



## INDIANA

# RISK WARRANT (WARRANTLESS)

## A GUIDE TO THE PROCESS



Bloomberg American Health Initiative

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# INDIANA

## Risk Warrant (Warrantless) Process

### Authorized petitioners in Indiana include:

- Law enforcement

### WARRANTLESS REMOVAL OF FIREARMS

A law enforcement officer conducts a warrantless removal of an individual's firearms upon establishing the individual is dangerous to self or others.

### FILE AN AFFIDAVIT AND SEARCH WARRANT RETURN

Law enforcement officer files an affidavit with the court describing the basis for the law enforcement officer's belief that the respondent is dangerous.

Law enforcement files a search warrant return with the court setting forth the quantity and type of each firearm removed from the respondent.

### ASSESS THE AFFIDAVIT

The court reviews the affidavit to determine whether there is probable cause to believe that the respondent is dangerous.

### BURDEN OF PROOF IS MET

The court orders law enforcement to retain custody of any removed firearms.

### BURDEN OF PROOF IS NOT MET

If probable cause does not exist, the court orders the return of the firearm(s) to the respondent.

### PROVIDE NOTICE TO THE RESPONDENT

The court provides the respondent with notice of the upcoming hearing.

### PROCEED WITH FINAL HEARING

Within 14 days of the filing of the initial affidavit, the court conducts a hearing to determine whether there is clear and convincing evidence to prove the respondent is dangerous.

### BURDEN OF PROOF IS MET

The court issues a written order finding the individual is dangerous, ordering law enforcement to retain any removed firearms, ordering the respondent's license to carry a handgun, if applicable, suspended, and prohibiting the respondent from renting, receiving transfer of, owning, or possessing a firearm.

(The court also determines whether to refer the respondent to further proceedings to consider whether to involuntarily detain or commit the respondent.)

### BURDEN OF PROOF IS NOT MET

The court issues a written order stating that the individual is not dangerous and the law enforcement agency in custody of the individual's firearms must return the firearms.

### UPDATE BACKGROUND CHECK SYSTEM

The clerk transmits the order of the court to the IN Office of Judicial Administration for transmission to the National Instant Criminal Background Check System (NICS).

### TERMINATE OR RENEW ORDER

A respondent may, beginning 180 days after the courts' order to retain firearms, petition the court for a finding the respondent is no longer dangerous.

### UPDATE BACKGROUND CHECK SYSTEM

If the order is terminated, the clerk transmits the order as soon as practicable to the IN Office of Judicial Administration for transmission to the NICS.

### RETURN FIREARMS

Within 5 days of the termination of an order, law enforcement returns any removed firearms to the respondent.