 **which the person, if convicted, would be prohibited under**
 41 **state law from purchasing, receiving, or possessing a firearm,**
 42 **and:**

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1 **(A) there has been no final disposition of the case; or**
 2 **(B) the final disposition of the case is not noted; and**
 3 **(3)** has fulfilled the requirements of section 4 of this chapter;
 4 the dealer may immediately complete the sale or transfer and may not
 5 be considered in violation of this chapter with respect to the sale or
 6 transfer.

7 **(d) Upon receipt of a criminal history challenge form indicating**
 8 **a purchaser's request for review of the delay, the state police**
 9 **department shall proceed with efforts to obtain the final disposition**
 10 **information. The purchaser may attempt to assist the department**
 11 **in obtaining the final disposition information. If neither the**
 12 **purchaser nor the department is able to obtain the final disposition**
 13 **information within three (3) calendar days following the**
 14 **department's receipt of the criminal history challenge form, the**
 15 **state police department shall immediately notify the federal**
 16 **firearms licensee that the pending transaction is a conditional**
 17 **proceed.**

18 **(e) In any case in which the transfer of a firearm has been**
 19 **delayed under subsection (c)(2), the department's inability to**
 20 **obtain information relating to the final disposition of a case does**
 21 **not constitute the basis for the continued denial of the transfer if**
 22 **the department receives written notice from the clerk of the court,**
 23 **signed and verified by the clerk, indicating that final disposition**
 24 **information is available. Upon receipt of this notice, the state police**
 25 **department shall immediately notify the dealer that the dealer may**
 26 **proceed with the firearms transfer and may not be considered in**
 27 **violation of this chapter for completing the firearms transfer.**

28 **(f) In case of electronic failure or other circumstances beyond the**
 29 **control of the state police department, the dealer shall be advised**
 30 **immediately of the reason for the delay and be given an estimate of the**
 31 **length of the delay. However, after a notification under this subsection,**
 32 **the state police department shall inform the requesting dealer whether**
 33 **state police department records indicate the buyer or transferee is**
 34 **prohibited from possessing or transporting a firearm by state or federal**
 35 **law not later than:**

36 (1) the end of the next business day of the state police department
 37 following correction of the problem that caused the delay; or

38 (2) three (3) business days of the state police department;
 39 whichever is earlier, **unless an investigation into the prospective**
 40 **purchaser's or transferee's criminal history record or eligibility to**
 41 **purchase a firearm under state or federal law is still pending at the**
 42 **expiration of the time described in subdivision (1) or (2).**



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1 (c) A dealer that fulfills the requirements of section 4 of this chapter
2 and is told by the state police department that a response will not be
3 available under subsection (d) may immediately complete the sale or
4 transfer and may not be considered in violation of this chapter with
5 respect to the sale or transfer.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 487, 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, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 35-47-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. As used in this chapter, "conditional proceed" means a firearms transaction in which a dealer may lawfully transfer a firearm to a person because the state police department has not received disposition information concerning the person.**"

Delete pages 2 through 3.

Page 4, delete lines 1 through 10, begin a new paragraph and insert:

"SECTION 2. IC 35-47-2-3, AS AMENDED BY P.L.120-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A person desiring a license to carry a handgun shall apply:

- (1) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;
- (2) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or
- (3) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment.

(b) The law enforcement agency which accepts an application for a handgun license shall collect a ten dollar (\$10) application fee, five dollars (\$5) of which shall be refunded if the license is not issued. Except as provided in subsection (h), the fee shall be:

- (1) deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund; and
- (2) used by the agency for the purpose of:
 - (A) training law enforcement officers in the proper use of firearms or other law enforcement duties; or
 - (B) purchasing for the law enforcement officers employed by the law enforcement agency firearms, or firearm related equipment, or both.

SB 487—LS 7246/DI 106+



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The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain the applicant's name, full address, length of residence in the community, whether the applicant's residence is located within the limits of any city or town, the applicant's occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held an Indiana license to carry a handgun and, if so, the serial number of the license and year issued, whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with his recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the superintendent.

(d) The superintendent may make whatever further investigation the superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with the officer's complete and specific reasons, in writing, for the recommendation of disapproval.

(e) If it appears to the superintendent that the applicant has a proper reason for carrying a handgun, ~~and~~ is of good character and reputation and a proper person to be so licensed, **and is otherwise eligible to possess a firearm under state and federal law**, the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years. This license shall be valid for a period of four (4) years from the date of issue. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of such individuals. However, such lifetime licenses are automatically revoked if the license holder does not remain a proper person.

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(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

- (1) neither opposes nor supports an individual's right to bear arms; and
- (2) is:
 - (A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;
 - (B) prepared by the state police department; and
 - (C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

- (1) has been convicted of a felony;
- (2) is under eighteen (18) years of age;
- (3) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or
- (4) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

In the case of an arrest under subdivision (4), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

- (1) changes the person's name; or
- (2) changes the person's address;

the person shall, not later than sixty (60) days after the date of the

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change, notify the superintendent, in writing, of the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i)."

Page 4, line 27, delete ":".

Page 4, line 28, delete "(A)".

Page 4, line 28, delete "; or".

Page 4, delete line 29 through 30.

Page 4, line 31, delete "; and" and insert **"because the review of criminal history information under section 6 of this chapter reveals that the person has been charged with a crime for which the person, if convicted, would be prohibited under state law from purchasing, receiving, or possessing a firearm, and:**

(A) there has been no final disposition of the case; or

(B) the final disposition of the case is not noted; and".

Page 4, run in lines 27 through 31.

Page 4, line 35, delete "However, a pending investigation must be completed".

Page 4, delete lines 36 through 37.

Page 4, line 38, after "(d)" insert **"Upon receipt of a criminal history challenge form indicating a purchaser's request for review of the delay, the state police department shall proceed with efforts to obtain the final disposition information. The purchaser may attempt to assist the department in obtaining the final disposition information. If neither the purchaser nor the department is able to obtain the final disposition information within three (3) calendar days following the department's receipt of the criminal history challenge form, the state police department shall immediately notify the federal firearms licensee that the pending transaction is a conditional proceed.**

(e) In any case in which the transfer of a firearm has been delayed under subsection (c)(2), the department's inability to obtain information relating to the final disposition of a case does not constitute the basis for the continued denial of the transfer if the department receives written notice from the clerk of the court, signed and verified by the clerk, indicating that final disposition information is available. Upon receipt of this notice, the state police department shall immediately notify the dealer that the dealer may proceed with the firearms transfer and may not be considered in violation of this chapter for completing the firearms transfer.

(f)".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 487 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 1.

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