IC 34

TITLE 34. CIVIL LAW AND PROCEDURE

IC 34-1

ARTICLE 1. REPEALED

(Repealed by P.L.1-1998, SEC.221.)

IC 34-2

ARTICLE 2. REPEALED

(Repealed by P.L.1-1998, SEC.221.)

IC 34-3

ARTICLE 3. REPEALED

(Repealed by P.L.1-1998, SEC.221.)

IC 34-4

ARTICLE 4. REPEALED

(Repealed by P.L.1-1998, SEC.221.)

IC 34-5

ARTICLE 5. REPEALED

(Repealed by P.L.1-1998, SEC.221.)

IC 34-6

ARTICLE 6. DEFINITIONS

IC 34-6-1

Chapter 1. General Provisions

IC 34-6-1-1

Applicability of definitions

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.

As added by P.L.1-1998, SEC.1.

IC 34-6-2
Chapter 2. Definitions

IC 34-6-2-1
Repealed
(Repealed by P.L.133-2002, SEC.69.)

IC 34-6-2-2
"Actual damages"
Sec. 2. (a) "Actual damages", for purposes of IC 34-15-3, includes all damages that the plaintiff may have suffered in respect to the plaintiff's character, property, business, trade, profession, or occupation.
(b) "Actual damages", for purposes of IC 34-15-4, means all damages that the plaintiff may have suffered in respect to the plaintiff's reputation, property, business, trade, profession, or occupation.
(c) The phrase does not include any other damages.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-2.5
"Adult person"
Sec. 2.5. "Adult person", for purposes of IC 34-23-1-2, has the meaning set forth in IC 34-23-1-2(a).
As added by P.L.84-1999, SEC.1.

IC 34-6-2-3
"Advance payment"
Sec. 3. "Advance payment", for purposes of IC 34-44-2, means a payment made:
(1) by:
(A) the defendant in an action to recover damages for personal injuries, wrongful death, or property damage; or
(B) the defendant's insurance company; and
(2) to or for the plaintiff or any other person.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-3.1
"Advanced emergency medical technician"
Sec. 3.1. "Advanced emergency medical technician", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-3.5.
As added by P.L.77-2012, SEC.53.

IC 34-6-2-3.3
"Advertiser or sponsor"
Sec. 3.3. (a) "Advertiser or sponsor", for purposes of IC 34-30-22, means a person who for political, commercial, educational, benevolent, or charitable purposes:
(1) donates or contributes money, materials, or products; or
(2) pays fees to advertise or display trademarks;

in connection with an event.

(b) The term does not include a person who exercises primary control over an event.

As added by P.L.116-2005, SEC.1.

IC 34-6-2-4

Repealed

(Repealed by P.L.205-2003, SEC.44.)

IC 34-6-2-5

"Agency"

Sec. 5. (a)"Agency", for purposes of IC 34-30-9, has the meaning set forth in IC 4-20.5-1-3. The term includes any institution supported by taxes.

(b) "Agency", for purposes of IC 34-52-2, refers to any elected official or other authority exercising any of the executive, including administrative, authority of the state. The term does not include the legislative or judicial department of state government or a political subdivision.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-6

"Aggrieved person"

Sec. 6. "Aggrieved person", for purposes of IC 34-24-2, means any of the following:

(1) A person who has an interest in property or in an enterprise that:

(A) is the object of corrupt business influence (IC 35-45-6-2); or

(B) has suffered damages or harm as a result of corrupt business influence (IC 35-45-6-2).

(2) An individual whose personal safety is threatened by criminal gang (as defined in section 32 of this chapter) activity.

(3) An individual or a business whose property value or business activity is negatively affected due to criminal gang (as defined in section 32 of this chapter) activity.

(4) A political subdivision in which criminal gang (as defined in section 32 of this chapter) activity negatively affects the property values or business activity of the political subdivision or the personal safety of the political subdivision's residents.

(5) The state.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-7

Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-8

"Agricultural product"

Sec. 8. "Agricultural product", for purposes of IC 34-30-3 and

IC 34-30-5, means a natural product of a farm, a nursery, a grove, an orchard, a vineyard, a garden, or an apiary. The term includes trees and firewood.
As added by P.L.1-1998, SEC.1. Amended by P.L.155-2013, SEC.1.

IC 34-6-2-8.2
"Agritourism activity"
Sec. 8.2. "Agritourism activity", for the purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-2.
As added by P.L.6-2012, SEC.214.

IC 34-6-2-8.3
"Agritourism provider"
Sec. 8.3. "Agritourism provider", for the purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-3.
As added by P.L.6-2012, SEC.215.

IC 34-6-2-9
"Ambulance service"
Sec. 9. "Ambulance service", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-4.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-10
"Annual aggregate"
Sec. 10. "Annual aggregate", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-5.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-11
"Armory"
Sec. 11. "Armory", for purposes of IC 34-30-8, means an armory constructed and operated under IC 10-16-3 or IC 10-16-4.
As added by P.L.1-1998, SEC.1. Amended by P.L.2-2003, SEC.81.

IC 34-6-2-11.5
"Asbestos claim"
Sec. 11.5. "Asbestos claim", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-1.
As added by P.L.134-2009, SEC.1.

IC 34-6-2-12
"Assisting sheriff"
Sec. 12. "Assisting sheriff", for purposes of IC 34-47-4, means the sheriff of a county other than the county in which a writ of attachment has been issued under IC 34-47-4.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-13
"Auctioneer"

Sec. 13. "Auctioneer", for purposes of IC 34-55-6, means an auctioneer licensed under IC 25-6.1.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-14
"Authority"
Sec. 14. "Authority", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-6.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-15
"Authorized persons"
Sec. 15. "Authorized persons", for purposes of IC 34-43-1, include:

(1) the patient;
(2) a person authorized by the patient to request the records, if the authorization was made in writing not more than sixty (60) days before the date of the request for the records;
(3) physicians or other professionals within the hospital;
(4) a person entitled to request health records under IC 16-39-1-3;
(5) a coroner who is investigating a death under IC 36-2-14-6; and
(6) any other person designated by order of a court of competent jurisdiction.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-15.7
"Basic life support"
Sec. 15.7. "Basic life support" has the meaning set forth in IC 16-18-2-33.5.
As added by P.L.166-2007, SEC.3.

IC 34-6-2-16
"Beverages"
Sec. 16. "Beverages", for purposes of IC 34-30-8, includes alcoholic beverages.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-17
"Business"
Sec. 17. "Business", for purposes of IC 34-42, means each business, bank, industry, governmental entity, profession, occupation, and calling of every kind.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-18
"Center"
Sec. 18. "Center", for purposes of IC 34-57-3, means a community dispute resolution center or local program that provides conciliation,

mediation, arbitration, or other dispute resolution services.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-19
"Certified copy of a certificate of title"

Sec. 19. "Certified copy of a certificate of title", for purposes of IC 34-40-4, means a document that is:

(1) a copy of a certificate of title for a motor vehicle, by whatever name designated, that is issued by the bureau of motor vehicles or a governmental entity in another state;

(2) prepared from a record of the governmental entity issuing the certificate of title; and

(3) certified by the officer having legal custody of the record described in subdivision (2) or the officer's deputy.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-20
"Charitable entity"

Sec. 20. "Charitable entity", for purposes of IC 34-30-5, means any entity exempted from state gross retail tax under IC 6-2.5-5-21(b)(1)(B).
As added by P.L.1-1998, SEC.1. Amended by P.L.192-2002(ss), SEC.173.

IC 34-6-2-21
"Child"

Sec. 21. (a) "Child", for purposes of IC 34-23-2, has the meaning set forth in IC 34-23-2.

(b) "Child", for purposes of IC 34-30-11, includes a child of any age.

(c) "Child", for purposes of IC 34-31-4, means an unemancipated person who is less than eighteen (18) years of age.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-21.2
Repealed

(Repealed by P.L.1-2003, SEC.105.)

IC 34-6-2-22
"Cognovit note"

Sec. 22. "Cognovit note", for purposes of IC 34-54-4, means a negotiable instrument or other written contract to pay money that contains a provision or stipulation:

(1) giving to any person a power of attorney, or authority as attorney, for the maker, endorser, assignor, or other person liable on the negotiable instrument or contract, and in the name of the maker, endorser, assignor, or other obligor:

(A) to appear in any court, whether of record or inferior; or

(B) to waive personal service of process;

in any action to enforce payment of money or any part of the

money claimed to be due;

(2) authorizing or purporting to authorize an attorney, agent, or other representative, however designated, to confess judgment on the instrument for a sum of money when the sum is to be ascertained, or the judgment is to be rendered or entered otherwise than by action of court upon a hearing after personal service upon the debtor, whether with or without attorney's fee; or

(3) authorizing or purporting to authorize an attorney, agent, or representative to:

(A) release errors or the right of appeal from any judgment; or

(B) consent to the issuance of execution on the judgment.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-23
"College, university, or junior college"

Sec. 23. "College, university, or junior college", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-7.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-24
"Commissioner"

Sec. 24. "Commissioner", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-8.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-25
"Community health center"

Sec. 25. "Community health center", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-9.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-26
"Community mental health center"

Sec. 26. "Community mental health center", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-10.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-27
"Community mental retardation center"

Sec. 27. "Community mental retardation center", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-11.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-28
"Compensation"

Sec. 28. (a) "Compensation", for purposes of section 127 of this chapter, does not include payments:

(1) to reimburse the expenses of a qualified director (as defined

in section 127 of this chapter); and

(2) for per diem.

(b) "Compensation", for purposes of IC 34-30-18, means anything of value given as payment for performing a function. The term does not include:

(1) payment for expenses, prizes, or trophies; or

(2) a payment to an individual of fifteen dollars ($15) or less for performing one (1) or more functions during a day.

(c) "Compensation", for purposes of IC 34-30-19, does not include the following:

(1) Reimbursement or payment of reasonable expenses incurred for the benefit of a sports or leisure activity.

(2) Any award, meal, or other gift that does not exceed one hundred dollars ($100) in value and is given as a token of appreciation or recognition.

(3) Any per diem payment that does not exceed fifty dollars ($50) for personal services as a referee, umpire, judge, or assistant to a referee, umpire, or judge.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-29
"Consumer"

Sec. 29. "Consumer", for purposes of IC 34-20, means:

(1) a purchaser;

(2) any individual who uses or consumes the product;

(3) any other person who, while acting for or on behalf of the injured party, was in possession and control of the product in question; or

(4) any bystander injured by the product who would reasonably be expected to be in the vicinity of the product during its reasonably expected use.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-29.5
"Corporation"

Sec. 29.5. "Corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-2.

As added by P.L.134-2009, SEC.2.

IC 34-6-2-30
"Cost of the periodic payments agreement"

Sec. 30. "Cost of the periodic payments agreement", for purposes of IC 34-18-14, has the meaning set forth in IC 34-18-14-1.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-30.5
"Costs"

Sec. 30.5. "Costs", for purposes of this article, includes fees.

As added by P.L.106-2010, SEC.6.

IC 34-6-2-31
"Court"

Sec. 31. (a) "Court", for purposes of IC 34-51-4, refers to the court awarding a judgment.

(b) "Court", for purposes of IC 34-57-2, has the meaning set forth in IC 34-57-2-17.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-32
"Criminal gang"

Sec. 32. "Criminal gang", for purposes of section 6 of this chapter, has the meaning set forth in IC 35-45-9-1.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-33
"Daily newspaper"

Sec. 33. "Daily newspaper", for purposes of IC 34-15-4, means a newspaper that publishes five (5) or more issues each week.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-33.5
"Debt"

Sec. 33.5. "Debt", for purposes of sections 44.3, 44.4, 71.9, 73.5, 73.7, and 135.5 of this chapter and IC 34-55-10, means a legally or an equitably enforced monetary obligation or liability of an individual arising out of contract, tort, or otherwise.

As added by P.L.179-2005, SEC.2.

IC 34-6-2-34
"Department"

Sec. 34. "Department", for purposes of IC 34-13-3-7, refers to the department of correction.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-34.5
"Domestic or family violence"

Sec. 34.5. "Domestic or family violence" means, except for an act of self-defense, the occurrence of at least one (1) of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member.

(2) Placing a family or household member in fear of physical harm.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

(4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as described in IC 35-46-3-0.5(5)), mutilating (as described in IC 35-46-3-0.5(3)), or killing a vertebrate animal without justification with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

For purposes of IC 34-26-5, domestic and family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.
As added by P.L.133-2002, SEC.41. Amended by P.L.221-2003, SEC.7; P.L.171-2007, SEC.3.

IC 34-6-2-35
"Economically feasible"
Sec. 35. "Economically feasible", for purposes of IC 34-55-6, means a finding by the court that:
(1) a reasonable probability exists that with the use of auctioneer services a valid and enforceable bid will be made at the execution for a sale price equal to or greater than the amount of the judgment and the costs and expenses necessary to its satisfaction, including the costs of the auctioneer; and
(2) no such probability exists without the use of an auctioneer.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-36
"Emergency"
Sec. 36. "Emergency", for purposes of IC 34-30-6, means an occurrence or an imminent threat of an occurrence that involves a hazardous substance or compressed gas and that creates the possibility of harm to any person, to property, or to the environment.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-37
"Emergency medical technician"
Sec. 37. "Emergency medical technician", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-12.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-37.2
Repealed
(Repealed by P.L.77-2012, SEC.54.)

IC 34-6-2-37.4
Repealed
(Repealed by P.L.77-2012, SEC.55.)

IC 34-6-2-38
"Employee" and "public employee"
Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and

elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

(1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);

(2) an agent or employee of an independent contractor;

(3) a person appointed by the governor to an honorary advisory or honorary military position; or

(4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

(c) For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:

(1) a contractor under IC 6-1.1-4-32 (repealed);

(2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32 (repealed);

(3) a subcontractor of the contractor under IC 6-1.1-4-32 (repealed) that is acting within the scope of the subcontractor's duties; or

(4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.

As added by P.L.1-1998, SEC.1. Amended by P.L.142-1999, SEC.1; P.L.250-2001, SEC.1; P.L.1-2002, SEC.142; P.L.151-2002, SEC.4 and P.L.178-2002, SEC.112; P.L.1-2003, SEC.88; P.L.1-2007, SEC.223; P.L.121-2009, SEC.14.

IC 34-6-2-39
"Enterprise"

Sec. 39. "Enterprise", for purposes of IC 34-24-2, has the meaning set forth in IC 35-45-6-1.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-40
"Equine"

Sec. 40. "Equine", for purposes of IC 34-31-5, means a horse, pony, mule, donkey, or hinny.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-41
"Equine activity"

Sec. 41. (a) "Equine activity", for purposes of IC 34-31-5, includes the following:

(1) Equine shows, fairs, competitions, performances, or parades

that involve equines and any of the equine disciplines, including dressage, hunter and jumper horse shows, grand prix jumping, three (3) day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting.

(2) Equine training or teaching activities.

(3) Boarding equines.

(4) Riding, driving, inspecting, or evaluating an equine, whether or not monetary consideration or anything of value is exchanged.

(5) Rides, trips, hunts, or other equine activities of any type (even if informal or impromptu) that are sponsored by an equine activity sponsor.

(6) Placing or replacing horseshoes on an equine.

(b) The term does not include being a spectator at an equine activity.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-42

"Equine activity sponsor"

Sec. 42. "Equine activity sponsor", for purposes of IC 34-31-5, means a person who sponsors, organizes, or provides facilities for an equine activity.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-43

"Equine professional"

Sec. 43. "Equine professional", for purposes of IC 34-31-5, means a person who, for compensation:

(1) instructs a participant on riding, driving, or being a passenger upon an equine;

(2) rents to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or

(3) rents equipment or tack to a participant.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-44

"Evaluation of patient care"

Sec. 44. (a) "Evaluation of patient care", for purposes of IC 34-30-15, relates to:

(1) the accuracy of diagnosis;

(2) the propriety, appropriateness, quality, or necessity of care rendered by a professional health care provider; and

(3) the reasonableness of the utilization of services, procedures, and facilities in the treatment of individual patients.

(b) The term does not relate to charges for services or to methods used in arriving at diagnoses.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-44.1

"Event"

Sec. 44.1. "Event", for purposes of section 3.3 of this chapter and IC 34-30-22, means:

(1) a performance;
(2) a benefit;
(3) a fundraiser;
(4) an auction;
(5) a meal;
(6) a concert;
(7) a sporting event;
(8) a festival;
(9) a parade;
(10) a reception;
(11) a trade show;
(12) a convention;
(13) an educational program; or
(14) another occasion organized by or for a federally tax exempt organization.

As added by P.L.1-2006, SEC.515.

IC 34-6-2-44.2
"Exempt"

Sec. 44.2. "Exempt", for purposes of IC 34-55-10, means protected from a judicial lien, process, or proceeding to collect a debt.
As added by P.L.1-2006, SEC.516.

IC 34-6-2-44.3
Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 34-6-2-44.4
"Exemption"

Sec. 44.4. "Exemption", for purposes of IC 34-55-10, means protection from a judicial lien, process, or proceeding to collect a debt.
As added by P.L.179-2005, SEC.4.

IC 34-6-2-44.5
"Extreme sport area"

Sec. 44.5. (a) "Extreme sport area", for purposes of IC 34-13-3, means an indoor or outdoor ramp, course, or area specifically designated for the exclusive recreational or sporting use of one (1) or more types of extreme sport equipment.

(b) The term does not include property used at any time as a public sidewalk, footpath, vehicle parking lot, multiple use trail, multiple use greenway, or other public way.
As added by P.L.250-2001, SEC.2.

IC 34-6-2-44.6
"Extreme sport equipment"

Sec. 44.6. "Extreme sport equipment", for purposes of section 44.5 of this chapter and IC 34-13-3, means any of the following nonmotorized devices:

(1) Skateboards.
(2) Roller skates.
(3) Inline skates.
(4) Freestyle bicycles.
(5) Mountain bicycles.
(6) An apparatus that is:
(A) wheeled;
(B) recreational or sporting in nature;
(C) powered solely by the physical efforts of the user; and
(D) generally known, as the term is used in Rule 201 of the Indiana Rules of Evidence, as an apparatus used for extreme sport.

As added by P.L.250-2001, SEC.3.

IC 34-6-2-44.7
"Family law arbitrator"

Sec. 44.7. "Family law arbitrator", for purposes of IC 34-57-5, means:

(1) an attorney certified as a family law specialist in Indiana by an independent certifying organization that is approved and monitored under Rule 30 of the Rules for Admission to the Bar;
(2) a private judge qualified under Rule 1.3 of the Indiana Supreme Court Rules for Alternative Dispute Resolution;
(3) an individual who is a former magistrate or commissioner of an Indiana court of record; or
(4) an attorney who is a registered domestic relations mediator under Rule 2.5(B) of the Indiana Supreme Court Rules for Alternative Dispute Resolution.

As added by P.L.112-2005, SEC.1.

IC 34-6-2-44.8
"Family or household member"

Sec. 44.8. (a) An individual is a "family or household member" of another person if the individual:

(1) is a current or former spouse of the other person;
(2) is dating or has dated the other person;
(3) is engaged or was engaged in a sexual relationship with the other person;
(4) is related by blood or adoption to the other person;
(5) is or was related by marriage to the other person;
(6) has or previously had an established legal relationship:
(A) as a guardian of the other person;
(B) as a ward of the other person;
(C) as a custodian of the other person;
(D) as a foster parent of the other person; or
(E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D);

(7) has a child in common with the other person; or
(8) has adopted a child of the other person.

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) applies if the individual is a minor child of one (1) of the persons.

As added by P.L.133-2002, SEC.42. Amended by P.L.97-2004, SEC.113; P.L.136-2012, SEC.9.

IC 34-6-2-45
"Fault"

Sec. 45. (a) "Fault", for purposes of IC 34-20, means an act or omission that is negligent, willful, wanton, reckless, or intentional toward the person or property of others. The term includes the following:

(1) Unreasonable failure to avoid an injury or to mitigate damages.
(2) A finding under IC 34-20-2 (or IC 33-1-1.5-3 before its repeal) that a person is subject to liability for physical harm caused by a product, notwithstanding the lack of negligence or willful, wanton, or reckless conduct by the manufacturer or seller.

(b) "Fault", for purposes of IC 34-51-2, includes any act or omission that is negligent, willful, wanton, reckless, or intentional toward the person or property of others. The term also includes unreasonable assumption of risk not constituting an enforceable express consent, incurred risk, and unreasonable failure to avoid an injury or to mitigate damages.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-46
"Fees or other expenses"

Sec. 46. "Fees or other expenses", for purposes of IC 34-52-2, include:

(1) the reasonable expenses of expert witnesses that are found by a court under IC 34-52-2 to be necessary for the preparation of the petitioner's case;
(2) the reasonable costs of any:
(A) study;
(B) analysis;
(C) engineering report; or
(D) test project;
that are found by a court under IC 34-52-2 to be necessary for the preparation of the petitioner's case;
(3) any reasonable discovery expenses, that are found by a court under IC 34-52-2 to be necessary for the preparation of the petitioner's case; and
(4) reasonable attorney's fees.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-46.5
"Fire control or protection equipment"

Sec. 46.5. "Fire control or protection equipment", for purposes of IC 34-30-10.5, includes vehicles, firefighting tools, protective gear, breathing apparatuses, and other supplies, equipment, and tools used in firefighting or emergency rescue.

As added by P.L.95-2001, SEC.1.

IC 34-6-2-46.7
"Firearm"

Sec. 46.7. "Firearm", for purposes of IC 34-28-7 and IC 34-30-20, has the meaning set forth in IC 35-47-1-5.

As added by P.L.80-2004, SEC.1. Amended by P.L.90-2010, SEC.3.

IC 34-6-2-47
"Food item"

Sec. 47. "Food item", for purposes of IC 34-30-5, means any item that may be ingested as a normal part of the human diet. The term includes food that was prepared for serving by a food source (as defined in section 48 of this chapter) but not served by the food source.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-48
"Food source"

Sec. 48. "Food source", for purposes of IC 34-30-5, means any of the following:

(1) A restaurant.
(2) A cafeteria.
(3) A hospital.
(4) A hotel.
(5) A caterer.
(6) A public or a private school, or postsecondary educational institution.
(7) A fraternal organization or veterans organization.
(8) Any other person that prepares and serves food to individuals in the ordinary course of that person's business.

As added by P.L.1-1998, SEC.1. Amended by P.L.2-2007, SEC.369.

IC 34-6-2-48.3
"Foreign judgment"

Sec. 48.3. "Foreign judgment", for purposes of IC 34-54-11, means any judgment, decree or order of:

(1) a court of the United States; or
(2) any other court that is entitled to the full faith and credit of Indiana.

As added by P.L.40-2003, SEC.1. Amended by P.L.63-2010, SEC.1.

IC 34-6-2-48.5
"Foreign protection order"

Sec. 48.5. "Foreign protection order", for purposes of IC 34-26-5-17, means a protection order issued by a tribunal of:

(1) another state; or

(2) an Indian tribe;

regardless of whether the protection order was issued in an independent proceeding or as part of another criminal or civil proceeding.

As added by P.L.280-2001, SEC.28. Amended by P.L.133-2002, SEC.43.

IC 34-6-2-49

"Governmental entity"

Sec. 49. (a) "Governmental entity", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, and IC 34-13-4, means the state or a political subdivision of the state. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the term includes a charter school.

(b) "Governmental entity", for purposes of section 103(j) of this chapter, means the state or a political subdivision of the state.

As added by P.L.1-1998, SEC.1. Amended by P.L.250-2001, SEC.4; P.L.280-2001, SEC.29; P.L.1-2002, SEC.143; P.L.133-2002, SEC.44; P.L.90-2010, SEC.4; P.L.220-2013, SEC.1.

IC 34-6-2-50

"Grant recipient"

Sec. 50. "Grant recipient", for purposes of IC 34-57-3, means a nonprofit corporation or an organization that administers a community dispute resolution center under IC 34-57-3.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-51

"Gratuitously renders emergency care"

Sec. 51. (a) "Gratuitously renders emergency care", for purposes of IC 34-30-12-1, means the giving of emergency care (including the use of an automatic external defibrillator):

(1) that was volunteered without legal obligation on the part of the person rendering the emergency care; and

(2) for which the person rendering the emergency care does not expect remuneration.

(b) Emergency care may not be considered to be gratuitously rendered emergency care solely because of the failure to send a bill for the emergency care.

As added by P.L.1-1998, SEC.1. Amended by P.L.1-1999, SEC.67.

IC 34-6-2-52

"Hazardous substance"

Sec. 52. "Hazardous substance", for purposes of IC 34-30-6, means:

(1) a material or waste that has been determined to be hazardous or potentially hazardous to any individual, to property, or to the environment by the United States Environmental Protection

Agency, the federal Nuclear Regulatory Commission, the United States Department of Transportation, the environmental rules board, or the United States Occupational Safety and Health Agency or any agent or designee of any of the above mentioned boards, agencies, or commission; or

(2) any substance that may be potentially hazardous to any person, to property or to the environment.

As added by P.L.1-1998, SEC.1. Amended by P.L.113-2014, SEC.122.

IC 34-6-2-53
"Health care"

Sec. 53. "Health care", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-13.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-54
"Health care provider"

Sec. 54. (a) "Health care provider", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-14.

(b) "Health care provider", for purposes of IC 34-30-12.5, has the meaning set forth in IC 34-30-12.5-2.

As added by P.L.1-1998, SEC.1. Amended by P.L.136-2003, SEC.1.

IC 34-6-2-55
"Health care services"

Sec. 55. (a) "Health care services", for purposes of IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a).

(b) "Health care services", for purposes of IC 34-30-13.5, means:

(1) any services provided by an individual licensed under:

(A) IC 25-2.5;
(B) IC 25-10;
(C) IC 25-13;
(D) IC 25-14;
(E) IC 25-22.5;
(F) IC 25-23;
(G) IC 25-23.5;
(H) IC 25-23.6;
(I) IC 25-24;
(J) IC 25-26;
(K) IC 25-27;
(L) IC 25-27.5;
(M) IC 25-29;
(N) IC 25-33;
(O) IC 25-34.5; or
(P) IC 25-35.6;

(2) services provided as the result of hospitalization;

(3) services incidental to the furnishing of services described in subdivisions (1) or (2);

(4) any services by individuals:

(A) licensed as paramedics;
(B) certified as advanced emergency medical technicians; or
(C) certified as emergency medical technicians under IC 16-31-2;
(5) any services provided by individuals certified as emergency medical responders under IC 16-31-2; or
(6) any other services or goods furnished for the purpose of preventing, alleviating, curing, or healing human illness, physical disability, or injury.

As added by P.L.1-1998, SEC.1. Amended by P.L.138-2006, SEC.12; P.L.77-2012, SEC.56.

IC 34-6-2-56
"Health facility"

Sec. 56. "Health facility", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-15.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-57
"Hitchhiker"

Sec. 57. "Hitchhiker", for purposes of IC 34-30-11, means a passenger who has solicited a ride in violation of IC 9-21-17-16.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-58
"Homeowners association"

Sec. 58. "Homeowners association", for purposes of section 127 of this chapter, means a corporation or other entity that:
(1) is organized and operated exclusively for the benefit of two (2) or more persons who each own a dwelling in fee simple; and
(2) acts, in accordance with the articles, bylaws, and other documents governing the entity, to:
(A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation;
(B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;
(C) engage in an activity incidental to an activity described in clause (A) or (B); or
(D) engage in more than one (1) of the activities described in clauses (A) through (C).

As added by P.L.1-1998, SEC.1.

IC 34-6-2-59
"Hospital"

Sec. 59. "Hospital", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-16.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-60
"Hospital medical record"

Sec. 60. "Hospital medical record", for purposes of IC 34-43-1, means the hospital's clinical record maintained on each hospital patient as provided in IC 16-18-2-168.

As added by P.L.1-1998, SEC.1. Amended by P.L.255-2003, SEC.54.

IC 34-6-2-60.4
"Ice skater"

Sec. 60.4. "Ice skater", for purposes of IC 34-31-6.5, means a person, including an invitee, who wears ice skates while in an ice skating rink for the purpose of recreational or competitive ice skating, whether or not the person pays consideration for entrance to the skating rink.

As added by P.L.77-2013, SEC.1.

IC 34-6-2-60.6
"Ice skating rink"

Sec. 60.6. "Ice skating rink", for purposes of IC 34-31-6.5, means a building, facility, or other property where an area specifically designed for use for recreational or competitive ice skating is present.

As added by P.L.77-2013, SEC.2.

IC 34-6-2-61
"Illegal drug"

Sec. 61. "Illegal drug", for purposes of IC 34-24-4, means a drug that is illegal to distribute under state law.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-62
"Illegal drug market"

Sec. 62. "Illegal drug market", for purposes of IC 34-24-4, means the support system of illegal drug related operations, from production to retail sales, through which an illegal drug reaches a drug user.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-63
"Illegal drug market target community"

Sec. 63. "Illegal drug market target community", for purposes of IC 34-24-4, means the following areas where a person participates in the illegal drug market:

(1) The county in which the person's place of participation is located if the person violates a statute concerning possession or dealing of an illegal drug that is punishable as a Level 6 felony.

(2) The county described in subdivision (1) plus all counties with a border contiguous to the county if the person violates a statute concerning possession or dealing of an illegal drug that is punishable as a Level 5 felony.

(3) The counties described in subdivision (2) plus all counties with a border contiguous to those counties if the person violates

a statute concerning possession or dealing of an illegal drug that is punishable as a Level 3 or Level 4 felony.

(4) Indiana if the person violates a statute in Indiana concerning possession or dealing of an illegal drug that is punishable as a Level 1 or Level 2 felony.

As added by P.L.1-1998, SEC.1. Amended by P.L.158-2013, SEC.347.

IC 34-6-2-64
"In good faith"

Sec. 64. "In good faith", for purposes of IC 34-13-3 and IC 34-30-15, refers to an act taken:

(1) without malice;

(2) after a reasonable effort to obtain the facts of the matter; and

(3) in the reasonable belief that the action taken is warranted by the facts known.

As added by P.L.1-1998, SEC.1. Amended by P.L.280-2001, SEC.30.

IC 34-6-2-65
"Incapacitated"

Sec. 65. "Incapacitated", for purposes of IC 34-13-3, has the meaning set forth in IC 29-3-1-7.5.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-66
Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-66.7
"Indian tribe"

Sec. 66.7. "Indian tribe", for purposes of sections 48.5, 71.7, and 121.6 of this chapter and IC 34-26-5-17, means an Indian:

(1) tribe;

(2) band;

(3) pueblo;

(4) nation; or

(5) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.

As added by P.L.280-2001, SEC.31. Amended by P.L.133-2002, SEC.45.

IC 34-6-2-67
"Individual drug user"

Sec. 67. "Individual drug user", for purposes of IC 34-24-4, means an individual whose illegal drug use is the basis of an action brought

under IC 34-24-4 (or IC 34-1-70 before its repeal).
As added by P.L.1-1998, SEC.1.

IC 34-6-2-68
Repealed
(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-68.8
"Inherent risks of agritourism activities"
Sec. 68.8. "Inherent risks of agritourism activities", for the purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-4.
As added by P.L.6-2012, SEC.216.

IC 34-6-2-69
"Inherent risks of equine activities"
Sec. 69. "Inherent risks of equine activities", for purposes of IC 34-31-5, means the dangers or conditions that are an integral part of equine activities, including the following:

(1) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around the equine.
(2) The unpredictability of an equine's reaction to such things as sound, sudden movement, unfamiliar objects, people, or other animals.
(3) Hazards such as surface and subsurface conditions.
(4) Collisions with other equines or objects.
(5) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant's ability.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-69.5
"Innocent successor corporation"
Sec. 69.5. "Innocent successor corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-3.
As added by P.L.134-2009, SEC.3.

IC 34-6-2-70
"Insured"
Sec. 70. "Insured", for purposes of IC 34-53, means a person insured by an insurer.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-71
"Insurer"
Sec. 71. (a) "Insurer", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-17.
(b) "Insurer", for purposes of IC 34-53, has the meaning set forth in IC 27-1-2-3.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-71.3
"Interested party"

Sec. 71.3. "Interested party", for purposes of IC 34-50-2, has the meaning set forth in IC 34-50-2-1.
As added by P.L.219-2001, SEC.2.

IC 34-6-2-71.7
"Issuing state or Indian tribe"

Sec. 71.7. "Issuing state or Indian tribe", for purposes of IC 34-26-5-17, means the state or Indian tribe whose tribunal issues a protection order.
As added by P.L.280-2001, SEC.32. Amended by P.L.133-2002, SEC.46.

IC 34-6-2-71.9
"Judicial lien"

Sec. 71.9. "Judicial lien", for purposes of sections 44.3, 44.4, and 73.7 of this chapter, means a lien on property obtained by a judgment, levy, or another legal or equitable process or proceeding instituted to collect a debt.
As added by P.L.179-2005, SEC.5.

IC 34-6-2-72
"Law"

Sec. 72. "Law", as for example "the law relating to other civil actions", for purposes of IC 34-13-5, means the statutes, including but not limited to IC 34-13-5 (and IC 34-4-17 before its repeal), and any applicable rules of the Indiana supreme court on any subject.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-72.2
"Land"

Sec. 72.2. "Land", for the purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-5.
As added by P.L.6-2012, SEC.217.

IC 34-6-2-73
"Law enforcement costs"

Sec. 73. "Law enforcement costs", for purposes of IC 34-24-1, means:

(1) expenses incurred by the law enforcement agency that makes a seizure under IC 34-24-1 (or IC 34-4-30.1 before its repeal) for the criminal investigation associated with the seizure;

(2) repayment of the investigative fund of the law enforcement agency that makes a seizure under IC 34-24-1 to the extent that the agency can specifically identify any part of the money as having been expended from the fund; and

(3) expenses of the prosecuting attorney associated with the

costs of proceedings associated with the seizure and the offenses related to the seizure.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-73.3
"Law enforcement officer"

Sec. 73.3. "Law enforcement officer", for purposes of IC 34-26-5, has the meaning set forth in IC 35-31.5-2-185.

As added by P.L.280-2001, SEC.33. Amended by P.L.133-2002, SEC.47; P.L.114-2012, SEC.59.

IC 34-6-2-73.5
"Levy"

Sec. 73.5. "Levy", for purposes of section 71.9 of this chapter and IC 34-55-10, means the seizure of property under a writ of attachment, a garnishment, an execution, or a similar legal or equitable process issued to collect a debt.

As added by P.L.179-2005, SEC.6.

IC 34-6-2-73.7
"Lien"

Sec. 73.7. "Lien", for purposes of section 71.9 of this chapter and IC 34-55-10, means a security interest, judicial lien, statutory lien, common law lien, or another interest in property to secure the payment of a debt or the performance of an obligation.

As added by P.L.179-2005, SEC.7.

IC 34-6-2-74
Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-74.1
"Livestock"

Sec. 74.1. "Livestock" for purposes of IC 34-30-5, has the meaning set forth in IC 15-19-5-3.

As added by P.L.155-2013, SEC.2.

IC 34-6-2-75
"Loss"

Sec. 75. (a) "Loss", for purposes of IC 34-13-3, means injury to or death of a person or damage to property.

(b) "Loss", for purposes of IC 34-30-6, means injury to or death of a human being or damage to property or to the environment.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-76
"Malpractice"

Sec. 76. "Malpractice", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-18.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-77
"Manufacturer"

Sec. 77. (a) "Manufacturer", for purposes of IC 34-20, means a person or an entity who designs, assembles, fabricates, produces, constructs, or otherwise prepares a product or a component part of a product before the sale of the product to a user or consumer. "Manufacturer" includes a seller who:

(1) has actual knowledge of a defect in a product;

(2) creates and furnishes a manufacturer with specifications relevant to the alleged defect for producing the product or who otherwise exercises some significant control over all or a portion of the manufacturing process;

(3) alters or modifies the product in any significant manner after the product comes into the seller's possession and before it is sold to the ultimate user or consumer;

(4) is owned in whole or significant part by the manufacturer; or

(5) owns in whole or significant part the manufacturer.

(b) A seller who discloses the name of the actual manufacturer of a product is not a manufacturer under this section merely because the seller places or has placed a private label on a product.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-78
"Mediation"

Sec. 78. "Mediation", for purposes of IC 34-57-3, means a process where at least two (2) disputing parties choose to be guided to a mutually agreeable solution with the aid of a mediator.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-79
"Mediator"

Sec. 79. "Mediator", for purposes of IC 34-57-3, means a neutral and impartial person who assists in the resolution of a dispute through the mediation process.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-80
"Mental health service provider"

Sec. 80. "Mental health service provider", for purposes of IC 34-30-16, means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A hospital licensed under IC 16-21.

(3) A private institution licensed under IC 12-25.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

(6) A postsecondary educational institution counseling center under the direction of a licensed psychologist, physician, or mental health professional.

(7) A registered nurse or licensed practical nurse licensed under

IC 25-23.

(8) A clinical social worker licensed under IC 25-23.6-5-2.

(9) A partnership, a limited liability company, a corporation, or a professional corporation (as defined in IC 23-1.5-1-10) whose partners, members, or shareholders are mental health service providers described in subdivisions (1) through (6).

(10) A community mental health center (as defined in IC 12-7-2-38).

(11) A program for the treatment, care, or rehabilitation of alcohol abusers or drug abusers that is:

(A) certified under IC 12-23-1-6; or

(B) created and funded under IC 12-23-14 or IC 33-23-16.

(12) A state institution (as defined in IC 12-7-2-184).

(13) A managed care provider (as defined in IC 12-7-2-127(b)).

As added by P.L.1-1998, SEC.1. Amended by P.L.168-2002, SEC.13; P.L.2-2007, SEC.370; P.L.108-2010, SEC.8.

IC 34-6-2-81
Repealed

(Repealed by P.L.232-2013, SEC.21.)

IC 34-6-2-82
"Migrant health center"

Sec. 82. "Migrant health center", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-20.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-82.6
"Military base"

Sec. 82.6. "Military base", for purposes of IC 34-30-21, means a United States or an Indiana government military installation that:

(1) has an area of at least sixty thousand (60,000) acres and is used for the design, construction, maintenance, and testing of electronic devices and ordnance;

(2) has an area of at least nine hundred (900) acres and serves as an urban training center for military units, civilian personnel, and first responders; or

(3) has an area of at least five thousand (5,000) acres and serves as a joint training center for active and reserve components of the armed forces of the United States.

As added by P.L.5-2005, SEC.4. Amended by P.L.180-2006, SEC.7.

IC 34-6-2-83
"Minor"

Sec. 83. "Minor", for purposes of IC 34-28-3, means a person less than eighteen (18) years of age.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-83.8
"Monetary consideration"

Sec. 83.8. "Monetary consideration", for the purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-6.
As added by P.L.6-2012, SEC.218.

IC 34-6-2-84
"Motor vehicle"
Sec. 84. "Motor vehicle", for purposes of IC 34-40-4, has the meaning set forth in IC 9-13-2-105(a).
As added by P.L.1-1998, SEC.1.

IC 34-6-2-85
"Moving traffic violation"
Sec. 85. "Moving traffic violation", for purposes of IC 34-28-5, means a violation of:
(1) a statute defining an infraction; or
(2) an ordinance;
that applies when a motor vehicle is in motion.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-86
"Municipal corporation"
Sec. 86. "Municipal corporation", for purposes of IC 34-13-5, means:
(1) a:
(A) local subdivision of the state; or
(B) public instrumentality or public corporate body created by state law;
including but not limited to cities, towns, townships, counties, school corporations, special taxing districts, conservancy districts, and any other local public instrumentality or corporation that has the right to sue and be sued;
(2) a corporate or other entity that leases a public improvement to a municipal corporation; or
(3) the governing body of a municipal corporation and its members and officers in their official capacity.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-86.4
Repealed
(Repealed by P.L.133-2002, SEC.69.)

IC 34-6-2-87
"News service"
Sec. 87. "News service", for purposes of IC 34-15-4, means an entity that is either a membership association or a corporation with subscribers that:
(1) gathers and transmits news to its members or subscribers; and
(2) maintains an office in Indiana.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-88
"Nonparty"

Sec. 88. "Nonparty", for purposes of IC 34-51-2, means a person who caused or contributed to cause the alleged injury, death, or damage to property but who has not been joined in the action as a defendant.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-88.3
"Nonprofit religious organization"

Sec. 88.3. "Nonprofit religious organization", for purposes of IC 34-31-7, means an organization, a church, a body of communicants, or a group organized primarily for religious purposes and not for pecuniary profit that:

(1) operates:

(A) under Section 501 of the Internal Revenue Code or the Section 501 nonprofit status of the parent organization of the organization, church, body of communicants, or group; and

(B) has a constitution, a charter, an article, or a bylaw containing a clause that provides that upon dissolution, all remaining assets must:

(i) be used for nonprofit religious purposes; or

(ii) revert to the parent organization for nonprofit religious purposes; or

(2) operates as a place of worship and is recognized as a nonprofit organization by the Internal Revenue Service.

As added by P.L.149-2005, SEC.1.

IC 34-6-2-89
"Offender"

Sec. 89. (a) "Offender", for purposes of IC 34-13-3-7, means a person who is committed to the department of correction or was committed to the department of correction.

(b) "Offender", for purposes of IC 34-58, means a person who is committed to the department of correction or incarcerated in a jail.

As added by P.L.1-1998, SEC.1. Amended by P.L.80-2004, SEC.2.

IC 34-6-2-90
"Offeror"

Sec. 90. "Offeror", for purposes of IC 34-50, means a party to a civil action who makes a qualified settlement offer (as defined in section 128 of this chapter) to a recipient (as defined in section 129 of this chapter) who is an opposing party in the civil action.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-91
"Operator"

Sec. 91. (a) "Operator", for purposes of IC 34-30-3, means a person who is an owner, a lessee, a tenant, or an occupant of land or premises that are used in the production of agricultural products.

(b) "Operator", for purposes of IC 34-31-6, means a person or an entity, other than a governmental entity or an employee of a governmental entity, that owns, manages, controls, directs, or has operational responsibility for a roller skating rink.

(c) "Operator", for purposes of IC 34-31-6.5, means an approved postsecondary educational institution (as defined in IC 21-7-13-6) that owns, manages, controls, directs, or has operational responsibility for an ice skating rink.

As added by P.L.1-1998, SEC.1. Amended by P.L.250-2001, SEC.5; P.L.77-2013, SEC.3.

IC 34-6-2-92
"Paramedic"

Sec. 92. "Paramedic", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-21.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-93
"Parents"

Sec. 93. (a) "Parents", for purposes of IC 34-28-3, means:

(1) the child's birth mother and father who:

(A) is listed as the father on the birth certificate;

(B) is presumed by law under IC 31-14-7 to be the child's father; or

(C) has established paternity with a court order;

(2) in the case of adoption, the adopting father and mother of a child;

(3) where custody of a child has been awarded in a court proceeding to someone other than the mother or father, the court appointed guardian or custodian of the child;

(4) where the child's parents are divorced, the parent to whom the divorce decree or modification awards physical custody or control of the child; or

(5) if the child's parents are living apart, the parent to whom physical custody or control of the child has been awarded by a court order.

(b) The term does not include a natural or adopting parent who has given written consent for the child to be adopted by another (if the child has been adopted by another), nor does the term include a child's parent who has lost custody of the child under subsection (a)(3), (a)(4), or (a)(5).

As added by P.L.1-1998, SEC.1.

IC 34-6-2-94
"Partially emancipated minor"

Sec. 94. "Partially emancipated minor", for purposes of IC 34-28-3, means a minor who has been given certain limited authority to contract under IC 34-28-3.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-95
"Participant"

Sec. 95. (a) "Participant", for purposes of IC 34-31-5, means a person, whether an amateur or a professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

(b) "Participant", for purposes of IC 34-31-9, has the meaning set forth in 34-31-9-7.

As added by P.L.1-1998, SEC.1. Amended by P.L.6-2012, SEC.219.

IC 34-6-2-96
"Participate"

Sec. 96. "Participate", for purposes of IC 34-28-3, means any action a person takes:

(1) according to license or authority of the entity that sanctions a professional automobile or motorcycle racing event; or

(2) by direction or authority of the race organizer of a sanctioned event;

including participation as a driver, mechanic, pit crew member, or unpaid volunteer in and around the pit and race track area.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-97
"Participate in the illegal drug market"

Sec. 97. (a) "Participate in the illegal drug market", for purposes of IC 34-24-4, means to:

(1) distribute;

(2) possess with an intent to distribute;

(3) commit an act intended to facilitate the marketing or distribution of; or

(4) agree to distribute;

an illegal drug.

(b) The term does not include the purchase or receipt of an illegal drug for personal use only.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-98
"Patient"

Sec. 98. "Patient", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-22.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-99
"Peer review committee"

Sec. 99. (a) "Peer review committee", for purposes of IC 34-30-15, means a committee that:

(1) has the responsibility of evaluation of:

(A) qualifications of professional health care providers;

(B) patient care rendered by professional health care providers; or

(C) the merits of a complaint against a professional health care provider that includes a determination or recommendation concerning the complaint, and the complaint is based on the competence or professional conduct of an individual health care provider, whose competence or conduct affects or could affect adversely the health or welfare of a patient or patients; and

(2) meets the following criteria:

(A) The committee is organized:

(i) by a state, regional, or local organization of professional health care providers or by a nonprofit foundation created by the professional organization for purposes of improvement of patient care;

(ii) by the professional staff of a hospital, another health care facility, a nonprofit health care organization (under section 117(23) of this chapter), or a professional health care organization;

(iii) by state or federal law or regulation;

(iv) by a governing board of a hospital, a nonprofit health care organization (under section 117(23) of this chapter), or professional health care organization;

(v) as a governing board or committee of the board of a hospital, a nonprofit health care organization (under section 117(23) of this chapter), or professional health care organization;

(vi) by an organization, a plan, or a program described in section 117(16) through 117(17) of this chapter;

(vii) as a hospital or a nonprofit health care organization (under section 117(23) of this chapter) medical staff or a section of that staff; or

(viii) as a governing board or committee of the board of a professional health care provider (as defined in section 117(16) through 117(17) of this chapter).

(B) At least fifty percent (50%) of the committee members are:

(i) individual professional health care providers, the governing board of a hospital, the governing board of a nonprofit health care organization (under section 117(23) of this chapter), or professional health care organization, or the governing board or a committee of the board of a professional health care provider (as defined in section 117(16) through 117(17) of this chapter); or

(ii) individual professional health care providers and the committee is organized as an interdisciplinary committee to conduct evaluation of patient care services.

(b) However, "peer review committee" does not include a medical review panel created under IC 34-18-10 (or IC 27-12-10 before its repeal).

As added by P.L.1-1998, SEC.1.

IC 34-6-2-100
"Performance"

Sec. 100. "Performance", for purposes of IC 34-30-4, means the acts of a qualified director pertaining to the setting of policy and the controlling or overseeing of the activities or functional responsibilities of the entity served by the qualified director.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-101
"Period of illegal drug use"

Sec. 101. "Period of illegal drug use", for purposes of IC 34-24-4, means the time:

(1) of an individual drug user's first use of an illegal drug to the accrual of the cause of action under this chapter; and

(2) that is presumed to begin two (2) years before the cause of action accrues unless a defendant in the action proves otherwise by clear and convincing evidence.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-102
"Periodic payments agreement"

Sec. 102. "Periodic payments agreement", for purposes of IC 34-18-14, has the meaning set forth in IC 34-18-14-2.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-103
"Person"

Sec. 103. (a) "Person", for purposes of IC 34-14, has the meaning set forth in IC 34-14-1-13.

(b) "Person", for purposes of IC 34-11-2-11.5 and IC 34-24-4, means:

(1) an individual;

(2) a governmental entity;

(3) a corporation;

(4) a firm;

(5) a trust;

(6) a partnership; or

(7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a foreign country.

(c) "Person", for purposes of section 44.8 of this chapter, means an adult or a minor.

(d) "Person", for purposes of IC 34-26-4, has the meaning set forth in IC 35-31.5-2-234.

(e) "Person", for purposes of IC 34-30-5, means any of the following:

(1) An individual.

(2) A corporation.

(3) A partnership.

(4) An unincorporated association.

(5) The state (as defined in IC 34-6-2-140).
(6) A political subdivision (as defined in IC 34-6-2-110).
(7) Any other entity recognized by law.

(f) "Person", for purposes of IC 34-30-6, means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity that:

(1) has qualifications or experience in:
(A) storing, transporting, or handling a hazardous substance or compressed gas;
(B) fighting fires;
(C) emergency rescue; or
(D) first aid care; or

(2) is otherwise qualified to provide assistance appropriate to remedy or contribute to the remedy of the emergency.

(g) "Person", for purposes of IC 34-30-18, includes:

(1) an individual;
(2) an incorporated or unincorporated organization or association;
(3) the state of Indiana;
(4) a political subdivision (as defined in IC 36-1-2-13);
(5) an agency of the state or a political subdivision; or
(6) a group of such persons acting in concert.

(h) "Person", for purposes of sections 42, 43, 69, and 95 of this chapter, means an individual, an incorporated or unincorporated organization or association, or a group of such persons acting in concert.

(i) "Person", for purposes of IC 34-30-10.5, means the following:

(1) A political subdivision (as defined in IC 36-1-2-13).
(2) A volunteer fire department (as defined in IC 36-8-12-2).
(3) An employee of an entity described in subdivision (1) or (2) who acts within the scope of the employee's responsibilities.
(4) A volunteer firefighter (as defined in IC 36-8-12-2) who is acting for a volunteer fire department.
(5) A corporation, a limited liability company, a partnership, an unincorporated association, or any other entity recognized by law.

(j) "Person", for purposes of IC 34-28-7, means:

(1) an individual;
(2) a governmental entity;
(3) a corporation;
(4) a firm;
(5) a trust;
(6) a partnership; or
(7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a foreign country.

(k) "Person", for purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-8.

As added by P.L.1-1998, SEC.1. Amended by P.L.95-2001, SEC.2; P.L.2-2002, SEC.89; P.L.133-2002, SEC.48; P.L.153-2002, SEC.1;

P.L.1-2003, SEC.89; P.L.90-2010, SEC.5; P.L.154-2011, SEC.3; P.L.6-2012, SEC.220; P.L.114-2012, SEC.60.

IC 34-6-2-104
"Personnel of a peer review committee"

Sec. 104. "Personnel of a peer review committee", for purposes of IC 34-30-15, means not only members of the committee but also all of the committee's employees, representatives, agents, attorneys, investigators, assistants, clerks, staff, and any other person or organization who serves a peer review committee in any capacity.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-105
"Physical harm"

Sec. 105. (a) "Physical harm", for purposes of IC 34-20, means bodily injury, death, loss of services, and rights arising from any such injuries, as well as sudden, major damage to property.

(b) The term does not include gradually evolving damage to property or economic losses from such damage.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-106
"Physician"

Sec. 106. "Physician", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-23.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-107
Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-108
"Place of illegal drug activity"

Sec. 108. "Place of illegal drug activity", for purposes of IC 34-24-4, means each county in which:

(1) an individual drug user possesses or uses an illegal drug; or
(2) the individual drug user:
(A) resides;
(B) attends school; or
(C) is employed;

during the period of the individual drug user's illegal drug use; unless a defendant in an action brought under IC 34-24-4 proves otherwise by clear and convincing evidence.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-109
"Place of participation"

Sec. 109. "Place of participation", for purposes of IC 34-24-4, means each county in which:

(1) a person participates in the illegal drug market; or

(2) the person:
(A) resides;
(B) attends school; or
(C) is employed;
during the period of the person's participation in the illegal drug market.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-110
"Political subdivision"

Sec. 110. "Political subdivision", for purposes of IC 34-13-3, means a:
(1) county;
(2) township;
(3) city;
(4) town;
(5) separate municipal corporation;
(6) special taxing district;
(7) state educational institution;
(8) city or county hospital;
(9) school corporation;
(10) board or commission of one (1) of the entities listed in subdivisions (1) through (9);
(11) drug enforcement task force operated jointly by political subdivisions;
(12) community correctional service program organized under IC 12-12-1; or
(13) solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal).

As added by P.L.1-1998, SEC.1. Amended by P.L.2-2007, SEC.371.

IC 34-6-2-111
"Position of the agency"

Sec. 111. "Position of the agency", for purposes of IC 34-52-2, means the litigation stance taken by the state in a civil action subject to IC 34-52-2.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-112
"Practitioner"

Sec. 112. "Practitioner", for purposes of IC 34-30-14, means a person described in IC 16-42-19-5 who acts within the scope of the practitioner's practice.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-113
"Prejudgment interest"

Sec. 113. "Prejudgment interest", for purposes of IC 34-51-4, means interest on the amount of a judgment that is computed for a period preceding the date that the court returns a verdict or finding in

the proceeding.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-113.5
"Prior civil law and procedure"

Sec. 113.5. "Prior civil law and procedure", for purposes of IC 34-7, refers to the statutes that are repealed or amended in the recodification act of the 1998 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 1998 regular session of the general assembly.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-114
"Product"

Sec. 114. (a) "Product", for purposes of IC 34-20, means any item or good that is personalty at the time it is conveyed by the seller to another party.

(b) The term does not apply to a transaction that, by its nature, involves wholly or predominantly the sale of a service rather than a product.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-115
"Product liability action"

Sec. 115. "Product liability action", for purposes of IC 34-20, means an action that is brought:

(1) against a manufacturer or seller of a product; and
(2) for or on account of physical harm;

regardless of the substantive legal theory or theories upon which the action is brought.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-116
"Professional health care organization"

Sec. 116. "Professional health care organization", for purposes of IC 34-30-15, refers to an organization described in section 117(14) or 117(25) of this chapter.
As added by P.L.1-1998, SEC.1. Amended by P.L.29-2013, SEC.1.

IC 34-6-2-117
"Professional health care provider"

Sec. 117. "Professional health care provider", for purposes of IC 34-30-15, means:

(1) a physician licensed under IC 25-22.5;
(2) a dentist licensed under IC 25-14;
(3) a hospital licensed under IC 16-21;
(4) a podiatrist licensed under IC 25-29;
(5) a chiropractor licensed under IC 25-10;
(6) an optometrist licensed under IC 25-24;

(7) a psychologist licensed under IC 25-33;
(8) a pharmacist licensed under IC 25-26;
(9) a health facility licensed under IC 16-28-2;
(10) a registered or licensed practical nurse licensed under IC 25-23;
(11) a physical therapist licensed under IC 25-27;
(12) a home health agency licensed under IC 16-27-1;
(13) a community mental health center (as defined in IC 12-7-2-38);
(14) a health care organization whose members, shareholders, subsidiaries, affiliates, or partners are:
(A) professional health care providers described in subdivisions (1) through (13);
(B) professional corporations comprised of health care professionals (as defined in IC 23-1.5-1-8); or
(C) professional health care providers described in subdivisions (1) through (13) and professional corporations comprised of persons described in subdivisions (1) through (13);
(15) a private psychiatric hospital licensed under IC 12-25;
(16) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);
(17) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4);
(18) a respiratory care practitioner licensed under IC 25-34.5;
(19) an occupational therapist licensed under IC 25-23.5;
(20) a state institution (as defined in IC 12-7-2-184);
(21) a clinical social worker who is licensed under IC 25-23.6-5-2;
(22) a managed care provider (as defined in IC 12-7-2-127(b));
(23) a nonprofit health care organization affiliated with a hospital that is owned or operated by a religious order, whose members are members of that religious order;
(24) a nonprofit health care organization with one (1) or more hospital affiliates; or
(25) a health care organization that owns or controls, in whole or in part, one (1) or more entities described in subdivisions (1) through (24).

As added by P.L.1-1998, SEC.1. Amended by P.L.60-2000, SEC.29; P.L.223-2001, SEC.11; P.L.197-2007, SEC.92; P.L.29-2013, SEC.2.

IC 34-6-2-118
"Professional staff"

Sec. 118. "Professional staff", for purposes of IC 34-30-15, means:
(1) all individual professional health care providers authorized to provide health care in a hospital or other health care facility; or
(2) the multidisciplinary staff of a community mental health

center (as defined in IC 12-7-2-38).
As added by P.L.1-1998, SEC.1.

IC 34-6-2-119
"Program"
Sec. 119. "Program", for purposes of IC 34-57-3, refers to the community dispute resolution centers program established under IC 34-57-3-2.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-120
"Property"
Sec. 120. (a) "Property", for purposes of IC 34-24-2, has the meaning set forth in IC 35-31.5-2-253.
(b) "Property", for purposes of IC 34-30-9, includes the following:
(1) Real property.
(2) Private ways.
(3) Waters.
(4) A structure located on property listed in subdivisions (1) through (3).
As added by P.L.1-1998, SEC.1. Amended by P.L.114-2012, SEC.61.

IC 34-6-2-121
Repealed
(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-121.4
"Protected person"
Sec. 121.4. "Protected person" means a petitioner or a family or household member of the petitioner who is protected by the terms of a civil protective order issued under IC 34-26-5.
As added by P.L.280-2001, SEC.35. Amended by P.L.133-2002, SEC.49.

IC 34-6-2-121.6
"Protection order" or "order for protection"
Sec. 121.6. (a) "Protection order" or "order for protection", for purposes of sections 48.5, 121.4, and 130.7 of this chapter and IC 34-26-5, means an injunction or other order issued by a tribunal of the issuing state or Indian tribe to prevent an individual from:
(1) engaging in violent or threatening acts against;
(2) engaging in harassment of;
(3) engaging in contact or communication with; or
(4) being in physical proximity to;
another person, including temporary and final orders issued by civil and criminal courts.
(b) The term does not include a support or child custody order issued under the dissolution and child custody laws of a state or Indian tribe, except to the extent that the order qualifies as a protection order under subsection (a) and is entitled to full faith and

credit under a federal law other than 18 U.S.C. 2265.

(c) The term applies to an order regardless of whether the order is obtained by filing an independent action or as a pendente lite order in another proceeding if any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

As added by P.L.280-2001, SEC.36. Amended by P.L.133-2002, SEC.50.

IC 34-6-2-122
"Psychiatric hospital"

Sec. 122. "Psychiatric hospital", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-24.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-123
"Public employee"

Sec. 123. "Public employee", for purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, has the meaning set forth in section 38 of this chapter.

As added by P.L.1-1998, SEC.1. Amended by P.L.280-2001, SEC.37; P.L.133-2002, SEC.51.

IC 34-6-2-124
"Public lawsuit"

Sec. 124. (a) "Public lawsuit", for purposes of IC 34-13-5, means:

(1) any action in which the validity, location, wisdom, feasibility, extent, or character of construction, financing, or leasing of a public improvement by a municipal corporation is questioned directly or indirectly, including but not limited to suits for declaratory judgments or injunctions to declare invalid or to enjoin the construction, financing, or leasing; and

(2) any action to declare invalid or enjoin the creation, organization, or formation of any municipal corporation.

(b) The definition of "public lawsuit", as used in IC 34-13-5, shall not be construed to broaden any right of action as is validly limited by applicable law.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-125
Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-126
Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-127
"Qualified director"

Sec. 127. "Qualified director", for purposes of IC 34-30-4, means

any of the following individuals:

(1) An individual who serves without compensation for personal services as a member of a board or commission of the state or a political subdivision for the purpose of setting policy, controlling, or otherwise overseeing the activities or functional responsibilities of that board or commission.

(2) An individual who serves without compensation for personal services as a director or an officer for the purpose of setting policy, controlling, or otherwise overseeing the activities or functional responsibilities of a nonprofit corporation operating under IC 12-29, except IC 12-29-3-6 or an agency providing services under IC 12-12-3, or a nonprofit corporation that has one (1) of the following purposes:

(A) Religion.

(B) Charity.

(C) Benevolence.

(D) Providing goods or services at no charge to the general public.

(E) Education.

(F) Scientific activity.

(G) Developing or providing hospital services.

(H) Medical research.

(I) Developing or providing ambulance services or emergency medical treatment services.

(3) An individual who serves without compensation for personal services as a director for the purpose of setting policy, controlling, or otherwise overseeing the activities or functional responsibilities of an organization that acts as an advocate for its members and that has as its members individuals or organizations that are:

(A) members of a particular trade or industry; or

(B) members of the business community of a particular municipality or area of the state.

(4) An individual who serves without compensation for personal services as a director of a national, regional, or local fraternity or sorority that is connected with, and under the supervision of, a postsecondary educational institution located within Indiana.

(5) An individual who serves the purpose of setting policy, controlling, or otherwise overseeing the activities or functional responsibilities of a homeowners association (as defined in section 58 of this chapter).

(6) An individual who serves without compensation for personal services as a director for the purpose of setting policy, controlling, or otherwise overseeing the activities or functional responsibilities of the Special Olympics or the Pan American Games.

"Compensation", for purposes of this section, has the meaning set forth in section 28(a) of this chapter.

As added by P.L.1-1998, SEC.1. Amended by P.L.2-2007, SEC.372.

IC 34-6-2-128
"Qualified settlement offer"

Sec. 128. "Qualified settlement offer", for purposes of IC 34-50, means an offer of full and final settlement to resolve all claims and defenses at issue between the offeror (as defined in section 90 of this chapter) and the recipient (as defined in section 129 of this chapter).
As added by P.L.1-1998, SEC.1.

IC 34-6-2-129
"Recipient"

Sec. 129. "Recipient", for purposes of IC 34-50, means a party to a civil action who receives a qualified settlement offer (as defined in section 128 of this chapter) from an offeror (as defined in section 90 of this chapter) who is an opposing party in the civil action.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-130
"Representative"

Sec. 130. "Representative", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-25.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-130.7
"Respondent"

Sec. 130.7. "Respondent", for purposes of IC 34-26-5, means the individual against whom the enforcement of a protection order is sought.
As added by P.L.280-2001, SEC.38. Amended by P.L.133-2002, SEC.52; P.L.1-2003, SEC.90.

IC 34-6-2-131
"Retirement plan"

Sec. 131. "Retirement plan", for purposes of IC 34-55-10, includes:

(1) a stock bonus, a pension, a profit sharing, an annuity, or a similar plan or arrangement, including a retirement plan for self-employed individuals or a simplified employee pension plan;
(2) a government or church retirement plan or contract; or
(3) an individual retirement annuity or individual retirement account;

that is intended in good faith to qualify as a retirement plan under applicable provisions of the Internal Revenue Code of 1986, as amended.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-132
"Risk"

Sec. 132. "Risk", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-26.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-133
"Risk manager"

Sec. 133. "Risk manager", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-27.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-134
"Roller skater"

Sec. 134. "Roller skater", for purposes of IC 34-31-6, means a person, including an invitee, who wears roller skates while in a roller skating rink for the purpose of recreational or competitive roller skating, whether or not the person pays consideration for entrance to the roller skating rink.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-135
"Roller skating rink"

Sec. 135. "Roller skating rink", for purposes of IC 34-31-6, means a building, facility, or other property where an area specifically designed for use by the public for recreational or competitive roller skating is present.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-135.5
"Security interest"

Sec. 135.5. "Security interest", for purposes of section 73.7 of this chapter, means an interest in property created by a contract to secure the payment of a debt or the performance of an obligation.
As added by P.L.179-2005, SEC.8.

IC 34-6-2-136
"Seller"

Sec. 136. "Seller", for purposes of IC 34-20, means a person engaged in the business of selling or leasing a product for resale, use, or consumption.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-137
"Session of the general assembly"

Sec. 137. "Session of the general assembly", for purposes of IC 34-13-1-6, does not include a regular technical session.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-138
"Sheriff"

Sec. 138. "Sheriff", for purposes of IC 34-47-4, means the sheriff of the county in which a court issues a writ of attachment under IC 34-47-4 (or IC 34-4-9 before its repeal).

As added by P.L.1-1998, SEC.1. Amended by P.L.280-2001, SEC.39; P.L.133-2002, SEC.53.

IC 34-6-2-139
"Sports or leisure activity"

Sec. 139. "Sports or leisure activity", for purposes of IC 34-30-19, means:

(1) an athletic or sports competition, exhibition, or event; and
(2) an activity conducted for a recreational purpose.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-140
"State"

Sec. 140. "State":

(1) for purposes of section 49(b) of this chapter and IC 34-13-3, means Indiana and its state agencies; and
(2) for purposes of sections 48.5 and 71.7 of this chapter and IC 34-26-5, has the meaning set forth in IC 1-1-4-5.

As added by P.L.1-1998, SEC.1. Amended by P.L.280-2001, SEC.40; P.L.133-2002, SEC.54; P.L.90-2010, SEC.6.

IC 34-6-2-141
"State agency"

Sec. 141. "State agency", for purposes of IC 34-13-3, means:

(1) a board;
(2) a commission;
(3) a department;
(4) a division;
(5) a governmental subdivision, including a soil and water conservation district;
(6) a bureau;
(7) a committee;
(8) an authority;
(9) a military body; or
(10) other instrumentality;

of the state. However, the term does not include a political subdivision.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-142
"Stepchild"

Sec. 142. "Stepchild", for purposes of IC 34-30-11, includes a stepchild of any age.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-142.3
"Structured settlement"

Sec. 142.3. "Structured settlement", for purposes of IC 34-50-2, has the meaning set forth in IC 34-50-2-2.

As added by P.L.219-2001, SEC.3.

IC 34-6-2-142.5
"Successor asbestos related liability"
Sec. 142.5. "Successor asbestos related liability", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-4.
As added by P.L.134-2009, SEC.4.

IC 34-6-2-142.6
"Telecommunications"
Sec. 142.6. "Telecommunications", for purposes of IC 34-30-21, means the transmission of any document, picture, datum, sound, or other symbol by television, radio, microwave, optical, or other electromagnetic signal.
As added by P.L.5-2005, SEC.5.

IC 34-6-2-143
"Tort"
Sec. 143. "Tort", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-28.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-143.5
"Transfer"
Sec. 143.5. "Transfer", for purposes of IC 34-50-2, has the meaning set forth in IC 34-50-2-3.
As added by P.L.219-2001, SEC.4.

IC 34-6-2-143.7
"Transferee"
Sec. 143.7. "Transferee", for purposes of IC 34-50-2, has the meaning set forth in IC 34-50-2-4.
As added by P.L.219-2001, SEC.5.

IC 34-6-2-143.8
"Transferor corporation"
Sec. 143.8. "Transferor corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-5.
As added by P.L.134-2009, SEC.5.

IC 34-6-2-144
"Trial"
Sec. 144. "Trial", for purposes of IC 34-35-5, includes the impaneling of the jury, the actual trial, or other evidentiary hearing where witnesses are sworn and testify, hearings on motions for summary judgment, and entries of final disposition of a cause of action.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-144.2
"Tribunal"
Sec. 144.2. "Tribunal", for purposes of sections 48.5 and 121.6 of

this chapter and IC 34-26-5, means a court, an agency, or another entity authorized by law to issue or modify a protection order.
As added by P.L.280-2001, SEC.41. Amended by P.L.133-2002, SEC.55.

IC 34-6-2-145
"Unit"
Sec. 145. "Unit", for purposes of IC 34-24-1 and IC 34-24-2, has the meaning specified in IC 36-1-2-23.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-146
"Unreasonably dangerous"
Sec. 146. "Unreasonably dangerous", for purposes of IC 34-20, refers to any situation in which the use of a product exposes the user or consumer to a risk of physical harm to an extent beyond that contemplated by the ordinary consumer who purchases the product with the ordinary knowledge about the product's characteristics common to the community of consumers.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-147
"User"
Sec. 147. "User", for purposes of IC 34-20, has the same meaning as the term "consumer", which is set forth in section 29 of this chapter.
As added by P.L.1-1998, SEC.1.

IC 34-6-2-148
"Vehicle"
Sec. 148. "Vehicle", for purposes of IC 34-24-3, has the meaning set forth in IC 35-31.5-2-346.
As added by P.L.1-1998, SEC.1. Amended by P.L.114-2012, SEC.62.

IC 34-6-2-148.2
"Victim"
Sec. 148.2. "Victim", for purposes of IC 34-60-1, has the meaning set forth in IC 34-60-1-1.
As added by P.L.150-2014, SEC.2.

IC 34-6-2-148.3
"Victim advocate"
Sec. 148.3. "Victim advocate", for purposes of IC 34-60-1, has the meaning set forth in IC 34-60-1-2.
As added by P.L.150-2014, SEC.3.

IC 34-6-2-148.5
"Victim notification capabilities"
Sec. 148.5. "Victim notification capabilities" means, with respect to a GPS tracking device, the ability of the device to do the

following:

(1) Immediately notify law enforcement or other supervisory personnel if the device enters a forbidden area.

(2) Notify the victim in real time or near real time if the device enters a forbidden area.

(3) Allow a law enforcement officer or other supervisory officer to contact the offender immediately if the device enters a forbidden area.

(4) Activate an alarm to warn others of the device's presence in a forbidden area.

As added by P.L.116-2009, SEC.10.

IC 34-6-2-148.7
"Victim service provider"

Sec. 148.7. "Victim service provider", for purposes of IC 34-60-1, has the meaning set forth in IC 34-60-1-3.

As added by P.L.150-2014, SEC.4.

IC 34-6-2-149
Repealed

(Repealed by P.L.2-2002, SEC.128.)

IC 34-6-2-150
"Volunteer"

Sec. 150. "Volunteer", for purposes of IC 34-30-19, means an individual who, without compensation, engages in or provides other personal services for a sports or leisure activity such as baseball, basketball, football, soccer, hockey, volleyball, cheerleading, or other similar sports or leisure activities involving children who are less than sixteen (16) years of age.

As added by P.L.1-1998, SEC.1.

IC 34-6-2-151
"Weekly newspaper"

Sec. 151. "Weekly newspaper", for purposes of IC 34-15-4, means a newspaper that publishes one (1), two (2), three (3), or four (4) issues each week.

As added by P.L.1-1998, SEC.1. Amended by P.L.1-2006, SEC.517.

IC 34-7

ARTICLE 7. GENERAL PROVISIONS

IC 34-7-1

Chapter 1. Effect of Recodification Act of the 1998 Regular Session of the General Assembly

IC 34-7-1-1

Purpose

Sec. 1. The purpose of the recodification act of the 1998 regular session of the general assembly is to recodify prior civil law and procedure in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 1998 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 1998 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 1997 expressly indicate a different purpose;

the substantive operation and effect of the prior civil law and procedure continue uninterrupted as if the recodification act of the 1998 regular session of the general assembly had not been enacted.

As added by P.L.1-1998, SEC.2.

IC 34-7-1-2

Applicability

Sec. 2. Subject to section 1 of this chapter, sections 3 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 1998 regular session of the general assembly.

As added by P.L.1-1998, SEC.2.

IC 34-7-1-3

Effect on actions before July 1, 1998

Sec. 3. (a) The recodification act of the 1998 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;
(C) certificates of registration;
(D) grants of authority; or
(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior civil law and procedure;

before the effective date of the recodification act of the 1998 regular session of the general assembly (July 1, 1998). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, permits, licenses, certificates of registration, grants of authority, or limitations of authority continue and shall be imposed and enforced under prior civil law and procedure as if the recodification act of the 1998 regular session of the general assembly had not been enacted.

(b) The recodification act of the 1998 regular session of the general assembly does not:

(1) extend, or cause to expire, a permit, license, certificate of registration, or other grant or limitation of authority; or

(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior civil law and procedure.

(c) The recodification act of the 1998 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior civil law and procedure or the rules adopted under the prior civil law and procedure.

As added by P.L.1-1998, SEC.2.

IC 34-7-1-4

Statutory construction

Sec. 4. The recodification act of the 1998 regular session of the general assembly shall be construed as a recodification of prior civil law and procedure statutes. Except as provided in section 1(1) and 1(2) of this chapter, if the literal meaning of the recodification act of the 1998 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior civil law and procedure, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 1998 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 1998 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if

the literal meaning of the act is unambiguous does not apply to the recodification act of the 1998 regular session of the general assembly to the extent that the recodification act of the 1998 regular session of the general assembly is not substantively identical to the prior civil law and procedure.
As added by P.L.1-1998, SEC.2.

IC 34-7-1-5
Reference to repealed statutes

Sec. 5. Subject to section 8 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 1998 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.
As added by P.L.1-1998, SEC.2.

IC 34-7-1-6
Citation references

Sec. 6. A citation reference in the recodification act of the 1998 regular session of the general assembly to another provision of the recodification act of the 1998 regular session of the general assembly shall be treated as including a reference to the provision of prior civil law and procedure that is substantively equivalent to the provision of the recodification act of the 1998 regular session of the general assembly that is referred to by the citation reference.
As added by P.L.1-1998, SEC.2.

IC 34-7-1-7
Rules references

Sec. 7. (a) As used in the recodification act of the 1998 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 1998 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 1998 regular session of the general assembly; or

(2) rules adopted under the prior civil law and procedure until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior civil law and procedure continue in effect after June 30, 1998, until the rules are amended, repealed, or suspended.
As added by P.L.1-1998, SEC.2.

IC 34-7-1-8
Citations to prior civil law and procedure

Sec. 8. (a) A reference in the recodification act of the 1998 regular session of the general assembly to a citation in the prior civil law and procedure before its repeal is added in certain sections of the recodification act of the 1998 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 1998 regular session of the general assembly of a reference to a citation in the prior civil law and procedure before its repeal does not affect:

(1) any rights or liabilities accrued;
(2) any penalties incurred;
(3) any violations committed;
(4) any proceedings begun;
(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
(6) any tax levies made;
(7) any funds established;
(8) any patents issued;
(9) the validity, continuation, or termination of contracts or leases executed;
(10) the validity, continuation, scope, termination, suspension, or revocation of:
    (A) permits;
    (B) licenses;
    (C) certificates of registration;
    (D) grants of authority; or
    (E) limitations of authority; or
(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior civil law and procedure;

before the effective date of the recodification act of the 1998 regular session of the general assembly (July 1, 1998). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, licenses, permits, certificates of registration, and other grants of authority continue and shall be imposed and enforced under prior civil law and procedure as if the recodification act of the 1998 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 1998 regular session of the general assembly of a citation to a provision in the prior civil law and procedure statutes does not affect the use of a prior conviction, violation, or noncompliance under the prior civil law and procedure as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 1998 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 1998 regular session of the general assembly in a manner that does not result in a substantive change in the law.

As added by P.L.1-1998, SEC.2.

IC 34-7-1-9

Medical malpractice provisions

Sec. 9. Sections 1 through 8 of this chapter apply to IC 34-18 concerning medical malpractice, which, before it was recodified in the recodification act of the 1998 regular session of the general assembly effective July 1, 1998, appeared at IC 27-12 in the Indiana

Code.
As added by P.L.1-1998, SEC.2.

IC 34-7-2

Chapter 2. General Policy Provisions

IC 34-7-2-1

Rights of Wabash and Erie Canal lands owners

Sec. 1. This title does not in any way affect the rights of any purchaser in good faith, for a valuable consideration without actual notice, or the rights of any owner of any portion of the class of lands described in IC 34-1-18-1 before its repeal in 1989.

As added by P.L.1-1998, SEC.2.

IC 34-7-3

Chapter 3. Construction of Statutes

IC 34-7-3-1

Liberal construction

Sec. 1. This title shall be liberally construed and shall not be limited by any rules of strict construction.

As added by P.L.1-1998, SEC.2.

IC 34-7-4

Chapter 4. Scope of Title

IC 34-7-4-1

Causes of action and procedures not exhaustive

Sec. 1. This title is not intended to be an exhaustive compilation of all causes of action and procedures in the Indiana Code. In addition to the causes of action and procedures that appear in this title, other causes of action and procedures may appear in other titles of the Indiana Code.

As added by P.L.1-1998, SEC.2.

IC 34-7-4-2

Statutes outside IC 34 providing causes of action or procedures

Sec. 2. Statutes outside IC 34 providing causes of action or procedures include the following:

(1) IC 4-21.5-5 (Judicial review of administrative agency actions).

(2) IC 22-3-4 (Worker's compensation administration and procedures).

(3) IC 22-4-17 (Unemployment compensation system, employee's claims for benefits).

(4) IC 22-4-32 (Unemployment compensation system, employer's appeal process).

(5) IC 22-9 (Civil rights actions).

(6) IC 24-9 (Home loans).

(7) IC 31-14 (Paternity).

(8) IC 31-15 (Dissolution of marriage and legal separation).

(9) IC 31-16 (Support of children and other dependents).

(10) IC 31-17 (Custody and parenting time).

(11) IC 31-19 (Adoption).

(12) IC 32-27-2, IC 32-30-1, IC 32-30-2, IC 32-30-4, IC 32-30-9, IC 32-30-10, IC 32-30-12, IC 32-30-13, and IC 32-30-14 (Real property).

(13) IC 33-43-4 (Attorney liens).

As added by P.L.1-1998, SEC.2. Amended by P.L.2-2002, SEC.90; P.L.98-2004, SEC.120; P.L.73-2004, SEC.46; P.L.68-2005, SEC.58.

IC 34-7-5

Chapter 5. Computation of Time

IC 34-7-5-1

Method of computation

Sec. 1. The time within which an act is to be done, as provided in this title, shall be computed by excluding the first day and including the last. If the last day is Sunday, that Sunday shall be excluded.

As added by P.L.1-1998, SEC.2.

IC 34-7-6

Chapter 6. Extensions of Time During Emergencies

IC 34-7-6-1

Emergency extension of time; applicability

Sec. 1. This chapter applies to a proceeding:

(1) pending before a court, a body, or an official, that exists under the constitution or laws of Indiana;

(2) in which certain limitations of time are or may be fixed by law or rule for doing any acts in the proceeding; and

(3) if an emergency exists or arises by reason of:

(A) war;

(B) insurrection;

(C) pestilence; or

(D) act of God;

which prevents the performance of an act that is essential to conserve substantial rights.

As added by P.L.1-1998, SEC.2.

IC 34-7-6-2

Authority to declare emergency

Sec. 2. The court, judge, body, or official has authority to:

(1) find and declare:

(A) the existence of an emergency; and

(B) the time during which the emergency existed; and

(2) enter the finding and declaration in the record.

As added by P.L.1-1998, SEC.2.

IC 34-7-6-3

Computation of time

Sec. 3. In computing the time within which the act is required to be done under the limitations fixed by law or rule, the time during which such emergency existed shall be excluded, and shall not be considered.

As added by P.L.1-1998, SEC.2.

IC 34-7-6-4

Supreme court granting relief

Sec. 4. If a court, judge, body, or official described in section 2 of this chapter is not able to act for any reason, the supreme court of Indiana upon petition:

(1) may grant a finding and declaration of an emergency in place of the presiding court, judge, body, or official; and

(2) shall certify its order to the presiding court, judge, body, or official.

As added by P.L.1-1998, SEC.2.

IC 34-7-6-5

Supreme court regulating procedures

Sec. 5. The supreme court may regulate all procedures described

in this chapter by rules.
As added by P.L.1-1998, SEC.2.

IC 34-7-7

Chapter 7. Defense in Civil Actions Against Persons Who Act in Furtherance of the Person's Right of Petition or Free Speech Under the Constitution of the United States or the Constitution of the State of Indiana in Connection With a Public Issue

IC 34-7-7-1

Applicability of chapter

Sec. 1. (a) This chapter applies to an act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue or an issue of public interest that arises after June 30, 1998. This chapter does not apply to an action that was filed and is pending before July 1, 1998.

(b) This chapter does not apply to an enforcement action brought in the name of the state of Indiana by the attorney general, a prosecuting attorney, or another attorney acting as a public prosecutor.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-2

"Act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue" defined

Sec. 2. As used in this chapter, "act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue" includes any conduct in furtherance of the exercise of the constitutional right of:

(1) petition; or
(2) free speech;

in connection with a public issue or an issue of public interest.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-3

"Claim" defined

Sec. 3. As used in this chapter, "claim" means:

(1) a lawsuit;
(2) a cause of action;
(3) a petition;
(4) a complaint;
(5) a cross claim;
(6) a counterclaim; or
(7) any other judicial pleading or filing;

that requests legal or equitable relief.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-4

"Person" defined

Sec. 4. As used in this chapter, "person" means any of the

following:

(1) An individual.

(2) Any other legal entity.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-5

Conditions under which rights of petition or free speech may be used as defense

Sec. 5. It is a defense in a civil action against a person that the act or omission complained of is:

(1) an act or omission of that person in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue; and

(2) an act or omission taken in good faith and with a reasonable basis in law and fact.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-6

Discovery; stay pending motion to dismiss

Sec. 6. All discovery proceedings in the action are stayed upon the filing of a motion to dismiss made under this chapter, except for discovery relevant to the motion.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-7

Costs and attorney's fees; defendant successful in motion to dismiss

Sec. 7. A prevailing defendant on a motion to dismiss made under this chapter is entitled to recover reasonable attorney's fees and costs.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-8

Costs and attorney's fees; defendant unsuccessful in motion to dismiss

Sec. 8. If a court finds that a motion to dismiss made under this chapter is:

(1) frivolous; or

(2) solely intended to cause unnecessary delay;

the plaintiff is entitled to recover reasonable attorney's fees and costs to answer the motion.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-9

Motion to dismiss; procedures and determination

Sec. 9. (a) If a person files a motion to dismiss under this chapter, the court in which the motion is filed shall do the following:

(1) Treat the motion as a motion for summary judgment.

(2) Establish a reasonable time period, not to exceed one hundred eighty (180) days, to expedite and rule on the motion.

(3) Specify time limits for the discovery of evidence to respond

to material issues raised in the motion.

(b) The person who files a motion to dismiss must state with specificity the public issue or issue of public interest that prompted the act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana.

(c) The court shall make its determination based on the facts contained in the pleadings and affidavits filed and discovered under the expedited proceeding.

(d) The motion to dismiss shall be granted if the court finds that the person filing the motion has proven, by a preponderance of the evidence, that the act upon which the claim is based is a lawful act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana.

(e) The court must act on the motion to dismiss within thirty (30) days from the submission of evidence made by motion to the court that is discovered within the specific expedited time period allowed.

(f) If a court does not act within the thirty (30) days provided in subsection (e), the person filing the motion may appeal the matter based on the court's failure to rule on the motion.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-10

Remedy in addition to other remedies provided by law

Sec. 10. The remedy provided by this chapter is in addition to other remedies provided by law.

As added by P.L.114-1998, SEC.7.

IC 34-8

ARTICLE 8. RULES OF PROCEDURE

IC 34-8-1

Chapter 1. Authority of Courts to Adopt Rules of Procedure

IC 34-8-1-1

Purpose of chapter

Sec. 1. The purpose of this chapter is to enable the supreme court to:

(1) simplify and abbreviate the pleadings and proceedings;
(2) expedite the decision of causes;
(3) remedy abuses and imperfections that exist in the practice;
(4) abolish unnecessary forms and technicalities in pleading and practice; and
(5) abolish fictions and unnecessary process and proceedings.

As added by P.L.1-1998, SEC.3.

IC 34-8-1-2

Statutes in force and effect as provided in chapter

Sec. 2. All statutes relating to practice and procedure in any of the courts of Indiana are in force and effect only as provided in this chapter.

As added by P.L.1-1998, SEC.3.

IC 34-8-1-3

Power of supreme court to adopt, amend, and rescind procedural rules

Sec. 3. The supreme court has authority to adopt, amend, and rescind rules of court that govern and control practice and procedure in all the courts of Indiana. These rules must be promulgated and take effect under the rules adopted by the supreme court, and thereafter all laws in conflict with the supreme court's rules have no further force or effect.

As added by P.L.1-1998, SEC.3.

IC 34-8-1-4

Other courts; power to establish rules

Sec. 4. Other Indiana courts may establish rules for their own government, supplementary to and not conflicting with the rules prescribed by the supreme court or any statute.

As added by P.L.1-1998, SEC.3.

IC 34-8-2

Chapter 2. Indiana Rules of Trial Procedure

IC 34-8-2-1

Supreme court; power to adopt, amend, and rescind procedural rules reaffirmed

Sec. 1. The general assembly of the state of Indiana affirms the inherent power of the supreme court of Indiana to adopt, amend, and rescind rules of court affecting matters of procedure, and the general assembly reaffirms the power given to the supreme court to adopt, amend, and rescind rules of court, including the rules of court adopted in this chapter, as set forth by IC 34-8-1-1. However, the power of the supreme court to adopt, amend, and rescind rules of court does not preclude the creation, by statute, of alternatives to the change of venue.

As added by P.L.1-1998, SEC.3.

IC 34-8-2-2

Adoption and incorporation of rules of trial procedure

Sec. 2. The general assembly adopts, and incorporates into the Indiana Code, the Indiana rules of trial procedure:

(1) as enacted by the general assembly in Acts 1969, c.191, s.1, and amended by P.L.319-1975, SECTION 1; and

(2) as accepted by the Indiana supreme court as being in effect on December 31, 1983.

As added by P.L.1-1998, SEC.3.

IC 34-9

ARTICLE 9. PARTIES

IC 34-9-1

Chapter 1. Representation of Parties by Attorneys

IC 34-9-1-1

Actions by private parties, attorneys, or corporations

Sec. 1. (a) Except as provided under subsection (c), a civil action may be prosecuted or defended by a party:

(1) in person; or

(2) represented by an attorney.

(b) If the state of Indiana is a party to a civil action filed on the small claims docket of a circuit court or superior court, the state of Indiana is not required to appear by attorney.

(c) A corporation and any organization required to make application to the secretary of state under IC 25-11-1-3 must appear by attorney in all cases. However, corporations organized under:

(1) IC 23-1;

(2) IC 23-1.5;

(3) IC 23-7-1.1 (before its repeal on August 1, 1991); or

(4) IC 23-17;

are not required to appear by attorney in civil cases filed on a small claims docket of a circuit or superior court.

As added by P.L.1-1998, SEC.4. Amended by P.L.201-2011, SEC.107.

IC 34-9-2

Chapter 2. Appointment of Guardian Ad Litem for Minor Parties

IC 34-9-2-1

Authority to appoint

Sec. 1. All courts have the authority to:

(1) appoint a guardian ad litem to defend the interests of any person under eighteen (18) years of age impleaded in a suit; and

(2) permit any person, as next friend, to prosecute a suit in a minor's behalf.

As added by P.L.1-1998, SEC.4.

IC 34-9-3

Chapter 3. Survival of Cause of Action After Death of Party

IC 34-9-3-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-1-1-1 (before its repeal, now codified in this chapter) by P.L.94-1989 do not apply to causes of action that accrue before July 1, 1989.

As added by P.L.220-2011, SEC.546.

IC 34-9-3-1

Continuing action after death of party

Sec. 1. (a) If an individual who is entitled or liable in a cause of action dies, the cause of action survives and may be brought by or against the representative of the deceased party except actions for:

(1) libel;
(2) slander;
(3) malicious prosecution;
(4) false imprisonment;
(5) invasion of privacy; and
(6) personal injuries to the deceased party;

which survive only to the extent provided in this chapter.

(b) An action under this chapter may be brought, or the court, on motion, may allow the action to be continued by or against the legal representatives or successors in interest of the deceased. The action is considered a continued action and accrues to the representatives or successors at the time the action would have accrued to the deceased if the deceased had survived.

As added by P.L.1-1998, SEC.4.

IC 34-9-3-2

Notice served on legal representatives

Sec. 2. If an action is continued against the legal representatives or successors of a defendant, a notice shall be served on them as in the case of an original notice.

As added by P.L.1-1998, SEC.4.

IC 34-9-3-3

Actions before and after defendant's death

Sec. 3. (a) If an action commenced against the decedent before the decedent's death, the action is continued by substituting the decedent's personal representatives, as in other actions surviving the defendant's death.

(b) If the action is brought after the death of a defendant, then the action is prosecuted as are other claims against the decedent's estate.

As added by P.L.1-1998, SEC.4.

IC 34-9-3-4

Action by decedent's representative based on personal injuries not causing death

Sec. 4. (a) This section applies when a person:

(1) receives personal injuries caused by the wrongful act or omission of another; and

(2) subsequently dies from causes other than those personal injuries.

(b) The personal representative of the decedent who was injured may maintain an action against the wrongdoer to recover all damages resulting before the date of death from those injuries that the decedent would have been entitled to recover had the decedent lived. The damages:

(1) inure to the exclusive benefit of the decedent's estate; and

(2) are subject to IC 6-4.1.

As added by P.L.1-1998, SEC.4. Amended by P.L.143-2009, SEC.43.

IC 34-9-3-5

Personal injury claims; death of party pending appeal or before new trial after reversal

Sec. 5. (a) This section applies when:

(1) a person obtains a judgment for personal injuries against a person, company, or corporation in a trial court;

(2) the person, company, or corporation against whom or which the judgment was obtained appeals to the supreme court or the court of appeals; and

(3) the judgment is reversed by the supreme court or the court of appeals, with a new trial granted to the appellant.

(b) If a person who obtains a judgment dies:

(1) pending the appeal; or

(2) before a new trial after the reversal;

the claim for personal injuries survives and may be prosecuted by the representative of the decedent, as other claims are prosecuted for and on behalf of decedents' estates.

As added by P.L.1-1998, SEC.4.

IC 34-10

ARTICLE 10. ACCESS TO COURTS BY INDIGENT PERSONS

IC 34-10-1

Chapter 1. Proceeding as an Indigent Person

IC 34-10-1-1

Application for leave to prosecute or defend as an indigent person

Sec. 1. An indigent person who does not have sufficient means to prosecute or defend an action may apply to the court in which the action is intended to be brought, or is pending, for leave to prosecute or defend as an indigent person.

As added by P.L.1-1998, SEC.5.

IC 34-10-1-2

Assignment of attorney

Sec. 2. (a) This section may not be construed to prohibit a court from participating in a pro bono legal services program or other program that provides legal services to litigants:

(1) without charge; or

(2) at a reduced fee.

(b) If the court is satisfied that a person who makes an application described in section 1 of this chapter does not have sufficient means to prosecute or defend the action, the court:

(1) shall admit the applicant to prosecute or defend as an indigent person; and

(2) may, under exceptional circumstances, assign an attorney to defend or prosecute the cause.

(c) The factors that a court may consider under subsection (b)(2) include the following:

(1) The likelihood of the applicant prevailing on the merits of the applicant's claim or defense.

(2) The applicant's ability to investigate and present the applicant's claims or defenses without an attorney, given the type and complexity of the facts and legal issues in the action.

(d) The court shall deny an application made under section 1 of this chapter if the court determines any of the following:

(1) The applicant failed to make a diligent effort to obtain an attorney before filing the application.

(2) The applicant is unlikely to prevail on the applicant's claim or defense.

(e) All officers required to prosecute or defend the action shall do their duty in the case without taking any fee or reward from the indigent person.

(f) The reasonable attorney's fees and expenses of an attorney appointed to represent an applicant under section 1 of this chapter shall be paid from the money appropriated to the court:

(1) appointing the attorney, if the action was not transferred to another county; or

(2) from which the action was transferred, if the action was transferred to another county.

As added by P.L.1-1998, SEC.5. Amended by P.L.125-2002, SEC.1.

IC 34-10-1-3

Filing of claim by an offender with three prior actions dismissed as frivolous; exception

Sec. 3. If an offender has filed at least three (3) civil actions in which a state court has dismissed the action or a claim under IC 34-58-1-2, the offender may not file a new complaint or petition as an indigent person under this chapter, unless a court determines the offender is in immediate danger of serious bodily injury.

As added by P.L.128-2009, SEC.1.

IC 34-10-2

Chapter 2. Annulling Leave to Proceed as an Indigent Person

IC 34-10-2-1

Application of chapter

Sec. 1. This chapter applies to a person who was assigned representation as an indigent person under IC 34-10-1.

As added by P.L.1-1998, SEC.5.

IC 34-10-2-2

Annulment of order

Sec. 2. If the person described in section 1 of this chapter is guilty of:

(1) any improper conduct; or

(2) any unjustifiable delay in the progress of the action;

the court may annul the order. The indigent person shall subsequently be deprived of all benefit of the order permitting the person to prosecute or defend as an indigent person.

As added by P.L.1-1998, SEC.5.

IC 34-11

ARTICLE 11. LIMITATION OF ACTIONS

IC 34-11-1

Chapter 1. Statutes of Limitation Generally

IC 34-11-1-1

Compilation of statutes of limitation not exhaustive

Sec. 1. This article is not intended to be an exhaustive compilation of all statutes of limitation in the Indiana Code. In addition to the statutes of limitation that appear in this article, other statutes of limitation may appear outside this article.

As added by P.L.1-1998, SEC.6.

IC 34-11-1-2

Cause of action arising on, before, or after September 1, 1982

Sec. 2. (a) A cause of action that:

(1) arises on or after September 1, 1982; and

(2) is not limited by any other statute;

must be brought within ten (10) years.

(b) A cause of action that:

(1) arises before September 1, 1982; and

(2) is not limited by any other statute;

must be brought within fifteen (15) years.

(c) This section does not apply whenever a different limitation is prescribed by statute.

As added by P.L.1-1998, SEC.6.

IC 34-11-2

Chapter 2. Specific Statutes of Limitation

IC 34-11-2-1

Employment related actions

Sec. 1. An action relating to the terms, conditions, and privileges of employment except actions based upon a written contract (including, but not limited to, hiring or the failure to hire, suspension, discharge, discipline, promotion, demotion, retirement, wages, or salary) must be brought within two (2) years of the date of the act or omission complained of.

As added by P.L.1-1998, SEC.6.

IC 34-11-2-2

Employment related action against the state of Indiana

Sec. 2. An action against the state of Indiana relating to the terms, conditions, and privileges of employment (including, but not limited to, hiring, suspension, discharge, discipline, promotion, demotion, retirement, wages, or salary) must be brought within two (2) years of the date of the act or omission complained of. This section does not:

(1) expand the time for initiating any action, including any available administrative remedies; or

(2) excuse the exhaustion of administrative remedies where required by the administrative orders and procedures law (IC 4-21.5).

As added by P.L.1-1998, SEC.6.

IC 34-11-2-3

Professional services related actions

Sec. 3. An action of any kind for damages, whether brought in contract or tort, based upon professional services rendered or which should have been rendered, may not be brought, commenced, or maintained, in any of the courts of Indiana against physicians, dentists, surgeons, hospitals, sanitariums, or others, unless the action is filed within two (2) years from the date of the act, omission, or neglect complained of.

As added by P.L.1-1998, SEC.6.

IC 34-11-2-4

Injury or forfeiture of penalty actions

Sec. 4. (a) An action for:

(1) injury to person or character;

(2) injury to personal property; or

(3) a forfeiture of penalty given by statute;

must be commenced within two (2) years after the cause of action accrues.

(b) An action for injury to a person that results from the sexual abuse of a child must be commenced within the later of:

(1) seven (7) years after the cause of action accrues; or

(2) four (4) years after the person ceases to be a dependent of

the person alleged to have performed the sexual abuse.
As added by P.L.1-1998, SEC.6. Amended by P.L.44-2013, SEC.1.

IC 34-11-2-5
Real property recovery actions

Sec. 5. An action for the recovery of real property sold by executors, administrators, guardians, or commissioners of a court, upon a judgment, specifically directing the sale of property sought to be recovered, brought by a party to the judgment, the party's heirs, or any person claiming a title under a party, acquired after the date of the judgment, must be commenced within five (5) years after the sale is confirmed.
As added by P.L.1-1998, SEC.6.

IC 34-11-2-6
Sheriffs or public officers; actions growing out of liability incurred during official acts or omissions of duty

Sec. 6. An action against:

(A) a sheriff;

(B) another public officer; or

(C) the officer and the officer's sureties on a public bond;

growing out of a liability incurred by doing an act in an official capacity, or by the omission of an official duty, must be commenced within five (5) years after the cause of action accrues. However, an action may be commenced against the officer or the officer's legal representatives, for money collected in an official capacity and not paid over, at any time within six (6) years after the cause of action accrues.
As added by P.L.1-1998, SEC.6.

IC 34-11-2-7
Six year limitation

Sec. 7. The following actions must be commenced within six (6) years after the cause of action accrues:

(1) Actions on accounts and contracts not in writing.

(2) Actions for use, rents, and profits of real property.

(3) Actions for injuries to property other than personal property, damages for detention of personal property and for recovering possession of personal property.

(4) Actions for relief against frauds.

As added by P.L.1-1998, SEC.6.

IC 34-11-2-8
Real property execution actions

Sec. 8. An action for the recovery of real property sold on execution, brought by the execution debtor, the execution debtor's heirs, or any person claiming under the execution debtor by title acquired after the date of the judgment, must be commenced within six (6) years after the sale. However, an action described in this section must be commenced within ten (10) years after the sale, if the

sale occurred before September 1, 1982.
As added by P.L.1-1998, SEC.6.

IC 34-11-2-9
Promissory notes, bills of exchange, or written contracts for payment of money

Sec. 9. An action upon promissory notes, bills of exchange, or other written contracts for the payment of money executed after August 31, 1982, must be commenced within six (6) years after the cause of action accrues. An action upon promissory notes, bills of exchange, and other written contracts for the payment of money executed on or after September 19, 1881, and before September 1, 1982, must be commenced within ten (10) years after the cause of action accrues. However, all contracts described in this section that have been executed before September 19, 1881, may be enforced within the time only as they have to run, before being barred under the law in effect at the time of their executions limiting the commencement of actions, and not afterward.
As added by P.L.1-1998, SEC.6.

IC 34-11-2-10
Enforcement of child support obligations

Sec. 10. An action to enforce a child support obligation must be commenced not later than ten (10) years after:

(1) the eighteenth birthday of the child; or
(2) the emancipation of the child;

whichever occurs first.
As added by P.L.1-1998, SEC.6.

IC 34-11-2-10.5
Employment related action by volunteer firefighter or member of volunteer emergency medical services association

Sec. 10.5. An action brought by a volunteer:

(1) firefighter; or
(2) member of a volunteer emergency medical services association connected with a unit of government as set forth in IC 16-31-5-1(6);

against the volunteer's political subdivision employer for being disciplined for being absent from employment while responding to an emergency must be commenced within one (1) year after the date of the disciplinary action, as provided in IC 36-8-12-10.5(g).
As added by P.L.43-2005, SEC.1. Amended by P.L.6-2012, SEC.221.

IC 34-11-2-11
Written contract actions

Sec. 11. An action upon contracts in writing other than those for the payment of money, and including all mortgages other than chattel mortgages, deeds of trust, judgments of courts of record, and for the recovery of the possession of real estate, must be commenced within ten (10) years after the cause of action accrues. However, an action

upon contracts in writing other than those for the payment of money entered into before September 1, 1982, not including chattel mortgages, deeds of trust, judgments of courts of record, or for the recovery of the possession of real estate, must be commenced within twenty (20) years after the cause of action accrues.
As added by P.L.1-1998, SEC.6. Amended by P.L.14-2000, SEC.69.

IC 34-11-2-11.5
Recovery of certain costs

Sec. 11.5. (a) As used in this chapter, "person" has the meaning set forth in IC 34-6-2-103(b).

(b) Subject to subsections (c), (d), and (e), a person may seek to recover the following in an action brought on or after the effective date of this section under IC 13-30-9-2 or IC 13-23-13-8(b) to recover costs incurred for a removal action, a remedial action, or a corrective action:

(1) The costs incurred not more than ten (10) years before the date the action is brought, even if the person or any other person also incurred costs more than ten (10) years before the date the action is brought.

(2) The costs incurred on or after the date the action is brought.

(c) Costs are eligible for recovery under subsection (b) regardless of whether any part of the costs is incurred before the effective date of this section.

(d) This section does not permit a person to revive or raise new claims in an action brought under IC 13-30-9-2 or IC 13-23-13-8(b) that was finally adjudicated or settled before the effective date of this section.

(e) Any person that brought an action under IC 13-30-9-2 or IC 13-23-13-8(b) that was not finally adjudicated or settled prior to the effective date of this section may not amend that action, or bring a new action, under this section.
As added by P.L.154-2011, SEC.4.

IC 34-11-2-12
Satisfaction of judgment after expiration of 20 years

Sec. 12. Every judgment and decree of any court of record of the United States, of Indiana, or of any other state shall be considered satisfied after the expiration of twenty (20) years.
As added by P.L.1-1998, SEC.6.

IC 34-11-2-13
Foreign country judgment

Sec. 13. An action to recognize a foreign country judgment must be commenced not later than the earlier of the following:

(1) The time during which the foreign country judgment is effective in the foreign country.

(2) Ten (10) years after the date the foreign country judgment became effective in the foreign country.

As added by P.L.213-2011, SEC.1.

IC 34-11-3

Chapter 3. Accrual of Cause of Action; Time From Which Limitation Period Runs

IC 34-11-3-1

Mutual, open, and current accounts

Sec. 1. In an action brought to recover a balance due upon a mutual, open, and current account between the parties, the cause of action is considered to have accrued from the date of the last item proved in the account on either side.

As added by P.L.1-1998, SEC.6.

IC 34-11-4

Chapter 4. Tolling of Statute of Limitations: Nonresident Defendant

IC 34-11-4-1

Tolling of time while nonresident

Sec. 1. The time during which the defendant is a nonresident of the state is not computed in any of the periods of limitation except during such time as the defendant by law maintains in Indiana an agent for service of process or other person who, under the laws of Indiana, may be served with process as agent for the defendant.

As added by P.L.1-1998, SEC.6.

IC 34-11-4-2

Bar of cause of action is defense

Sec. 2. When:

(1) a cause of action arose outside of Indiana against a nonresident defendant;

(2) the defendant does not maintain an agent in Indiana for service of process or other person who, under the laws of Indiana, could be served with process as agent for the defendant; and

(3) the cause is fully barred by the laws both of the place where the defendant resides and of the place where the cause of action arose;

the bar of the cause of action under subdivision (3) is a defense.

As added by P.L.1-1998, SEC.6.

IC 34-11-4-3

Disabled persons or members of armed services

Sec. 3. This chapter shall not be construed to amend or alter present laws relating to the application of various statutes of limitations to persons under legal disabilities or to members of the armed services of the United States.

As added by P.L.1-1998, SEC.6.

IC 34-11-5

Chapter 5. Tolling of Statute of Limitations: Concealment

IC 34-11-5-1

Concealing cause of action

Sec. 1. If a person liable to an action conceals the fact from the knowledge of the person entitled to bring the action, the action may be brought at any time within the period of limitation after the discovery of the cause of action.

As added by P.L.1-1998, SEC.6.

IC 34-11-6

Chapter 6. Tolling of Statute of Limitations: Legal Disabilities

IC 34-11-6-1

Legal disabilities; accrual of action

Sec. 1. A person who is under legal disabilities when the cause of action accrues may bring the action within two (2) years after the disability is removed.

As added by P.L.1-1998, SEC.6.

IC 34-11-6-2

No legal disability upon reaching age 18

Sec. 2. A contract, sale, release, or conveyance executed by a person after reaching the person's eighteenth birthday may not be avoided by the person on the grounds that, at the time the agreement was executed, the person was acting under a legal disability by reason of the person's age. A person who executes an agreement after reaching the person's eighteenth birthday may not assert legal disability by reason of age as a defense in an action to enforce a contract against the person.

As added by P.L.1-1998, SEC.6.

IC 34-11-7

Chapter 7. Survival of Cause of Action After Death of Party

IC 34-11-7-1

Death of parties; survival of action

Sec. 1. If any person entitled to bring, or liable to, any action, dies before the expiration of the time limited for the action, the cause of action:

(1) survives to or against the person's representatives; and

(2) may be brought at any time after the expiration of the time limited within eighteen (18) months after the death of the person.

As added by P.L.1-1998, SEC.6.

IC 34-11-8

Chapter 8. Limitations on New Action After Failure of Original Suit

IC 34-11-8-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-1-2-8 (before its repeal, now codified at section 1 of this chapter) apply to causes of action that fail after June 30, 1993.

As added by P.L.220-2011, SEC.547.

IC 34-11-8-1

New actions; continuation of action

Sec. 1. (a) This section applies if a plaintiff commences an action and:

(1) the plaintiff fails in the action from any cause except negligence in the prosecution of the action;

(2) the action abates or is defeated by the death of a party; or

(3) a judgment is arrested or reversed on appeal.

(b) If subsection (a) applies, a new action may be brought not later than the later of:

(1) three (3) years after the date of the determination under subsection (a); or

(2) the last date an action could have been commenced under the statute of limitations governing the original action;

and be considered a continuation of the original action commenced by the plaintiff.

As added by P.L.1-1998, SEC.6. Amended by P.L.2-2005, SEC.113.

IC 34-11-9

Chapter 9. Acknowledgment, New Promise, and Partial Payment

IC 34-11-9-1

New or continuing contract

Sec. 1. An acknowledgment or promise is not evidence of a new or continuing contract, for the purpose of taking the case out of the operation of this article, unless the acknowledgment or promise is:

(1) in writing; and

(2) signed by the party to be charged by the acknowledgment or promise.

As added by P.L.1-1998, SEC.6.

IC 34-11-9-2

Joint contractor, executor, or administrator liability

Sec. 2. The acknowledgment or promise of one (1) joint contractor or executor or administrator does not render any other joint contractor, executor, or administrator liable under this chapter.

As added by P.L.1-1998, SEC.6.

IC 34-11-9-3

Payment; endorsement or memorandum

Sec. 3. This chapter does not take away or lessen the effect of any payment made by any person. However, no endorsement or memorandum of any payment made:

(1) upon any instrument of writing; and

(2) by or on behalf of the party to whom the payment is purported to be made;

is considered sufficient to exempt the case from this chapter.

As added by P.L.1-1998, SEC.6.

IC 34-11-9-4

Joint debtor or sureties; payment

Sec. 4. (a) This section applies to:

(1) a joint debtor; and

(2) the representatives of a joint debtor;

in whose favor the statute of limitations has operated.

(b) A person described under subsection (a) is not liable to:

(1) a joint debtor or surety; or

(2) the representatives of a joint debtor or surety;

upon payment by the joint debtor or surety, or the representative of the debt, or any part of it.

As added by P.L.1-1998, SEC.6.

IC 34-12

ARTICLE 12. PROHIBITED CAUSES OF ACTION

IC 34-12-1

Chapter 1. Failure to Abort

IC 34-12-1-1

Failure to abort; negligence action; damages

Sec. 1. A person may not maintain a cause of action or receive an award of damages on the person's behalf based on the claim that but for the negligent conduct of another, the person would have been aborted.

As added by P.L.1-1998, SEC.7.

IC 34-12-2

Chapter 2. Certain Domestic Relations Actions

IC 34-12-2-1

Causes of action abolished

Sec. 1. (a) The following civil causes of action are abolished:

(1) Breach of promise to marry.

(2) Alienation of affections.

(3) Criminal conversation.

(4) Seduction of any female person of at least eighteen (18) years of age.

(b) This section does not affect a cause of action described in subsection (a) that accrued before June 10, 1935.

As added by P.L.1-1998, SEC.7.

IC 34-12-2-2

Certain causes of action not to arise within state

Sec. 2. (a) No act done after June 10, 1935, within Indiana operates to give rise, either within or outside Indiana, to any of the causes of action abolished by this chapter.

(b) No contract to marry that is made after June 10, 1935, within Indiana operates to give rise, either within or outside Indiana, to any cause of action for breach of contract or promise to marry.

(c) The intent of this section is to fix the effect, status, and character of acts and contracts described in subsections (a) and (b) and to render them ineffective to support or give rise to any causes of action within or outside Indiana.

As added by P.L.1-1998, SEC.7.

IC 34-12-2-3

Filing or threatening to file abolished cause of action prohibited

Sec. 3. It is unlawful after June 10, 1935, for any person, either as litigant or attorney, to:

(1) file;

(2) cause to be filed;

(3) threaten to file; or

(4) threaten to cause to be filed;

in any court in Indiana any pleading or paper setting forth or seeking to recover upon any cause of action abolished or barred by this chapter, whether the cause of action arose within or outside Indiana.

As added by P.L.1-1998, SEC.7.

IC 34-12-2-4

Identifying corespondent or participant in divorce, separate maintenance, annulment, or custody action prohibited

Sec. 4. It is unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed in any court of Indiana, any pleading or paper naming or describing in such manner as to identify any person as corespondent or participant in misconduct of the adverse party in any:

(1) action for:
(A) divorce;
(B) separate maintenance;
(C) annulment of marriage; or
(D) custody or care of children; or
(2) citation or proceeding ancillary or subsequent to an action described in subdivision (1).

As added by P.L.1-1998, SEC.7.

IC 34-12-2-5
Motion to make pleading or paper more specific

Sec. 5. (a) Except as provided in subsection (b), in cases described in section 4 of this chapter, it is sufficient for such pleader to designate any corespondent or third party in general language that is not sufficient for identification. The general language operates with the same legal effect as complete naming and identification of the person.

(b) The adverse party may file a motion to make the pleading or paper more specific by stating the name, identity, or other facts. The granting of the motion, in whole or in part, rests in the sound discretion of the court, and, if ordered granted, the pleader shall amend the pleading or paper to set forth the information specifically required by the order, but no further.

As added by P.L.1-1998, SEC.7.

IC 34-12-2-6
Questioning intended to elicit name of third persons prohibited

Sec. 6. (a) An attorney who appears in a proceeding described in section 4 of this chapter on behalf of a party to the proceeding who is asserting misconduct by the adverse party shall not ask of any witness any question intended or calculated to disclose the name or identity of any third person charged as corespondent or participant in the misconduct.

(b) A party or witness testifying on behalf of a party asserting misconduct by the adverse party shall not name or identify any third person charged as a corespondent or participant in any such misconduct.

(c) If the court in the exercise of a sound discretion so orders, counsel for any party charged with an act of misconduct with a third person may be permitted to cross-examine a witness who has testified to the act of misconduct concerning the identity of the third person. Within limits as the court may prescribe, the witness may answer the questions asked.

(d) In all testimony in proceedings described in section 4 of this chapter, designation of the corespondent or other alleged participant in misconduct by general language not sufficient for identification operates with the same legal effect as complete identification.

(e) The discretion vested in the court by this section shall be exercised in a manner to avoid injustice to litigants, while at the same time avoiding, so far as possible, the public revelation of the name or

identity of the third person. To this end the court may impound pleadings or other documents in the case and hear testimony in chambers.

(f) This section shall not be construed to change the grounds for divorce or impair the substantive rights of parties in cases described in this section. This section shall be construed to regulate pleading, practice, and testimony in cases described in this section so as to eliminate extortion and public scandal.

(g) This section also applies to the taking of testimony by deposition or commission as to proceedings before the court.

(h) Any willful violation of this section by any attorney, party, or witness constitutes a direct contempt of the court having jurisdiction of the proceeding in which the violation occurs, and may be punished by the court with a fine of not more than five hundred dollars ($500) as the court considers proper. However, if the adverse party intends to file a motion under section 5(b) of this chapter to make any pleading or paper more specific by stating the name, identity, or other fact descriptive of any corespondent or participant in misconduct of the adverse party in any action or proceeding described in section 4 of this chapter, any party who has given notice of the taking of a deposition shall be notified of this intention in writing before the time fixed for taking the deposition, and the notice may be served upon either the party or the party's attorney.

As added by P.L.1-1998, SEC.7.

IC 34-12-2-7

Compromise or settlement of abolished causes of action prohibited

Sec. 7. (a) All contracts and instruments executed after June 10, 1935, within Indiana in payment, satisfaction, settlement, or compromise of any claim or cause of action abolished or barred by this chapter, whether the claim or cause of action arose within or outside Indiana, are declared to be contrary to the public policy of Indiana and void.

(b) It is unlawful to cause, induce, or procure any person to:

(1) execute a contract or instrument described in subsection (a);

(2) cause, induce, or procure any person to give, pay, transfer, or deliver any money or thing of value in payment, satisfaction, settlement, or compromise of a claim or cause of action described in subsection (a); or

(3) receive, take, or accept any money or thing of value in payment, satisfaction, settlement, or compromise of a claim or cause of action described in subsection (a).

(c) It is unlawful to commence or cause to be commenced, either as litigant or attorney, in any court of Indiana, any proceeding or action seeking to enforce or recover upon a contract or instrument described in subsection (a), knowing it to be void, whether the contract or instrument was executed within or outside Indiana.

(d) This section does not apply to:

(1) the payment, satisfaction, settlement, or compromise of any:

(A) causes of action that are not abolished or barred by this

chapter; or

(B) contracts or instruments executed before June 10, 1935; or

(2) the bona fide holder in due course of any negotiable instrument executed after June 10, 1935.

As added by P.L.1-1998, SEC.7.

IC 34-12-2-8

Violations

Sec. 8. A person who knowingly violates section 3, 4, 5, or 7 of this chapter commits a Level 6 felony.

As added by P.L.1-1998, SEC.7. Amended by P.L.158-2013, SEC.348.

IC 34-12-3

Chapter 3. Legal Actions Involving Firearms and Ammunition Manufacturers, Trade Associations, and Sellers

IC 34-12-3-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.19-2001 applies only to actions filed after April 18, 2001.

As added by P.L.220-2011, SEC.548.

IC 34-12-3-1

"Firearm"

Sec. 1. As used in this chapter, "firearm" has the meaning set forth in IC 35-47-1-5.

As added by P.L.19-2001, SEC.1.

IC 34-12-3-2

"Person"

Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 35-31.5-2-234.

As added by P.L.19-2001, SEC.1. Amended by P.L.114-2012, SEC.63.

IC 34-12-3-3

Prohibited actions

Sec. 3. Except as provided in section 5(1) or 5(2) of this chapter, a person may not bring an action against a firearms or ammunition manufacturer, trade association, or seller for:

(1) recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful:

(A) design;

(B) manufacture;

(C) marketing; or

(D) sale;

of a firearm or ammunition for a firearm; or

(2) recovery of damages resulting from the criminal or unlawful misuse of a firearm or ammunition for a firearm by a third party.

As added by P.L.19-2001, SEC.1. Amended by P.L.80-2004, SEC.3.

IC 34-12-3-4

Fees and costs awarded for groundless actions

Sec. 4. If a court finds that a party has brought an action under a theory of recovery described in section 3(1) or 3(2) of this chapter, the finding constitutes conclusive evidence that the action is groundless. If a court makes a finding under this section, the court shall dismiss the claims or action and award to the defendant any reasonable attorney's fee and costs incurred in defending the claims or action.

As added by P.L.19-2001, SEC.1.

IC 34-12-3-5
Allowable actions

Sec. 5. Nothing in this chapter may be construed to prohibit a person from bringing an action against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages for the following:

(1) Breach of contract or warranty concerning firearms or ammunition purchased by a person.

(2) Damage or harm to a person or to property owned or leased by a person caused by a defective firearm or ammunition.

(3) Injunctive relief to enforce a valid statute, rule, or ordinance. However, a person may not bring an action seeking injunctive relief if that action is barred under section 3 of this chapter.

As added by P.L.19-2001, SEC.1. Amended by P.L.80-2004, SEC.4.

IC 34-13

ARTICLE 13. CAUSES OF ACTION: CLAIMS AGAINST THE GOVERNMENT

IC 34-13-1

Chapter 1. Contract Claims Against the State

IC 34-13-1-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 34-4-16-6 (before its repeal, now codified at section 6 of this chapter) by P.L.149-1988 apply to the accrual of interest after June 30, 1988, on any part of a judgment that is unpaid after June 30, 1988, even if the judgment was rendered before July 1, 1988.

(b) The amendments made to IC 34-4-16-6 (before its repeal, now codified at section 6 of this chapter) by P.L.208-1993 apply to the accrual of interest after December 31, 1993, on any part of a judgment that is unpaid after December 31, 1993, even if the judgment was rendered before January 1, 1994.

As added by P.L.220-2011, SEC.549.

IC 34-13-1-1

Commencement of actions; limitations; trial by court

Sec. 1. (a) Any person having a claim against the state arising out of an express or implied contract may bring suit within ten (10) years after accrual of the claim.

(b) The claim brought under this section shall be tried to the court, not a jury.

As added by P.L.1-1998, SEC.8.

IC 34-13-1-2

Repealed

(Repealed by P.L.2-2005, SEC.131.)

IC 34-13-1-3

Exemption from chapter

Sec. 3. This chapter does not authorize any person to bring suit against the state of Indiana upon any obligation described in Article 10, Section 7 of the Constitution of the state of Indiana.

As added by P.L.1-1998, SEC.8.

IC 34-13-1-4

Attorney general; duties

Sec. 4. The attorney general, in person or by deputy, shall defend and represent the interests of the state in any action brought under this chapter (or IC 34-4-16 before its repeal).

As added by P.L.1-1998, SEC.8.

IC 34-13-1-5

Appeal to supreme court

Sec. 5. In all actions against the state, either party may appeal directly to the supreme court, under the same rules, regulations, and restrictions that govern in cases of appeals from the circuit courts of this state to the supreme court of the state in civil causes, except that the state may appeal without bond.
As added by P.L.1-1998, SEC.8.

IC 34-13-1-6
Judgments against state; interest rate; appropriation to pay judgment

Sec. 6. Whenever, by final decree or judgment, a sum of money is adjudged to be due any person from the state, an execution shall not issue but the judgment shall draw interest at an annual rate of six percent (6%) from the date of the adjournment of the next ensuing session of the general assembly until an appropriation is made by law for the payment and the judgment is paid.
As added by P.L.1-1998, SEC.8.

IC 34-13-1-7
Counsel to assist attorney general

Sec. 7. Whenever, in the opinion of the governor, the interests of the state require it, the governor may employ counsel to assist the attorney general in the defense of any suit brought against the state and may pay that counsel out of any funds at the governor's disposal appropriated for that purpose.
As added by P.L.1-1998, SEC.8.

IC 34-13-2

Chapter 2. Contract Claims Against Public Employees

IC 34-13-2-1

Personal liability on contracts entered into within scope of employment

Sec. 1. A present or former public employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, is not personally liable on contracts entered into within the scope of the employee's employment for a governmental entity unless it is clearly otherwise indicated in writing.

As added by P.L.1-1998, SEC.8. Amended by P.L.192-2001, SEC.1.

IC 34-13-2-2

Defense of state employee for claims or suits arising out of contracts

Sec. 2. If requested to do so, the attorney general shall defend a present or former state employee against any claim or suit brought against the state employee with regard to a contract entered into for the employee's governmental entity. The attorney general may employ other counsel to aid in defending or settling the claim or suit.

As added by P.L.1-1998, SEC.8.

IC 34-13-2-3

Judgment or settlement as bar to action against employee; judgments for claims against employee acting within scope of employment; costs and fees

Sec. 3. (a) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee whose conduct gave rise to the claim resulting in that judgment or settlement.

(b) The governmental entity shall pay any judgment, compromise, or settlement of a claim or suit against an employee when:

(1) the act or omission causing the loss is within the scope of the employee's employment; and

(2) the:

(A) governor, in the case of a claim or suit against a state employee; or

(B) the governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision;

determines that paying the judgment, compromise, or settlement is in the best interest of the governmental entity.

(c) The governmental entity shall pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

(d) This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;
(2) consent by the state of Indiana or its employees to be sued in any federal court; or
(3) consent to be sued in any state court beyond the boundaries of Indiana.

As added by P.L.1-1998, SEC.8.

IC 34-13-3

Chapter 3. Tort Claims Against Governmental Entities and Public Employees

IC 34-13-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 3 of this chapter by P.L.250-2001 apply to a cause of action involving an extreme sport area that accrues after May 11, 2001, regardless of when the extreme sport area was developed.

(2) The amendments made to section 3 of this chapter by P.L.280-2001 apply only to a cause of action that accrues after June 30, 2001.

As added by P.L.220-2011, SEC.550.

IC 34-13-3-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 34-4-16.5-17 (before its repeal, now codified at section 18 of this chapter) by P.L.149-1988 apply to the accrual of interest after June 30, 1988, on any part of a judgment that is unpaid after June 30, 1988, even if the judgment was rendered before July 1, 1988.

(b) The amendments made to IC 34-4-16.5-17 (before its repeal, now codified at section 18 of this chapter) by P.L.208-1993 apply to the accrual of interest after December 31, 1993, on any part of a judgment that is unpaid after December 31, 1993, even if the judgment was rendered before January 1, 1994.

As added by P.L.220-2011, SEC.551.

IC 34-13-3-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to a claim or suit in tort.

(b) The provisions of this chapter also apply to IC 34-30-14.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-2

Applicability of chapter to bureau of motor vehicles

Sec. 2. This chapter applies to a claim or suit in tort against any of the following:

(1) A member of the bureau of motor vehicles commission established under IC 9-15-1-1.

(2) An employee of the bureau of motor vehicles commission who is employed at a license branch under IC 9-16, except for an employee employed at a license branch operated under a contract with the commission under IC 9-16.

(3) A member of the driver education advisory board established by IC 9-27-6-5.

As added by P.L.1-1998, SEC.8. Amended by P.L.145-2011, SEC.27.

IC 34-13-3-3
Immunity of governmental entity or employee

Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce:

(A) a law (including rules and regulations); or

(B) in the case of a public school or charter school, a policy;

unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.
(14) Misrepresentation if unintentional.
(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.
(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.
(17) Injury to the person or property of a person under supervision of a governmental entity and who is:
(A) on probation; or
(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.
(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.
(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.
(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a:
(A) discipline policy adopted under IC 20-33-8-12; or
(B) restraint and seclusion plan adopted under IC 20-20-40-14.
(21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.
(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:
(A) the loss is a result of reckless conduct; or
(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.
(23) The operation of an off-road vehicle (as defined in

IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

(A) gross negligence;

(B) willful or wanton misconduct; or

(C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.

As added by P.L.1-1998, SEC.8. Amended by P.L.142-1999, SEC.2; P.L.250-2001, SEC.6; P.L.280-2001, SEC.42; P.L.1-2002, SEC.144; P.L.161-2003, SEC.5; P.L.1-2005, SEC.218; P.L.208-2005, SEC.14; P.L.47-2006, SEC.48; P.L.121-2009, SEC.15; P.L.86-2010, SEC.10; P.L.125-2011, SEC.1; P.L.122-2013, SEC.2; P.L.220-2013, SEC.2.

IC 34-13-3-4

Limitation on aggregate liability; punitive damages prohibited

Sec. 4. (a) The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed:

(1) for injury to or death of one (1) person in any one (1) occurrence:

(A) three hundred thousand dollars ($300,000) for a cause of action that accrues before January 1, 2006;

(B) five hundred thousand dollars ($500,000) for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or

(C) seven hundred thousand dollars ($700,000) for a cause of action that accrues on or after January 1, 2008; and

(2) for injury to or death of all persons in that occurrence, five million dollars ($5,000,000).

(b) A governmental entity or an employee of a governmental entity acting within the scope of employment is not liable for punitive damages.

As added by P.L.1-1998, SEC.8. Amended by P.L.108-2003, SEC.2; P.L.161-2003, SEC.6; P.L.97-2004, SEC.114.

IC 34-13-3-5

Actions against individual members not authorized; judgment against or settlement by governmental entity

Sec. 5. (a) Civil actions relating to acts taken by a board, a committee, a commission, an authority, or another instrumentality of

a governmental entity may be brought only against the board, the committee, the commission, the authority, or the other instrumentality of a governmental entity. A member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity may not be named as a party in a civil suit that concerns the acts taken by a board, a committee, a commission, an authority, or another instrumentality of a governmental entity where the member was acting within the scope of the member's employment. For the purposes of this subsection, a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity is acting within the scope of the member's employment when the member acts as a member of the board, committee, commission, authority, or other instrumentality.

(b) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, whose conduct gave rise to the claim resulting in that judgment or settlement. A lawsuit alleging that an employee acted within the scope of the employee's employment bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(c) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

(1) criminal;
(2) clearly outside the scope of the employee's employment;
(3) malicious;
(4) willful and wanton; or
(5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(d) This subsection applies when the governmental entity defends or has received proper legal notice and has the opportunity to defend an employee for losses resulting from the employee's acts or omissions. Subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the governmental entity shall pay any judgment of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

(e) The governmental entity shall provide counsel for and pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of

whether the employee can or cannot be held personally liable for the loss.

(f) This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;

(2) consent by the state of Indiana or its employees to be sued in any federal court; or

(3) consent to be sued in any state court beyond the boundaries of Indiana.

As added by P.L.1-1998, SEC.8. Amended by P.L.192-2001, SEC.2; P.L.161-2003, SEC.7.

IC 34-13-3-6

Notice to attorney general and state agency involved

Sec. 6. (a) Except as provided in sections 7 and 9 of this chapter, a claim against the state is barred unless notice is filed with the attorney general or the state agency involved within two hundred seventy (270) days after the loss occurs. However, if notice to the state agency involved is filed with the wrong state agency, that error does not bar a claim if the claimant reasonably attempts to determine and serve notice on the right state agency.

(b) The attorney general, by rule adopted under IC 4-22-2, shall prescribe a claim form to be used to file a notice under this section. The claim form must specify:

(1) the information required; and

(2) the period of time that a potential claimant has to file a claim.

(c) Copies of the claim form prescribed under subsection (b) shall be available from each:

(1) state agency; and

(2) operator of a state vehicle.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-7

Administrative claim for inmate's recovery of property

Sec. 7. (a) An offender must file an administrative claim with the department of correction to recover compensation for the loss of the offender's personal property alleged to have occurred during the offender's confinement as a result of an act or omission of the department or any of its agents, former officers, employees, or contractors. A claim must be filed within one hundred eighty (180) days after the date of the alleged loss.

(b) The department of correction shall evaluate each claim filed under subsection (a) and determine the amount due, if any. If the amount due is not more than five thousand dollars ($5,000), the department shall approve the claim for payment and recommend to the office of the attorney general payment under subsection (c). The department shall submit all claims in which the amount due exceeds five thousand dollars ($5,000), with any recommendation the department considers appropriate, to the office of the attorney

general. The attorney general, in acting upon the claim, shall consider recommendations of the department to determine whether to deny the claim or recommend the claim to the governor for approval of payment.

(c) Payment of claims under this section shall be made in the same manner as payment of claims under IC 34-4-16.5-22.

(d) The department of correction shall adopt rules under IC 4-22-2 necessary to carry out this section.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-8

Claims against political subdivisions; notice requirement

Sec. 8. (a) Except as provided in section 9 of this chapter, a claim against a political subdivision is barred unless notice is filed with:

(1) the governing body of that political subdivision; and

(2) the Indiana political subdivision risk management commission created under IC 27-1-29;

within one hundred eighty (180) days after the loss occurs.

(b) A claim against a political subdivision is not barred for failure to file notice with the Indiana political subdivision risk management commission created under IC 27-1-29-5 if the political subdivision was not a member of the political subdivision risk management fund established under IC 27-1-29-10 at the time the act or omission took place.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-9

Incapacitated plaintiffs; notice requirement

Sec. 9. If a person is incapacitated and cannot give notice as required in section 6 or 8 of this chapter, the person's claim is barred unless notice is filed within one hundred eighty (180) days after the incapacity is removed.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-10

Notice requirement; form of statement

Sec. 10. The notice required by sections 6, 8, and 9 of this chapter must describe in a short and plain statement the facts on which the claim is based. The statement must include the circumstances which brought about the loss, the extent of the loss, the time and place the loss occurred, the names of all persons involved if known, the amount of the damages sought, and the residence of the person making the claim at the time of the loss and at the time of filing the notice.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-11

Approval or denial of claim by government entity

Sec. 11. Within ninety (90) days of the filing of a claim, the governmental entity shall notify the claimant in writing of its

approval or denial of the claim. A claim is denied if the governmental entity fails to approve the claim in its entirety within ninety (90) days, unless the parties have reached a settlement before the expiration of that period.
As added by P.L.1-1998, SEC.8.

IC 34-13-3-12
Notice requirements; service
Sec. 12. The notices required by sections 6, 8, 9, and 11 of this chapter must be in writing and must be delivered in person or by registered or certified mail.
As added by P.L.1-1998, SEC.8.

IC 34-13-3-13
Denial of claim as prerequisite to suit
Sec. 13. A person may not initiate a suit against a governmental entity unless the person's claim has been denied in whole or in part.
As added by P.L.1-1998, SEC.8.

IC 34-13-3-14
Compromise or settlement of claim by governor
Sec. 14. Except as provided in section 20 of this chapter, the governor may compromise or settle a claim or suit brought against the state or its employees.
As added by P.L.1-1998, SEC.8.

IC 34-13-3-15
Attorney general; powers and duties
Sec. 15. Except as provided in section 20 of this chapter, the attorney general:
(1) shall advise the governor concerning the desirability of compromising or settling a claim or suit brought against the state or its employees;
(2) shall perfect a compromise or settlement which is made by the governor;
(3) shall submit to the governor on or before January 31 of each year a report concerning the status of each claim or suit pending against the state as of January 1 of that year; and
(4) shall defend, as chief counsel, the state and state employees as required under IC 4-6-2. However, the attorney general may employ other counsel to aid in defending or settling those claims or suits.
As added by P.L.1-1998, SEC.8.

IC 34-13-3-16
Compromise or settlement of claim by political subdivision
Sec. 16. Except as provided in section 20 of this chapter, the governing body of a political subdivision may compromise, settle, or defend against a claim or suit brought against the political subdivision or its employees.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-17
Enforcement of judgments against governmental entities

Sec. 17. A court that has rendered a judgment against a governmental entity may order that governmental entity to:

(1) appropriate funds for the payment of the judgment if funds are available for that purpose; or

(2) levy and collect a tax to pay the judgment if there are insufficient funds available for that purpose.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-18
Time for payment of claim or judgment; interest rate

Sec. 18. (a) A claim or suit settled by, or a judgment rendered against, a governmental entity shall be paid by the governmental entity not later than one hundred eighty (180) days after the date of settlement or judgment, unless there is an appeal, in which case not later than one hundred eighty (180) days after a final decision is rendered.

(b) If payment is not made within one hundred eighty (180) days after the date of settlement or judgment, the governmental entity is liable for interest from the date of settlement or judgment at an annual rate of six percent (6%). The governmental entity is liable for interest at that rate and from that date even if the case is appealed, provided the original judgment is upheld.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-19
Applicability of IC 34-13-3-18; settlement

Sec. 19. Section 18 of this chapter does not apply if there is a structured settlement under section 23 of this chapter.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-20
Liability insurance; prohibitions

Sec. 20. (a) A political subdivision may purchase insurance to cover the liability of itself or its employees, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity. Any liability insurance so purchased shall be purchased by invitation to and negotiation with providers of insurance and may be purchased with other types of insurance. If such a policy is purchased, the terms of the policy govern the rights and obligations of the political subdivision and the insurer with respect to the investigation, settlement, and defense of claims or suits brought against the political subdivision or its employees covered by the policy. However, the insurer may not enter into a settlement for an amount that exceeds the insurance coverage without the approval of the mayor, if the claim or suit is against a city, or the governing body of any other political subdivision, if the

claim or suit is against such political subdivision.

(b) The state may not purchase insurance to cover the liability of the state or its employees. This subsection does not prohibit any of the following:

(1) The requiring of contractors to carry insurance.

(2) The purchase of insurance to cover losses occurring on real property owned by:

(A) the Indiana public retirement system; or

(B) a public pension and retirement fund administered by the Indiana public retirement system.

(3) The purchase of insurance by a separate body corporate and politic to cover the liability of itself or its employees.

(4) The purchase of casualty and liability insurance for foster parents (as defined in IC 27-1-30-4) on a group basis.

As added by P.L.1-1998, SEC.8. Amended by P.L.192-2001, SEC.3; P.L.35-2012, SEC.106.

IC 34-13-3-21

Attorney's fees; allowance to governmental entity; action for abuse of process

Sec. 21. In any action brought against a governmental entity in tort, the court may allow attorney's fees as part of the costs to the governmental entity prevailing as defendant, if the court finds that plaintiff:

(1) brought the action on a claim that is frivolous, unreasonable, or groundless;

(2) continued to litigate the action after plaintiff's claim clearly became frivolous, unreasonable, or groundless; or

(3) litigated its action in bad faith.

This award of fees does not prevent a governmental entity from bringing an action against the plaintiff for abuse of process arising in whole or in part on the same facts, but the defendant may not recover such attorney's fees twice.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-22

Persons or entities considered political subdivisions

Sec. 22. (a) For purposes of this chapter, the following shall be treated as political subdivisions:

(1) A community action agency (as defined in IC 12-14-23-2).

(2) An individual or corporation rendering public transportation services under a contract with a commuter transportation district created under IC 8-5-15.

(3) A volunteer fire department (as defined in IC 36-8-12-2) that is acting under:

(A) a contract with a unit or a fire protection district; or

(B) IC 36-8-17.

(b) The treatment provided for under subsection (a)(2) shall be accorded only in relation to a loss that occurs in the course of rendering public transportation services under contract with a

commuter transportation district.
As added by P.L.1-1998, SEC.8. Amended by P.L.1-1999, SEC.68.

IC 34-13-3-23
Structured settlement; discharge; limits

Sec. 23. (a) With the consent of the claimant, a political subdivision may compromise or settle a claim or suit by means of a structured settlement under this section.

(b) A political subdivision may discharge settlement of a claim or suit brought under this chapter by:

(1) an agreement requiring periodic payments by the political subdivision over a specified number of years;
(2) the purchase of an annuity;
(3) by making a "qualified assignment" of the liability of the political subdivision as defined by the provisions of 26 U.S.C. 130(c);
(4) payment in a lump sum; or
(5) any combination of subdivisions (1) through (4).

(c) The present value of a structured settlement shall not exceed the statutory limits set forth in section 4 of this chapter; however, the periodic or annuity payments may exceed these statutory limits. The present value of any periodic payments may be determined by discounting the periodic payments by the same percentage as that found in Moody's Corporate Bond Yield Average Monthly Average Corporates, as published by Moody's Investors Service, Incorporated.
As added by P.L.1-1998, SEC.8.

IC 34-13-3-24
Appropriations for payment of claims and expenses

Sec. 24. There is appropriated from the state general fund sufficient funds to:

(1) settle claims and satisfy tort judgments obtained against the state; and
(2) pay expenses authorized by this chapter, including:
  (A) liability insurance premiums;
  (B) interest on claims and judgments; and
  (C) expenses incurred by the attorney general in employing other counsel to aid in defending or settling claims or civil actions against the state.

As added by P.L.1-1998, SEC.8.

IC 34-13-3-25
Presentation of vouchers and issuance of warrants for appropriations

Sec. 25. The attorney general shall present vouchers for the items or expenses described in section 24 of this chapter to the auditor of state. The auditor shall issue warrants on the treasury for the amounts presented.
As added by P.L.1-1998, SEC.8.

IC 34-13-4
Chapter 4. Civil Rights Claims Against Public Employees

IC 34-13-4-1
Personal civil liability under civil rights laws of employee acting within scope of employment

Sec. 1. If a present or former public employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, is or could be subject to personal civil liability for a loss occurring because of a noncriminal act or omission within the scope of the public employee's employment which violates the civil rights laws of the United States, the governmental entity (when the governmental entity defends or has the opportunity to defend the public employee) shall, subject to IC 34-13-3-4, IC 34-13-3-14, IC 34-13-3-15, and IC 34-13-3-16, pay:

(1) any judgment (other than for punitive damages) of the claim or suit; or

(2) any judgment for punitive damages, compromise, or settlement of the claim or suit if:

(A) the governor, in the case of a claim or suit against a state employee; or

(B) the governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision;

determines that paying the judgment for punitive damages, compromise, or settlement is in the best interest of the governmental entity. The governmental entity shall also pay all costs and fees incurred by or on behalf of a public employee in defense of the claim or suit.

As added by P.L.1-1998, SEC.8. Amended by P.L.192-2001, SEC.4; P.L.161-2003, SEC.8.

IC 34-13-4-2
Defending state employee for claims or suits arising under civil rights laws

Sec. 2. If requested to do so, the attorney general shall defend a present or former state employee against a claim or suit under section 1 of this chapter. The attorney general may employ other counsel to aid in defending or settling the claim or suit.

As added by P.L.1-1998, SEC.8.

IC 34-13-4-3
Chapter as not waiving eleventh amendment

Sec. 3. This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;

(2) consent by the state of Indiana or its employees to be sued in any federal court; or

(3) consent to be sued in any state court beyond the boundaries of Indiana.

As added by P.L.1-1998, SEC.8.

IC 34-13-4-4
Attorney's fees; allowance to governmental entity; action for abuse of process

Sec. 4. In any action brought against a governmental entity under civil rights laws of the United States, the court may allow attorney's fees as part of the costs to the governmental entity prevailing as defendant if it finds that plaintiff:

(1) brought the action on a claim that is frivolous, unreasonable, or groundless;

(2) continued to litigate the action after plaintiff's claim clearly became frivolous, unreasonable, or groundless; or

(3) litigated its action in bad faith.

This award of fees does not prevent a governmental entity from bringing an action against the plaintiff for abuse of process arising in whole or in part on the same facts, but the defendant may not recover attorney's fees twice.

As added by P.L.1-1998, SEC.8.

IC 34-13-5

Chapter 5. Public Lawsuits for Testing Public Improvements of Municipal Corporations

IC 34-13-5-1

Exclusive applicability of chapter

Sec. 1. All public lawsuits shall be brought solely in conformity with and governed by the provisions of this chapter.

As added by P.L.1-1998, SEC.8.

IC 34-13-5-2

Plaintiff; class actions; right of intervention

Sec. 2. (a) Plaintiffs in a public lawsuit may sue in their capacity either as citizens or taxpayers of the municipal corporation.

(b) A public lawsuit described in subsection (a) is a class suit (whether captioned as such or not), subject to the rights of intervention, the addition of parties, and the addition of other representatives of the same class, as is provided by law in other civil actions. Special appearances may be made in situations permitted by applicable law.

As added by P.L.1-1998, SEC.8.

IC 34-13-5-3

Trial procedure

Sec. 3. The procedure in the trial court governing trial of the public lawsuit is the same as in other civil cases. When possible, the hearing on any interlocutory order shall be consolidated with the hearing on all other justiciable issues.

As added by P.L.1-1998, SEC.8.

IC 34-13-5-4

Change of venue

Sec. 4. A change of venue from the judge may be permitted, but no change from the county may be permitted. When a change from the judge has been requested in accordance with the time limits prescribed by law, the affidavit or motion for the change shall be immediately certified to the supreme court:

(1) by the clerk of the trial court; or

(2) upon the failure of the clerk to act promptly, by verified copy of the motion presented to the supreme court by the moving party.

As added by P.L.1-1998, SEC.8.

IC 34-13-5-5

Appointment of special judge

Sec. 5. (a) The rules regarding the selection of a special judge in civil cases do not apply. The supreme court shall appoint the special judge in a public lawsuit.

(b) A special judge is not required to reside in the county in which the case is pending or in any adjoining county.

(c) A special judge may be a regular judge of any circuit, superior, criminal, probate, juvenile, or other lower court of Indiana, any member of the Indiana bar, or any member of the court of appeals or the supreme court where the appointment can be validly made.
As added by P.L.1-1998, SEC.8.

IC 34-13-5-6
Special reporter

Sec. 6. To expedite the trial of the case, either party may apply to the court for the appointment of a special reporter or firm of reporters to be the court reporter for the public lawsuit which the court may in its discretion approve. The moving party shall pay the cost, which may not be taxed as costs of the action.
As added by P.L.1-1998, SEC.8.

IC 34-13-5-7
Interlocutory hearing

Sec. 7. (a) At any time before the final hearing in a public lawsuit, the defendant may petition for an order of the court that the cause be dismissed unless the plaintiff posts a bond with surety to be approved by the court. The bond must be payable to the defendant for the payment of all damages and costs that may accrue by reason of the filing of the lawsuit if the defendant prevails.

(b) A hearing shall be held on a petition described in subsection (a) in the same manner as the hearing on temporary injunctions under IC 34-26-1. If, at the hearing, the court determines that the plaintiff cannot establish facts that would entitle the plaintiff to a temporary injunction, the court shall set the amount of bond to be filed by the plaintiff in an amount found by the judge to cover all damage and costs that may accrue to the defendants by reason of the pendency of the public lawsuit in the event the defendant prevails.

(c) If the plaintiff does not file a bond with sureties approved by the court within ten (10) days after the order to do so is entered, the suit shall be dismissed.

(d) Either plaintiff or defendant may appeal an order to post or deny bond to the Indiana supreme court within ten (10) days by notice of appeal and a statement of error in the same manner as is provided in a petition for mandate or prohibition. The supreme court may:

(1) stay the lower court order pending its own decision;
(2) set a bond to be filed by the plaintiff;
(3) modify the order of the lower court; or
(4) enter its order as a final order in a case.

(e) If no bond is filed as provided in this section:

(1) the public lawsuit shall be dismissed; and
(2) no court has further jurisdiction of the public lawsuit or any other public lawsuit involving any issue that was or could have been raised.

(f) This section does not create, nor shall it be construed as creating, any additional cause of action on the part of any municipal

corporation, person, partnership, limited liability company, or corporation, unless the defendant is required to and does post bond.
As added by P.L.1-1998, SEC.8.

IC 34-13-5-8
Appeals

Sec. 8. Appeals from any final judgment in a public lawsuit shall be governed by, and taken in the same manner and with the same time limits, as appeals from interlocutory orders of a circuit or superior court under applicable law.
As added by P.L.1-1998, SEC.8.

IC 34-13-5-9
Extensions of time; advance of trial or appeal

Sec. 9. Extensions of time, both in the trial court and in the Indiana supreme court, shall be granted only in extreme cases. The trial of a public lawsuit and the hearing of any appeal shall be advanced by the trial court and by the Indiana supreme court respectively, without request of either party, as expeditiously as is reasonably possible.
As added by P.L.1-1998, SEC.8.

IC 34-13-5-10
Jurisdiction of trial court

Sec. 10. (a) A public lawsuit may not be brought, and no trial court has jurisdiction of any public lawsuit that is brought:

(1) more than ten (10) days after the first publication required by law for the sale of bonds of a municipal corporation; or
(2) in the case of a lease under IC 20-47-2, more than ten (10) days after the first publication of notice by any school building corporation for the sale of its bonds;

but in no case later than the time limited for bringing suit under applicable law.

(b) After a public lawsuit is commenced, no other lawsuit relating to the same subject matter may be commenced, and no trial court has jurisdiction of any subsequent lawsuit. No action may be brought except as provided in this chapter if it could have been the subject of a public lawsuit. This chapter does not diminish any right of intervention of any person, or the right of any person to become a named party in the public lawsuit.

(c) This section shall not be construed to extend any existing statute of limitations on the bringing of any lawsuit.
As added by P.L.1-1998, SEC.8. Amended by P.L.2-2006, SEC.184.

IC 34-13-5-11
Exhaustion of administrative remedies required before bringing public lawsuit

Sec. 11. As a condition precedent to bringing any public lawsuit, a plaintiff must first exhaust all the administrative remedies available to the plaintiff under applicable law, including but not limited to the

filing of a remonstrance where the issues raised could have been raised by the filing under applicable law. No plaintiff may commence a public lawsuit or be named as a party in the lawsuit unless one (1) of the plaintiffs has complied with this section.
As added by P.L.1-1998, SEC.8.

IC 34-13-5-12
Matters to be heard in public hearing

Sec. 12. Where:

(1) as a condition precedent to the construction, financing, or leasing of a public improvement, the municipal corporation is required to hold a public hearing preceded by public notice; and
(2) the hearing is held and the notice is given in accordance with applicable law;

the plaintiff in a public lawsuit is not entitled to raise any issue in the public lawsuit that the plaintiff could have but did not raise at the hearing. Any matters or issues relating to any procedural matters that were not raised and could have been redone or corrected following the hearing are declared to be irregularities and not jurisdictional to the power of the municipal corporation or its governing body in connection with the construction, financing, or leasing.
As added by P.L.1-1998, SEC.8.

IC 34-13-6

Chapter 6. Appeals From Actions of Municipalities

IC 34-13-6-1

Complaint; filing; contents

Sec. 1. (a) An appeal allowed by statute from any action or decision of:

(1) a board of a city;

(2) the legislative body of a city if it performs the functions of a board; or

(3) the legislative body of a town;

shall be filed as an original complaint against the city or town in the circuit or superior court of the county in which the municipality is located.

(b) The complaint on appeal must be filed not later than thirty (30) days after the date of the action or decision complained of, and one (1) or more parties appealing may join in the same complaint.

(c) The appeal may not be taken by transcript.

(d) The complaint on appeal must contain the following:

(1) The title of the cause, specifying the name of the court and the county in which the appeal is filed.

(2) Whether it is an appeal from a board or body.

(3) The name of every party plaintiff to the appeal. The municipality must be named as the only defendant. Neither the board, the body, nor the individual members of the board or body may be made parties defendant to the complaint.

(4) A statement:

(A) of the facts constituting the cause of appeal, showing the nature of the proceedings in which and the date on which the action or decision complained of was taken; and

(B) if a statute controlling the proceeding requires, that a remonstrance in writing was filed by the plaintiff with the board or body as prescribed by statute, setting out a copy of the remonstrance and showing the date on which the remonstrance was filed.

(5) A description of each lot or tract of land or other property owned or controlled by the party or parties appealing and the amount of the award of damages or the amount of the assessment of benefits complained of for each lot or tract of land or other property described in the complaint, including the action or decision of the board or body concerning the award or assessment.

(6) If an appeal authorized by statute from an action or decision of a board or body does not involve or is not limited to the question of the amount of the award of damages or the assessment of benefits, a specific allegation of the action or decision that causes the party to complain.

(7) A demand for the relief to which the plaintiff believes the plaintiff is entitled, stating when the plaintiff became involved and the amount of damages that should be awarded or the

amount of benefits that should be assessed to or against each particular lot or tract of land or other property described in the complaint.

As added by P.L.1-1998, SEC.8.

IC 34-13-6-2

Pleading; motions to dismiss complaint or appeal

Sec. 2. A pleading is not required by the municipality to the complaint on appeal since the allegations of the complaint are considered to be denied. The municipality may file a motion to dismiss the complaint by presenting any question of law regarding the sufficiency of the complaint on its face. The municipality may also file a motion to dismiss the appeal:

(1) on the ground that the complaint was not filed within the time prescribed by law; or

(2) on any other jurisdictional ground affecting the subject matter or the parties.

As added by P.L.1-1998, SEC.8.

IC 34-13-6-3

Consolidation of appeals; separate trial

Sec. 3. (a) If more than one (1) appeal is taken from a proceeding and the appeals are filed in the same or different courts, any party to an appeal may file in the court a motion stating that justice will be best served by consolidating the appeals. The party shall serve notice of the motion on the adverse party or the attorney of record.

(b) If the court in which the motion is filed decides that justice will be best served by the consolidation, the court shall order all of the appeals consolidated. The appeals shall be heard at the same time by the court, and different appeals pending in different courts may all be transferred to one (1) court for the purpose of consolidation or trial. The court may hear all appeals at the same time either with or without consolidation. However, if any party appealing or the municipality objects to consolidation, they have the right to a separate trial of each appeal.

As added by P.L.1-1998, SEC.8.

IC 34-13-6-4

Trial of appeals; scope of review; disposition

Sec. 4. (a) The decisions of the board or council appealed from are conclusive on all parties except the party appealing. The decision appealed from is considered prima facie correct and the burden of proof in all appeals is on the party appealing.

(b) All appeals shall be tried by the court without the intervention of a jury. The court shall try and hear de novo the issues of the action or decision of the board or council presented by written remonstrance or as otherwise provided by statute and raised by the appeals.

(c) The:

(1) method of arriving at the action or decision of the board or council in making an award of damages or assessment of

benefits; and

(2) any issues not authorized by the statute to be made before the board or council, and appealed from;

may not be reviewed, considered, or adjudged by the court on appeal.

(d) The amount of benefits assessed or the damages awarded affecting any property, other than the property and the separate assessments or awards on them involved in each instance in a proceeding by a board or council from which an appeal is taken, may not be considered by the court on appeal.

(e) The court:

(1) may, on its own motion; and

(2) shall, on the motion of either party;

view and inspect any district, land, and property affected, damaged, benefited, or appropriated, including the work or thing proposed or done.

(f) The court, according to the particular statute allowing the appeal as the statute permits or prescribes the matters that may be considered, may set aside, affirm, lower, or increase an award, damages, or assessment of benefits as the court considers just and then order that action. The court also may affirm, reverse, or modify, in whole or in part, the action or decision of the board or council appealed from. The order and judgment of the court is conclusive upon all parties, and no appeal lies except upon questions affecting the jurisdiction of the court.

As added by P.L.1-1998, SEC.8.

IC 34-13-6-5

Findings of court; judgment; costs; damages; assessment of benefits

Sec. 5. (a) If the court finds that the action or decision of the board or council appealed from should in all things be affirmed, its judgment must state that, naming the board or council and the proceedings in which the appeal is taken. Judgment for costs shall then be rendered against the party appealing.

(b) If the court finds that the action or decision of the board or council appealed from should not be affirmed in all things, then the court shall make a general finding, setting out, however, sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall then render judgment on all matters properly involved in the appeal, adjudging specifically the amount of the award of damages or the amount of the assessment of benefits found by the court to be due to each lot, parcel, or description or property involved in the appeal and adjudging that the award or assessment is payable as provided by statute.

(c) The court shall render judgment on other matters involved where the particular appeal allowed by a statute does not relate to the award of damages or the assessment of benefits.

(d) The court shall also render judgment on the costs of the appeal as the facts and law require.

(e) If the appeal involves the amount of an award of damages or

the amount of an assessment of benefits, or both, the court shall include an order, if appropriate, for the issuance of a certificate of damages, bearing legal interest from the date of issuance, to the person entitled to it upon all the terms and conditions that are provided by the applicable statute. If the appeal involves benefits, the court shall permit the assessment of benefits to be paid in full, or a written waiver may be executed and filed for paying it in ten (10) annual installments, with legal interest payable, and upon all other terms and conditions that are provided by the applicable statute. All of this must be done within thirty (30) days after the date on which the clerk of the court certifies the order and judgment for transmission to the board or council. If an assessment of benefits is not paid or a waiver executed and filed as provided before the expiration of the thirty (30) day period, the assessment becomes delinquent and is subject to all penalties and to collection as is provided by the applicable statute.
As added by P.L.1-1998, SEC.8.

IC 34-13-6-6
Change of venue or judge; rehearing; supreme court appeal; procedure

Sec. 6. A change of venue from the county is not allowed in the appeal, but a change of judge shall be allowed as provided for civil actions. A petition for rehearing may be filed by any party within fifteen (15) days after the decision, order, and judgment of the court. Pending that time and until a petition so filed is ruled upon, the order and judgment of the court may be certified to the board or council. At the time of ruling upon a petition, the court may grant time for filing an appeal bond and special bills of exceptions embracing as much of the record as is necessary to present fully any questions. The appeal must be fully perfected within sixty (60) days from the final ruling and action of the court upon the petition for a rehearing and shall be taken direct to the supreme court of Indiana, where it shall be placed upon the advance calendar of the court. The rules of trial procedure govern in all matters of procedure not otherwise provided for by this chapter.
As added by P.L.1-1998, SEC.8.

IC 34-13-6-7
Increase in damages or reduction in assessment of benefits; liability of city; costs of appeal

Sec. 7. (a) If on appeal:
(1) the amount of an award of damages is increased; or
(2) the amount of an assessment of benefits is reduced;
the municipality is liable to the plaintiff for the increase in the award of damages and is liable to the party entitled to them for a reduction in the assessment of benefits.

(b) The amounts, costs, and expense, if the appeal is taken from the board of public works or the board of public works and safety, shall be paid by the board out of funds appropriated by the common

council or city-county council for that purpose, or as otherwise provided by statute.

(c) The council shall make all necessary appropriations as provided by statute to enable the board to make all payments required by this chapter, if not otherwise provided by statute and available for these purposes.

(d) If the appeal is taken from the board of park commissioners of a city, then the amounts, costs, and expenses shall be paid by the board out of its general fund, or as otherwise provided by statute.

(e) If the appeal is taken from the legislative body, other body, or an official of a municipality, the amounts required to comply with the court's order and judgment shall be appropriated and paid in any manner authorized by statute.

As added by P.L.1-1998, SEC.8.

IC 34-13-6-8

Priority of appeal

Sec. 8. An appeal takes precedence over other pending litigation and shall be tried and determined by the court at as early a date as practical.

As added by P.L.1-1998, SEC.8.

IC 34-13-7

Chapter 7. Commencement of Action Against Public Employees and Government Entities by Offender

IC 34-13-7-1

Required submissions by an offender bringing an action against public employees and governmental entities

Sec. 1. (a) In addition to any other requirements under law, before filing a civil rights action or tort claim action against a public employee or government entity, an offender must submit to the trial court:

(1) a copy of the complaint the offender wishes to file;

(2) a list of all cases previously filed by the offender involving the same, similar, or related cause of actions; and

(3) a copy of all relevant documents pertaining to the ultimate disposition of each previous case filed by the offender against any of the same defendants in a state or federal court. The relevant documents include:

(A) the complaint;

(B) any motions to dismiss or motions for summary judgment filed by the defendants in the actions;

(C) the state or federal court order announcing disposition of the case; and

(D) any opinions issued in the case by any appellate court.

(b) An offender must file with the court a brief that includes:

(1) a legal argument;

(2) a citation to authority; and

(3) an explanation to the court why the new action is not subject to dismissal as a matter finally decided on its merits by a court and not subject to litigation again between the same parties.

(c) If the trial court determines that the complaint is frivolous, malicious, or otherwise utterly without merit, or fails to state a claim upon which relief may be granted, the court shall dismiss the complaint.

As added by P.L.80-2004, SEC.7.

IC 34-13-8

Chapter 8. Special Supplemental Relief

IC 34-13-8-1

"Eligible person"

Sec. 1. As used in this chapter, "eligible person" refers to a person or the estate of a person that properly filed a claim with the state, in the form prescribed by the attorney general, before December 31, 2011, for physical injury or death resulting from an occurrence.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-2

"Occurrence"

Sec. 2. As used in this chapter, "occurrence" refers to one (1) or more acts or omissions by the state or employees of the state in connection with a single event occurring after July 31, 2011, and before September 1, 2011, that resulted in the death of seven (7) or more persons.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-3

"Supplemental fund"

Sec. 3. As used in this chapter, "supplemental fund" refers to the supplemental state fair relief fund established by section 9 of this chapter.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-4

Intent; compromise of claims; application

Sec. 4. (a) Recognizing the special conditions created by an occurrence, it is the intent of the general assembly to provide supplemental relief for victims of the occurrence. It is not the intent of the general assembly to revise the tort claims act in order to address the special situation of the occurrence.

(b) The attorney general may compromise or settle a claim or suit brought against the state or its employees as provided in this chapter.

(c) Only eligible persons are eligible to receive compensation under this chapter.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-5

Limitations on payments; formula for distribution

Sec. 5. (a) The attorney general shall attempt to resolve before January 1, 2013, all claims and suits brought against the state or its employees for an occurrence for an amount that, in the aggregate, does not exceed eleven million dollars ($11,000,000), consisting of:

(1) five million dollars ($5,000,000) paid from the state tort claim fund established to pay claims and expenses under IC 34-13-3-24; and

(2) six million dollars ($6,000,000) to be paid from the

supplemental fund.

(b) The attorney general shall attempt to resolve before January 1, 2013, claims or suits for an occurrence as follows:

(1) The estate of an eligible person whose death resulted from an occurrence shall receive seven hundred thousand dollars ($700,000). This amount includes any compensation under this chapter for the eligible person's attorney's fees. The amount distributed to the estate of the eligible person whose death resulted from an occurrence is exempt from inheritance taxes under IC 6-4.1 and shall not be included in the calculation of the amount transferred to a Class A transferee, Class B transferee, or Class C transferee for the purposes of applying the exemptions in IC 6-4.1-3-10, IC 6-4.1-3-11, and IC 6-4.1-3-12.

(2) Except as provided in subdivision (3), each other eligible person who was physically injured as a result of an occurrence shall be compensated (including any compensation under this chapter for the eligible person's attorney's fees) for the physical injury in an amount that does not exceed the least of the following:

(A) The amount of the eligible person's medical expenses incurred as a result of the physical injury.

(B) The amount claimed before the deadline established by the attorney general by the eligible person for medical expenses incurred as a result of the physical injury in relation to the claim filed before December 31, 2011.

(C) Seven hundred thousand dollars ($700,000).

(3) Eligible persons who suffered physical injuries involving permanent paralysis or permanent physical trauma or requiring major and ongoing long-term care shall be compensated for the physical injury in an amount equal to:

(A) the amount of compensation paid under subdivision (2); plus

(B) additional compensation determined under the process established by the attorney general under subdivision (4).

(4) The attorney general shall establish a process for determining the equitable amount of compensation for eligible persons under subdivision (3). The attorney general shall before January 1, 2013, determine the amount of compensation that each eligible person described in subdivision (3) is entitled to receive under subdivision (3). The attorney general may employ arbitrators, mediators, consultants, and other experts to assist in the process established by the attorney general for determining the compensation for eligible persons under subdivision (3).

As added by P.L.160-2012, SEC.62.

IC 34-13-8-6

Requirement; release of additional claims

Sec. 6. (a) To receive a distribution under this chapter for an occurrence, an eligible person must have already released all governmental entities and public employees from any liability for

loss resulting from the occurrence. The release must be in a form that is satisfactory to the attorney general.

(b) A distribution may not be paid under this chapter from the supplemental fund to an eligible person unless the eligible person has entered into an agreement with the state providing that the person will not bring any action against the state based on an indemnification clause.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-7

Additional payments reduced by prior payments

Sec. 7. The amount payable after December 31, 2011, as provided in section 5(b) of this chapter to an eligible person shall be reduced by any amount that was paid under IC 34-13-3 from the state tort claim fund before January 1, 2012, for the death or physical injury.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-8

Limitation on attorney's fees

Sec. 8. If an eligible person is represented by an attorney regarding compensation from the supplemental fund, the attorney's fees paid to the attorney or attorneys for the representation of the eligible person regarding compensation from the supplemental fund may not exceed, in aggregate, ten percent (10%) of the total compensation paid to the eligible person from the supplemental fund.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-9

Establishment of fund

Sec. 9. (a) The supplemental state fair relief fund is established for the purpose of providing supplemental relief to the victims of the occurrence.

(b) The supplemental fund consists of grants, donations, and appropriations made by the general assembly. The supplemental fund shall be administered by the attorney general. The treasurer of state shall invest the money in the supplemental fund not currently needed to meet the obligations of the supplemental fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the state general fund. The expenses of administering the supplemental fund shall be paid from the state tort claim fund established to pay claims and expenses under IC 34-13-3-24.

(c) The supplemental fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the supplemental fund by the state board of finance, the budget agency, or any other state agency except as provided in this chapter.

(d) Money in the supplemental fund at the end of a state fiscal year does not revert to the state general fund. Money in the supplemental fund is continually appropriated to the attorney general to carry out

the purposes of the supplemental fund.
As added by P.L.160-2012, SEC.62.

IC 34-13-8-10
Use of money in fund

Sec. 10. (a) The attorney general may use the money in the supplemental fund to pay compensation to eligible persons as provided in this chapter.

(b) After the estate of each eligible person whose death resulted from an occurrence has received seven hundred thousand dollars ($700,000), and each other eligible person who was physically injured as a result of an occurrence has been compensated in the amount determined under section 5(b)(2) of this chapter, the remaining balance in the supplemental fund shall be used to pay compensation for ongoing expenses to eligible persons described in section 5(b)(3) of this chapter according to the process established by the attorney general under section 5(b)(4) of this chapter. Compensation paid from the supplemental fund may not be used for the following:

(1) Expenses covered by insurance.
(2) Expenses covered by another party.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-11
Payment of expenses of administration

Sec. 11. The expenses incurred by the attorney general in carrying out this chapter (including any expenses for arbitrators, mediators, consultants, or any other experts) shall be paid from the state tort claim fund established to pay claims and expenses under IC 34-13-3-24.
As added by P.L.160-2012, SEC.62.

IC 34-13-8-12
Assignment of claims to state

Sec. 12. (a) An eligible person may assign to the attorney general the eligible person's right to pursue a cause of action for the tortious breach of an insurer's duty to deal with an insured person in good faith.

(b) If the insurance commissioner believes that a person has engaged in any of the acts or practices listed in IC 27-4-1-4.5 in relation to an occurrence, the insurance commissioner may issue and cause to be served upon the person a statement of the charges and a notice in writing of a hearing as provided in IC 27-4-1-5. If after a hearing under IC 4-21.5-3, the insurance commissioner determines that the person has engaged in any of the acts or practices listed in IC 27-4-1-4.5 in relation to an occurrence, the insurance commissioner may at the insurance commissioner's discretion order one (1) or more of the remedies provided in IC 27-4-1-6. Notwithstanding IC 27-4-1, the insurance commissioner may take an action under this subsection regarding the commission by a person of

a single act or practice listed in IC 27-4-1-4.5 in relation to an occurrence, without having to demonstrate that the act or practice occurs with such frequency as to indicate a general practice by the person.

As added by P.L.160-2012, SEC.62.

IC 34-14

ARTICLE 14. CAUSES OF ACTION: DECLARATORY JUDGMENT

IC 34-14-1

Chapter 1. Uniform Declaratory Judgment Act

IC 34-14-1-1

Power of court; form and effect of declaration

Sec. 1. Courts of record within their respective jurisdictions have the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding is open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. The declaration has the force and effect of a final judgment or decree.

As added by P.L.1-1998, SEC.9.

IC 34-14-1-2

Persons who may obtain declaratory judgment

Sec. 2. Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

As added by P.L.1-1998, SEC.9.

IC 34-14-1-3

Construction of contract before or after breach

Sec. 3. A contract may be construed either before or after there has been a breach of the contract.

As added by P.L.1-1998, SEC.9.

IC 34-14-1-4

Declarations regarding trusts or estates

Sec. 4. Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust, or of the estate of a decedent, a person under eighteen (18) years of age, or a mentally incompetent person may have a declaration of rights or legal relations:

(1) to ascertain any class of creditors, devisee, legatees, heirs, next of kin, or others;

(2) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(3) to determine any question arising in the administration of the estate or trust, including questions of construction of wills and

other writings.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-5
General powers not restricted by enumeration of specific powers
Sec. 5. The enumeration in sections 2, 3, or 4 of this chapter does not limit or restrict the exercise of the general powers conferred in section 1 of this chapter in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-6
Refusal to render declaratory judgment; discretion of court
Sec. 6. The court may refuse to render or enter a declaratory judgment or decree where the judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-7
Review of judgments or decrees
Sec. 7. All orders, judgments, and decrees under this chapter may be reviewed as other orders, judgments, and decrees.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-8
Further relief based on declaratory judgment; application
Sec. 8. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application for further relief must be by petition to a court having jurisdiction to grant the relief. If the application is deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be immediately granted.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-9
Trial on issues of fact
Sec. 9. When a proceeding under this chapter involves the determination of an issue of fact, the issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-10
Award of costs
Sec. 10. In any proceeding under this chapter, the court may make an award of costs as may seem equitable and just.

As added by P.L.1-1998, SEC.9.

IC 34-14-1-11
Parties to action; municipalities and attorney general as parties; right of attorney general to intervene

Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest that would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding in which a statute, ordinance, or franchise is alleged to be unconstitutional, the court shall certify this fact to the attorney general, and the attorney general shall be permitted to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for arguments on the question of constitutionality. In any proceeding that involves the validity of a municipal ordinance or franchise, the municipality shall be made a party, and shall be entitled to be heard. If the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.
As added by P.L.1-1998, SEC.9. Amended by P.L.40-2010, SEC.1.

IC 34-14-1-12
Purpose of chapter

Sec. 12. This chapter is declared to be remedial. The purpose of this chapter is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-13
"Person" defined

Sec. 13. The word "person" wherever used in this chapter shall be construed to mean any person, partnership, limited liability company, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-14
Severability of certain sections

Sec. 14. The several sections and provisions of this chapter except sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the chapter invalid or inoperative.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-15
Construction of chapter

Sec. 15. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws

and regulations on the subject of declaratory judgments and decrees.
As added by P.L.1-1998, SEC.9.

IC 34-14-1-16
Short title

Sec. 16. This chapter may be cited as the Uniform Declaratory Judgments Act.
As added by P.L.1-1998, SEC.9.

IC 34-15

ARTICLE 15. CAUSES OF ACTION: DEFAMATION, LIBEL, AND SLANDER

IC 34-15-1

Chapter 1. Pleadings in Actions for Libel or Slander

IC 34-15-1-1

Allegation; burden of proof

Sec. 1. In an action for libel or slander, it is sufficient to state generally that the defamatory matter published or spoken was about the plaintiff. If the defendant denies the allegation, the plaintiff must prove at trial the facts showing that the defamatory matter was published or spoken about the plaintiff.

As added by P.L.1-1998, SEC.10.

IC 34-15-1-2

Truth; mitigating circumstances; evidence

Sec. 2. In an action for libel or slander, the defendant may allege:

(1) the truth of the matter charged as defamatory; and

(2) mitigating circumstances to reduce the damages;

and give either or both in evidence.

As added by P.L.1-1998, SEC.10.

IC 34-15-2

Chapter 2. Standard of Proof in Actions for Libel or Slander

IC 34-15-2-1

Abrogation of reasonable doubt standard

Sec. 1. The proof of an answer of justification in cases of libel and slander is controlled by the rule that applies to the proof of issues in other civil cases.

As added by P.L.1-1998, SEC.10.

IC 34-15-3

Chapter 3. Defamation Actions Against Radio and Television Broadcasters

IC 34-15-3-1

Applicability of chapter

Sec. 1. (a) This chapter applies to a suit brought for:

(1) publishing;

(2) speaking;

(3) uttering; or

(4) conveying by words, acts, or in any other manner;

a libel or slander by any radio or television station or company in Indiana.

(b) Section 3 of this chapter does not apply to a case of libel or slander against a candidate for a public office in Indiana, unless the retraction of the charge is made in an audible or visible manner at least three (3) days before the election.

As added by P.L.1-1998, SEC.10.

IC 34-15-3-2

Service of notice

Sec. 2. At least three (3) days before filing a complaint in a suit described in section 1 of this chapter, the aggrieved party shall serve notice:

(1) in writing;

(2) on the manager of the radio or television station;

(3) at the principal office of the radio or television station; and

(4) that specifies the words or acts that the aggrieved party alleges to be false and defamatory.

As added by P.L.1-1998, SEC.10.

IC 34-15-3-3

Retraction mitigates damages

Sec. 3. The plaintiff in a suit described in section 1 of this chapter may recover only actual damages if it appears, upon trial of the action, that:

(1) the words or acts were conveyed and broadcast in good faith;

(2) the falsity of the words or acts was due to mistake or misapprehension of the facts; and

(3) a full and fair retraction of any words or acts alleged to be erroneous was conveyed or broadcast:

(A) on a regular program of the radio or television company;

(B) within ten (10) days after the mistake or misapprehension was brought to the knowledge of the manager; and

(C) at approximately the same time and by the same sending power so as to be as visible and audible as the original acts or words complained of.

As added by P.L.1-1998, SEC.10.

IC 34-15-4

Chapter 4. Defamation Actions Against Newspaper Publishers

IC 34-15-4-1

Applicability of chapter

Sec. 1. (a) This chapter applies to a suit for the:

(1) publication of a libel by a newspaper; or

(2) transmission of a libel by a news service;

in Indiana.

(b) Section 3 of this chapter does not apply to a case of libel against a candidate for a public office in Indiana, unless the retraction is made in the manner set out in section 3 of this chapter at least three (3) days before the election.

As added by P.L.1-1998, SEC.10.

IC 34-15-4-2

Service of notice

Sec. 2. (a) Before bringing a suit described in section 1 of this chapter, the aggrieved party shall:

(1) at least four (4) days before filing the complaint against a news service;

(2) at least six (6) days before filing the complaint against a daily newspaper; or

(3) at least eleven (11) days before filing the complaint against a weekly newspaper;

serve notice in writing specifying the factual statements in the article that are alleged to be false and defamatory, and correcting the falsity of the statements by reference to the true facts.

(b) If the publication of the alleged libel was by a newspaper, the notice shall be served on the publisher at the newspaper's principal office of publication. If the transmission of the alleged libel was by a news service, the notice shall be served on the bureau chief at the news service's principal Indiana office.

As added by P.L.1-1998, SEC.10.

IC 34-15-4-3

Retraction mitigates damages

Sec. 3. The plaintiff in a suit described in section 1 of this chapter may recover only actual damages if:

(1) it appears at the trial of the action that:

(A) the article was published or transmitted in good faith; and

(B) the falsity of the article was due to mistake or misapprehension of the facts;

(2) a full and fair retraction of a factual statement alleged to be false and defamatory was published in a regular issue of the newspaper or transmitted to its members or subscribers by the news service:

(A) within three (3) days by a news service;

(B) within five (5) days, if the newspaper is a daily

publication; or

(C) within ten (10) days, if the newspaper is a weekly publication;

after the mistake or misapprehension was brought to the knowledge of the publisher or bureau chief; and

(3) the retraction was published in as conspicuous a place and type as the original item appeared in the newspaper or was transmitted by a news service to all members or subscribers to whom the original item was transmitted.

As added by P.L.1-1998, SEC.10.

IC 34-15-5

Chapter 5. Actions for Certain False Charges

IC 34-15-5-1

Actionable charges

Sec. 1. Every charge of incest, homosexuality, bestiality, fornication, adultery, or whoredom falsely made against any person is actionable in the same manner as in the case of slanderous words charging a felony.

As added by P.L.1-1998, SEC.10.

IC 34-16

ARTICLE 16. CAUSES OF ACTION: GAMBLING DEBTS AND LOSSES

IC 34-16-1

Chapter 1. Gambling Debts and Losses

IC 34-16-1-1

Void instruments

Sec. 1. A note, bill, bond, conveyance, contract, mortgage, or other security made in consideration of:

(1) money or other property won as the result of a wager; or

(2) the repayment of money lent at the time of a wager for the purpose of being wagered;

is void.

As added by P.L.1-1998, SEC.11.

IC 34-16-1-2

Debtor; civil action to recover losses; limitation

Sec. 2. If a person, by betting on a game or on the hands or sides of persons playing a game:

(1) loses any money or other property; and

(2) delivers any part of the money or other property;

the person may bring a civil action, within one hundred eighty (180) days, to recover the money or other property so lost and delivered.

As added by P.L.1-1998, SEC.11.

IC 34-16-1-3

Pleading

Sec. 3. In the civil action, it is sufficient for the plaintiff to allege that the defendant has received the money or other property so lost and delivered.

As added by P.L.1-1998, SEC.11.

IC 34-16-1-4

Prosecuting attorney; civil action to recover losses

Sec. 4. If, within the one hundred eighty (180) day period, the person fails to sue or to effectively prosecute the action, the prosecuting attorney of the county shall bring a civil action to recover the money or other property so lost and delivered, in the name of the state and for the benefit of:

(1) the person's dependent children who are less than eighteen (18) years of age and the person's spouse; or

(2) if there are no children or spouse, the state general fund.

As added by P.L.1-1998, SEC.11. Amended by P.L.246-2005, SEC.224.

IC 34-16-1-5

Discovery

Sec. 5. A person who is sued under this chapter (or IC 34-4-28

before its repeal) shall answer, under oath or affirmation, questions concerning the money or other property the defendant is alleged to have received.

As added by P.L.1-1998, SEC.11. Amended by P.L.1-2009, SEC.161.

IC 34-17

ARTICLE 17. CAUSES OF ACTION: INFORMATIONS

IC 34-17-1

Chapter 1. Cases in Which an Information May Be Filed

IC 34-17-1-1

Information; when filing allowed

Sec. 1. An information may be filed against any person or corporation in the following cases:

(1) When a person usurps, intrudes into, or unlawfully holds or exercises a public office or a franchise within Indiana or an office in a corporation created by the authority of this state.

(2) Whenever a public officer does or allows an act which, by law, works a forfeiture of the officer's office.

(3) When an association or number of persons acts within Indiana as a corporation, without being legally incorporated.

(4) When a corporation does or omits acts that amount to a surrender or forfeiture of its rights and privileges as a corporation.

(5) When a corporate franchise was procured through fraud practiced upon the state.

(6) When a corporation:

(A) exceeds or abuses the authority conferred upon the corporation by law; or

(B) exercises authority not conferred upon it by law.

As added by P.L.1-1998, SEC.12.

IC 34-17-1-2

Annulment or vacation of certain documents

Sec. 2. An information may be prosecuted to annul or vacate any letters-patent, certificate, or deed granted by the proper authorities of Indiana when there is reason to believe that:

(1) the letters, deed, or certificate was obtained by fraud or through mistake or ignorance of a material fact; or

(2) the patentee or those claiming under the patentee:

(A) have done or omitted an act in violation of the terms on which the letters, deed, or certificate was granted; or

(B) have by any other means forfeited the interest acquired under the letters, deed, or certificate.

As added by P.L.1-1998, SEC.12.

IC 34-17-1-3

Escheat or forfeiture of property to state

Sec. 3. Whenever property escheats or is forfeited to the state for the state's use, the legal title is considered to be in the state from the time of the escheat or forfeiture. An information may be filed in accordance with IC 34-17-2-3 to recover the property.

As added by P.L.1-1998, SEC.12.

IC 34-17-2
Chapter 2. Filing of Information and Summons

IC 34-17-2-1
Filing of information

Sec. 1. (a) An information described in IC 34-17-1-1 may be filed:

(1) by the prosecuting attorney in the circuit court of the proper county, upon the prosecuting attorney's own relation, whenever the prosecuting attorney:

(A) determines it to be the prosecuting attorney's duty to do so; or

(B) is directed by the court or other competent authority; or

(2) by any other person on the person's own relation, whenever the person claims an interest in the office, franchise, or corporation that is the subject of the information.

(b) The prosecuting attorney shall file an information in the circuit court of the county against the county assessor or a township assessor under IC 34-17-1-1(2) if:

(1) the board of county commissioners adopts an ordinance under IC 6-1.1-4-31(f); or

(2) the city-county council adopts an ordinance under IC 6-1.1-4-31(g).

As added by P.L.1-1998, SEC.12. Amended by P.L.146-2008, SEC.678.

IC 34-17-2-2
Annulment or vacation of certain documents; procedure

Sec. 2. (a) An information to annul or vacate any letters-patent, certificate, or deed described in IC 34-17-1-2 may be filed by:

(1) the prosecuting attorney, upon the prosecuting attorney's relation; or

(2) a private person, upon the person's relation, showing the person's interest in the subject matter.

(b) The subsequent proceeding, judgment of the court, and awarding of costs must conform to the requirements of this article and the letters-patent, deed or certificate shall be annulled or sustained according to the rights of the case.

As added by P.L.1-1998, SEC.12.

IC 34-17-2-3
Information to recover property

Sec. 3. (a) Following forfeiture or escheat of property as described in IC 34-17-1-3, an information may be filed by the prosecuting attorney in the circuit court for the recovery of the property, alleging the ground on which the recovery is claimed.

(b) Proceedings and judgment are the same as in a civil action for the recovery of property.

As added by P.L.1-1998, SEC.12.

IC 34-17-2-4

Contest for office; single information against several persons

Sec. 4. When several persons claim to be entitled to the same office or franchise, one (1) information may be filed against any or all persons making the claim, in order to try their respective rights to the office or franchise.

As added by P.L.1-1998, SEC.12.

IC 34-17-2-5

Contents of information

Sec. 5. The information consists of a plain statement of the facts that constitute the grounds of the proceeding, addressed to the court.

As added by P.L.1-1998, SEC.12.

IC 34-17-2-6

Usurping office; procedure

Sec. 6. (a) This section applies to an information filed against a person for usurping an office.

(b) Whenever an information described in subsection (a) is filed by the prosecuting attorney, the prosecuting attorney shall also set forth the name of the person rightfully entitled to the office, if any, with an averment:

(1) of the person's right to the office; or

(2) that no person is entitled to the office and that a vacancy in the office will result.

(c) When an information described in subsection (a) is filed by any other person, the person shall state the person's interest in the matter and any damages the person has sustained.

As added by P.L.1-1998, SEC.12.

IC 34-17-2-7

Summons and answer

Sec. 7. Whenever an information is filed, a summons shall issue, which shall be served and returned as in other actions. The defendant shall appear and answer, or suffer default, and subsequent proceedings are the same as in other cases.

As added by P.L.1-1998, SEC.12.

IC 34-17-3

Chapter 3. Judgment, Costs, and Enforcement

IC 34-17-3-1

Contest for office; judgment

Sec. 1. In every case contesting the right to an office, judgment shall be rendered upon the rights of the parties, and for any damages the relator shows the relator is entitled to, to the time of the judgment.
As added by P.L.1-1998, SEC.12.

IC 34-17-3-2

Judgments in favor of relator; proceedings; filling public office vacancy under IC 5-8-6

Sec. 2. (a) If judgment is rendered in favor of a person who claims to be the person entitled to hold the office:

(1) that person shall proceed to exercise the functions of the office after the person has been qualified, as required by law; and

(2) the court shall order the defendant to deliver all the funds and records in the custody or within the power of the defendant, belonging to the office from which the defendant has been removed:

(A) to the person entitled to hold the office; or

(B) if a vacancy results, to the court to hold until a person is selected under subsection (b) to fill the vacancy.

(b) This subsection applies whenever:

(1) the court renders a judgment under subsection (a) that an individual holding a public office (as that term is used in IC 34-17-1-1) is not entitled to hold that office; and

(2) a vacancy occurs in that office as the result of the court's judgment.

The court must file a certified copy of the judgment with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the public office. The person receiving the copy of the judgment must give notice of the judgment in the same manner as if the person had received a notice of the death of the officeholder under IC 5-8-6. The person required or permitted to fill the vacancy that results from a removal under this section must comply with IC 3-13 or IC 20, whichever applies, to fill the vacancy.
As added by P.L.1-1998, SEC.12. Amended by P.L.119-2005, SEC.34.

IC 34-17-3-3

Refusal of defendant to deliver books and papers; enforcement by attachment and imprisonment

Sec. 3. If the defendant refuses or neglects to deliver the books and papers, pursuant to the order, the court or judge shall enforce the order by attachment and imprisonment.
As added by P.L.1-1998, SEC.12.

IC 34-17-3-4
Damages

Sec. 4. (a) This section applies to a judgment rendered in favor of the plaintiff.

(b) If the plaintiff did not claim damages in the information, the plaintiff may file an action for the damages at any time within one (1) year after the judgment.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-5
Judgment or exclusion from office, franchise, or corporate rights; dissolution of corporation

Sec. 5. (a) This section applies whenever:

(1) a person is found guilty of usurping, intruding into, or unlawfully exercising:

(A) an office or a franchise within Indiana; or

(B) an office in a corporation created by the authority of this state;

(2) a public officer thus charged is found guilty of having done or suffered an act which, by law, works a forfeiture of the office; or

(3) an association or number of persons is found guilty of having acted as a corporation, without having been legally incorporated.

(b) The court shall give judgment of ouster against the defendant and:

(1) exclude the defendant from the office, franchise, or corporate rights;

(2) in cases of corporations, dissolve the corporation; and

(3) adjudge costs in favor of the plaintiff.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-6
Execution or attachment against directors or officers of corporations

Sec. 6. (a) If judgment is rendered against a corporation or against any persons claiming to be a corporation, the court may cause the costs to be collected:

(1) by execution against the persons claiming to be a corporation; or

(2) by attachment against the directors or other officers of the corporation.

(b) In addition, the court shall:

(1) restrain the corporation;

(2) appoint a receiver of the corporation's property and effects;

(3) take an account; and

(4) make a distribution of property among the creditors.

(c) The prosecuting attorney shall immediately institute proceedings for these purposes.

As added by P.L.1-1998, SEC.12.

IC 34-17-3-7
Liability for costs

Sec. 7. When an information is filed by the prosecuting attorney, the prosecuting attorney is not liable for costs. However, when an information is filed upon the relation of a private person, the private person is liable for costs, unless the costs are adjudged against the defendant.

As added by P.L.1-1998, SEC.12.

IC 34-18

ARTICLE 18. MEDICAL MALPRACTICE

IC 34-18-1

Chapter 1. Application

IC 34-18-1-1

Application of article

Sec. 1. This article does not apply to an act of malpractice that occurred before July 1, 1975.

As added by P.L.1-1998, SEC.13.

IC 34-18-1-2

Application of prior law; application of certain amendments to prior law

Sec. 2. (a) The addition of IC 16-9.5-2-2.1, IC 16-9.5-2-2.2, IC 16-9.5-2-2.3, and IC 16-9.5-2-2.4 (before their repeal) by P.L.179-1985 does not apply to medical malpractice claims initiated through the filing of a proposed complaint under IC 16-9.5-9-1 (before its repeal) before June 1, 1985.

(b) The amendments made to IC 16-9.5-9-10 (before its repeal) by P.L.180-1985 do not apply to the chairman of a medical review panel formed before September 1, 1985.

As added by P.L.220-2011, SEC.552.

IC 34-18-2
Chapter 2. Definitions

IC 34-18-2-1
Application of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-2
Terms of art
Sec. 2. A legal term or word of art that is used in this article, if not otherwise defined, has the meaning that is consistent with the common law.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-3
Repealed
(Repealed by P.L.205-2003, SEC.44.)

IC 34-18-2-3.5
"Advanced emergency medical technician"
Sec. 3.5. "Advanced emergency medical technician" means an individual who can perform at least one (1) procedure but not all the procedures of a paramedic and who:
(1) has completed a prescribed course in advanced life support;
(2) has been certified by the Indiana emergency medical services commission;
(3) is associated with a single supervising hospital; and
(4) is affiliated with a provider organization.
As added by P.L.77-2012, SEC.57.

IC 34-18-2-4
"Ambulance service"
Sec. 4. "Ambulance service" means a person who employs:
(1) emergency medical technicians;
(2) advanced emergency medical technicians; or
(3) paramedics.
As added by P.L.1-1998, SEC.13. Amended by P.L.205-2003, SEC.40; P.L.77-2012, SEC.58.

IC 34-18-2-5
"Annual aggregate"
Sec. 5. "Annual aggregate" means the limitation on a health care provider's liability as provided in IC 34-18-4.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-6
"Authority"
Sec. 6. "Authority" refers to the residual malpractice insurance authority established under IC 34-18-17 (or IC 27-12-17 before its

repeal).
As added by P.L.1-1998, SEC.13.

IC 34-18-2-6.5
"Certified nurse midwife"
Sec. 6.5. "Certified nurse midwife" means a registered nurse who holds a license to practice midwifery under IC 25-23-1-13.1.
As added by P.L.232-2013, SEC.22.

IC 34-18-2-7
"College", "university", and "junior college"
Sec. 7. "College, university, or junior college" means an institution for postsecondary school education accredited by the North Central Association.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-8
"Commissioner"
Sec. 8. "Commissioner" refers to the insurance commissioner.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-9
"Community health center"
Sec. 9. "Community health center" means a provider of primary health care organized as a nonprofit corporation under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 and governed by a board of directors, at least fifty-one percent (51%) of whom are representatives of consumers.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-10
"Community mental health center"
Sec. 10. "Community mental health center" means a public or private mental health center established under IC 12-29.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-11
"Community mental retardation center"
Sec. 11. "Community mental retardation center" means a public or private community mental retardation and other developmental disabilities center established under IC 12-29.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-12
"Emergency medical technician"
Sec. 12. "Emergency medical technician" has the meaning set forth in IC 16-18-2-112 but does not include such a person while operating an emergency vehicle.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-12.1
Repealed
(Repealed by P.L.77-2012, SEC.59.)

IC 34-18-2-12.2
Repealed
(Repealed by P.L.77-2012, SEC.60.)

IC 34-18-2-13
"Health care"
Sec. 13. "Health care" means an act or treatment performed or furnished, or that should have been performed or furnished, by a health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-14
"Health care provider"
Sec. 14. "Health care provider" means any of the following:
(1) An individual, a partnership, a limited liability company, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a physician, psychiatric hospital, hospital, health facility, emergency ambulance service (IC 16-18-2-107), dentist, registered or licensed practical nurse, physician assistant, certified nurse midwife, optometrist, podiatrist, chiropractor, physical therapist, respiratory care practitioner, occupational therapist, psychologist, paramedic, advanced emergency medical technician, or emergency medical technician, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
(2) A college, university, or junior college that provides health care to a student, faculty member, or employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.
(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.
(4) A home health agency (as defined in IC 16-27-1-2).
(5) A health maintenance organization (as defined in IC 27-13-1-19).
(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).
(7) A corporation, limited liability company, partnership, or professional corporation not otherwise qualified under this section that:
(A) as one (1) of its functions, provides health care;

(B) is organized or registered under state law; and
(C) is determined to be eligible for coverage as a health care provider under this article for its health care function.

Coverage for a health care provider qualified under this subdivision is limited to its health care functions and does not extend to other causes of action.

As added by P.L.1-1998, SEC.13. Amended by P.L.205-2003, SEC.43; P.L.77-2012, SEC.61; P.L.232-2013, SEC.23.

IC 34-18-2-15
"Health facility"

Sec. 15. "Health facility" means a facility licensed under IC 16-28.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-16
"Hospital"

Sec. 16. "Hospital" means a public or private institution licensed under IC 16-21-2.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-17
"Insurer"

Sec. 17. "Insurer" means the authority or an insurance company engaged on an admitted or nonadmitted basis in making in this state Class 2(h) malpractice liability insurance under IC 27-1-5-1.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-18
"Malpractice"

Sec. 18. "Malpractice" means a tort or breach of contract based on health care or professional services that were provided, or that should have been provided, by a health care provider, to a patient.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-19
Repealed

(Repealed by P.L.232-2013, SEC.24.)

IC 34-18-2-20
"Migrant health center"

Sec. 20. "Migrant health center" means a provider of primary health care organized as a nonprofit corporation under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 governed by a board of directors, at least fifty-one percent (51%) of whom are representatives of consumers and funded under Section 329 of the United States Public Health Service Act (42 U.S.C. 254b).

As added by P.L.1-1998, SEC.13.

IC 34-18-2-21
"Paramedic"

Sec. 21. (a) "Paramedic", except as provided in subsection (b), has the meaning set forth in IC 16-18-2-266.

(b) The term does not include such a person while operating an emergency vehicle.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-22
"Patient"

Sec. 22. "Patient" means an individual who receives or should have received health care from a health care provider, under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, as a result of alleged malpractice on the part of a health care provider. Derivative claims include the claim of a parent or parents, guardian, trustee, child, relative, attorney, or any other representative of the patient including claims for loss of services, loss of consortium, expenses, and other similar claims.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-23
"Physician"

Sec. 23. "Physician" means an individual with an unlimited license to practice medicine under IC 25-22.5.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-24
"Psychiatric hospital"

Sec. 24. "Psychiatric hospital" means a private institution licensed under IC 12-25 and public institutions under the administrative control of the director of a division as designated by IC 12-24-1-3.

As added by P.L.1-1998, SEC.13. Amended by P.L.188-2013, SEC.25.

IC 34-18-2-24.5
"Qualified provider"

Sec. 24.5. "Qualified provider" means a health care provider that is qualified under this article (or by IC 27-12 before its repeal) by complying with the procedures set forth in IC 34-18-3 (or IC 27-12-3 before its repeal).

As added by P.L.111-1998, SEC.4.

IC 34-18-2-25
"Representative"

Sec. 25. "Representative" means the spouse, parent, guardian, trustee, attorney, or other legal agent of the patient.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-26
"Risk"

Sec. 26. "Risk" means a health care provider that must apply for

malpractice liability insurance coverage under IC 34-18-17.
As added by P.L.1-1998, SEC.13.

IC 34-18-2-27
"Risk manager"

Sec. 27. "Risk manager" means an insurance company that is:

(1) admitted to make insurance and actively engaged in making in this state Class 2 insurance under IC 27-1-5-1; and

(2) appointed by the commissioner to manage the authority.

As added by P.L.1-1998, SEC.13.

IC 34-18-2-28
"Tort"

Sec. 28. "Tort" means a legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.
As added by P.L.1-1998, SEC.13.

IC 34-18-3

Chapter 3. Need to Qualify; Qualification Procedure

IC 34-18-3-1

Application of article

Sec. 1. A health care provider who fails to qualify under this article is not covered by this article and is subject to liability under the law without regard to this article. If a health care provider does not qualify, the patient's remedy is not affected by this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-2

Qualifications; proof of financial responsibility

Sec. 2. For a health care provider to be qualified under this article, the health care provider or the health care provider's insurance carrier shall:

(1) cause to be filed with the commissioner proof of financial responsibility established under IC 34-18-4; and

(2) pay the surcharge assessed on all health care providers under IC 34-18-5.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-3

Qualification of officers, agents, and employees of health care providers

Sec. 3. The officers, agents, and employees of a health care provider, while acting in the course and scope of their employment, may be qualified under this chapter if the following conditions are met:

(1) The officers, agents, and employees are individually named or are members of a named class in the proof of financial responsibility filed by the health care provider under IC 34-18-4.

(2) The surcharge assessed under IC 34-18-5 is paid.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-4

Claims against governmental entities and employees

Sec. 4. (a) As used in this section, "employee of a governmental entity" has the meaning set forth in IC 34-6-2-38.

(b) As used in this section, "governmental entity" has the meaning set forth in IC 34-6-2-49.

(c) A claim against a governmental entity or an employee of a governmental entity based on an occurrence of malpractice is governed exclusively by this article if the governmental entity or employee is qualified under this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-5

Receipt of proof of financial responsibility and surcharge;

timeliness of compliance; penalties

Sec. 5. (a) Except as provided in subsection (b), the receipt of proof of financial responsibility and the surcharge constitutes compliance with section 2 of this chapter:

(1) as of the date on which they are received; or

(2) as of the effective date of the policy;

if this proof is filed with and the surcharge paid to the department of insurance not later than ninety (90) days after the effective date of the insurance policy.

(b) If an insurer files proof of financial responsibility and makes payment of the surcharge to the department of insurance at least ninety-one (91) days but not more than one hundred eighty (180) days after the policy effective date, the health care provider is in compliance with section 2 of this chapter if the insurer demonstrates to the satisfaction of the commissioner that the insurer:

(1) received the premium and surcharge in a timely manner; and

(2) erred in transmitting the surcharge in a timely manner.

(c) If the commissioner accepts a filing as timely under subsection (b), the filing must, in addition to any penalties under IC 34-18-5-3, be accompanied by a penalty amount as follows:

(1) Ten percent (10%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least ninety-one (91) days and not more than one hundred twenty (120) days after the original effective date of the policy.

(2) Twenty percent (20%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred twenty-one (121) days and not more than one hundred fifty (150) days after the original effective date of the policy.

(3) Fifty percent (50%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred fifty-one (151) days and not more than one hundred eighty (180) days after the original effective date of the policy.

As added by P.L.1-1998, SEC.13. Amended by P.L.91-1998, SEC.21; P.L.111-1998, SEC.5; P.L.1-1999, SEC.69.

IC 34-18-3-6

Notification of qualification

Sec. 6. Within five (5) business days after the department of insurance receives the information required under section 2 of this chapter for the qualification of a health care provider, the commissioner shall notify the health care provider of the following:

(1) Whether the provider is qualified.

(2) If the provider is qualified, the date the provider becomes qualified.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-7

Adoption of rules; minimum annual aggregate insurance amount

Sec. 7. (a) The commissioner shall adopt rules under IC 4-22-2 to establish the following:

(1) Criteria for determining, upon application, whether a corporation, limited liability company, partnership, or professional corporation is subject to IC 34-18-2-14(7) and thus is eligible to qualify as a health care provider under this chapter.

(2) The minimum annual aggregate insurance amount necessary for the corporation, limited liability company, partnership, or professional corporation to become qualified under IC 34-18-2-14(7).

(b) The criteria to be established by rule under subsection (a)(1) must include the identification of the health care purpose and function of the corporation, limited liability company, partnership, or professional corporation.

(c) The minimum annual aggregate insurance amount to be set by rule under subsection (a)(2) may not exceed five hundred thousand dollars ($500,000).

(d) The commissioner may require a corporation, limited liability company, partnership, or professional corporation that seeks to qualify under IC 34-18-2-14(7) and this chapter to provide information necessary to determine eligibility and to establish the minimum annual aggregate amount applicable to the corporation, limited liability company, partnership, or professional corporation.

As added by P.L.1-1998, SEC.13.

IC 34-18-4

Chapter 4. Establishment of Financial Responsibility

IC 34-18-4-1

Establishment of financial responsibility

Sec. 1. Financial responsibility of a health care provider and the provider's officers, agents, and employees while acting in the course and scope of their employment with the health care provider may be established under subdivision (1), (2), or (3):

(1) By the health care provider's insurance carrier filing with the commissioner proof that the health care provider is insured by a policy of malpractice liability insurance in the amount of at least two hundred fifty thousand dollars ($250,000) per occurrence and seven hundred fifty thousand dollars ($750,000) in the annual aggregate, except for the following:

(A) If the health care provider is a hospital, as defined in this article, the minimum annual aggregate insurance amount is as follows:

(i) For hospitals of not more than one hundred (100) beds, five million dollars ($5,000,000).

(ii) For hospitals of more than one hundred (100) beds, seven million five hundred thousand dollars ($7,500,000).

(B) If the health care provider is a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4), the minimum annual aggregate insurance amount is one million seven hundred fifty thousand dollars ($1,750,000).

(C) If the health care provider is a health facility, the minimum annual aggregate insurance amount is as follows:

(i) For health facilities with not more than one hundred (100) beds, seven hundred fifty thousand dollars ($750,000).

(ii) For health facilities with more than one hundred (100) beds, one million two hundred fifty thousand dollars ($1,250,000).

(2) By filing and maintaining with the commissioner cash or surety bond approved by the commissioner in the amounts set forth in subdivision (1).

(3) If the health care provider is a hospital or a psychiatric hospital, by submitting annually a verified financial statement that, in the discretion of the commissioner, adequately demonstrates that the current and future financial responsibility of the health care provider is sufficient to satisfy all potential malpractice claims incurred by the provider or the provider's officers, agents, and employees while acting in the course and scope of their employment up to a total of two hundred fifty thousand dollars ($250,000) per occurrence and annual aggregates as follows:

(A) For hospitals of not more than one hundred (100) beds,

five million dollars ($5,000,000).

(B) For hospitals of more than one hundred (100) beds, seven million five hundred thousand dollars ($7,500,000).

The commissioner may require the deposit of security to assure continued financial responsibility.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.6.

IC 34-18-4-2

Security; manner of holding; withdrawal

Sec. 2. Security provided under section 1(2) of this chapter may be held in any manner mutually agreeable to the commissioner and the health care provider. The agreement must provide that the principal may not be withdrawn before receiving the written permission of the commissioner. However, any interest earned may be withdrawn at any time by the health care provider.

As added by P.L.1-1998, SEC.13.

IC 34-18-4-3

Hospital bed size determined by health department

Sec. 3. For the purposes of section 1 of this chapter, the bed size of a hospital shall be considered to be the bed size published annually by the state department of health.

As added by P.L.1-1998, SEC.13.

IC 34-18-4-4

Partners and members of professional corporations

Sec. 4. To establish financial responsibility under this chapter, each individual who is a member of a partnership or professional corporation must establish financial responsibility separate from the partnership or professional corporation, as well as pay the surcharge required under IC 34-18-5. However, this section does not require a health care provider to qualify under this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-5

Chapter 5. Surcharge

IC 34-18-5-1

Annual surcharge on health care providers

Sec. 1. To create a source of money for the patient's compensation fund, an annual surcharge shall be levied on all health care providers in Indiana.

As added by P.L.1-1998, SEC.13.

IC 34-18-5-2

Amount of surcharge

Sec. 2. (a) As used in this section, "actuarial program" means a program used or created by the department to determine the actuarial risk posed to the patient compensation fund under IC 34-18-6 (or IC 27-12-6 before its repeal) by a hospital. The program must be:

(1) developed to calculate actuarial risk posed by a hospital, taking into consideration risk management programs used by the hospital;

(2) an efficient and accurate means of calculating a hospital's malpractice actuarial risk;

(3) publicly identified by the department by July 1 of each year; and

(4) made available to a hospital's malpractice insurance carrier for purposes of calculating the hospital's surcharge under subsection (g).

(b) Beginning July 1, 1999, the amount of the annual surcharge shall be one hundred percent (100%) of the cost to each health care provider for maintenance of financial responsibility. Beginning July 1, 2001, the annual surcharge shall be set by a rule adopted by the commissioner under IC 4-22-2.

(c) The amount of the surcharge shall be determined based upon actuarial principles and actuarial studies and must be adequate for the payment of claims and expenses from the patient's compensation fund.

(d) The surcharge for qualified providers other than:

(1) physicians licensed under IC 25-22.5; and

(2) hospitals licensed under IC 16-21;

may not exceed the actuarial risk posed to the patient's compensation fund under IC 34-18 (or IC 27-12 before its repeal) by qualified providers other than physicians licensed under IC 25-22.5 and hospitals licensed under IC 16-21.

(e) There is imposed a minimum annual surcharge of one hundred dollars ($100).

(f) Notwithstanding subsections (b), (c), and (e), beginning July 1, 1999, the surcharge for a qualified provider who is licensed under IC 25-22.5 is calculated as follows:

(1) The commissioner shall contract with an actuary that has experience in calculating the actuarial risks posed by physicians. Not later than July 1 of each year, the actuary shall calculate the

median of the premiums paid for malpractice liability policies to the three (3) malpractice insurance carriers in the state that have underwritten the most malpractice insurance policies for all physicians practicing in the same specialty class in Indiana during the previous twelve (12) month period. In calculating the median, the actuary shall consider the:

(A) manual rates of the three (3) leading malpractice insurance carriers in the state; and

(B) aggregate credits or debits to the manual rates given during the previous twelve (12) month period.

(2) After making the calculation described in subdivision (1), the actuary shall establish a uniform surcharge for all licensed physicians practicing in the same specialty class. This surcharge must be based on a percentage of the median calculated in subdivision (1) for all licensed physicians practicing in the same specialty class under rules adopted by the commissioner under IC 4-22-2. The surcharge:

(A) must be sufficient to cover; and

(B) may not exceed;

the actuarial risk posed to the patient compensation fund under IC 34-18-6 (or IC 27-12-6 before its repeal) by physicians practicing in the specialty class.

(g) Beginning July 1, 1999, the surcharge for a hospital licensed under IC 16-21 that establishes financial responsibility under IC 34-18-4 after June 30, 1999, is established by the department through the use of an actuarial program. At the time financial responsibility is established for the hospital, the hospital shall pay the surcharge amount established for the hospital under this section. The surcharge:

(1) must be sufficient to cover; and

(2) may not exceed;

the actuarial risk posed to the patient compensation fund under IC 34-18-6 by the hospital.

(h) An actuarial program used or developed under subsection (a) shall be treated as a public record under IC 5-14-3.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.7; P.L.233-1999, SEC.14.

IC 34-18-5-3

Collection of surcharge; time for payment

Sec. 3. (a) The surcharge shall be collected on the same basis as premiums by each insurer, risk manager, or surplus lines producer.

(b) The surcharge is due and payable within thirty (30) days after the premium for malpractice liability insurance has been received by the insurer, risk manager, or surplus lines producer from a health care provider in Indiana. If a surcharge is not paid as required by this section, the insurer, risk manager, or surplus lines producer responsible for the delinquency is liable for the surcharge plus a penalty equal to ten percent (10%) of the amount of the surcharge.

(c) If the annual premium surcharge is not paid within the time

limit specified in subsection (b), the certificate of authority of the insurer, risk manager, and surplus lines producer shall be suspended until the annual premium surcharge is paid.
As added by P.L.1-1998, SEC.13. Amended by P.L.178-2003, SEC.96.

IC 34-18-5-4
Adoption of rules; comparability of rates

Sec. 4. (a) The commissioner may adopt rules establishing the following:

(1) The manner of determination of the surcharge for a health care provider that establishes financial responsibility in a way other than by a policy of malpractice liability insurance.

(2) The manner of payment of the surcharge by such a health care provider.

(b) The surcharge calculation established under subsection (a) must provide comparability in rates for insured and self-insured hospitals. This surcharge may not exceed the surcharge that would be charged by the residual authority if the health care provider electing to establish financial responsibility in this manner had applied to the residual authority for insurance.
As added by P.L.1-1998, SEC.13.

IC 34-18-6

Chapter 6. Patient's Compensation Fund

IC 34-18-6-1

Creation of fund

Sec. 1. (a) The patient's compensation fund is created to be collected and received by the commissioner for exclusive use for the purposes stated in this article.

(b) The fund and any income from the fund shall be held in trust, deposited in a segregated account, invested, and reinvested by the commissioner as authorized by IC 27-1-13 and does not become a part of the state general fund.

(c) Proceeds of the annual surcharge levied on all health care providers in Indiana under IC 34-18-5 shall be deposited in the fund.

As added by P.L.1-1998, SEC.13.

IC 34-18-6-2

Protection of fund; legal services; expenses

Sec. 2. (a) The commissioner, using money from the fund, as considered necessary, appropriate, or desirable, may purchase or retain the services of persons, firms, and corporations to aid in protecting the fund against claims. The commissioner shall retain the services of counsel described in subsection (b) to represent the department when a trial court determination will be necessary to resolve a claim against the patient's compensation fund.

(b) When retaining legal services under subsection (a), the commissioner shall retain competent and experienced legal counsel licensed to practice law in Indiana to assist in litigation or other matters pertaining to the fund.

(c) The commissioner has sole authority for the following:

(1) Making a decision regarding the settlement of a claim against the patient compensation fund.

(2) Determining the reasonableness of any fee submitted to the department of insurance by an attorney who defends the patient compensation fund under this section.

(d) All expenses of collecting, protecting, and administering the fund shall be paid from the fund.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.8.

IC 34-18-6-3

Repealed

(Repealed by P.L.111-1998, SEC.16.)

IC 34-18-6-4

Payment of claims; time for payment

Sec. 4. (a) Claims for payment from the patient's compensation fund must be computed and paid as follows:

(1) Claims for payment from the patient's compensation fund that become final during the first three (3) months of the calendar year must be:

(A) computed on March 31; and
(B) paid not later than April 15;
of that calendar year.
(2) Claims for payment from the patient's compensation fund that become final during the second three (3) months of the calendar year must be:
(A) computed on June 30; and
(B) paid not later than July 15;
of that calendar year.
(3) Claims for payment from the patient's compensation fund that become final during the third three (3) months of the calendar year must be:
(A) computed on September 30; and
(B) paid not later than October 15;
of that calendar year.
(4) Claims for payment from the patient's compensation fund that become final during the last three (3) months of the calendar year must be:
(A) computed on December 31 of that calendar year; and
(B) paid not later than January 15 of the following calendar year.

(b) If the balance in the fund is insufficient to pay in full all claims that have become final during a three (3) month period, the amount paid to each claimant must be prorated. Any amount left unpaid as a result of the proration must be paid before the payment of claims that become final during the following three (3) month period.

As added by P.L.1-1998, SEC.13. Amended by P.L.18-2014, SEC.1.

IC 34-18-6-5
Warrant for payment from fund; vouchers

Sec. 5. The auditor of state shall issue a warrant in the amount of each claim submitted to the auditor against the fund on March 31, June 30, September 30, and December 31 of each year. The only claim against the fund shall be a voucher or other appropriate request by the commissioner after the commissioner receives:

(1) a certified copy of a final judgment against a health care provider; or
(2) a certified copy of a court approved settlement against a health care provider.

As added by P.L.1-1998, SEC.13. Amended by P.L.18-2014, SEC.2.

IC 34-18-6-6
Processing of claims; conditions of payment; settlement

Sec. 6. (a) If an annual aggregate for a health care provider qualified under this article has been paid by or on behalf of the health care provider, all amounts that may subsequently become due and payable to a claimant arising out of an act of malpractice of the health care provider occurring during the year in which the annual aggregate was exhausted shall be paid from the patient's compensation fund under the following terms and conditions:

(1) A health care provider whose annual aggregate has been exhausted has no right to object to or refuse permission to settle such a claim.

(2) If a health care provider or the commissioner and claimant agree on a settlement, the following procedure must be followed:

(A) A petition shall be filed by the claimant with the court in which the action is pending against the health care provider or, if none is pending, in the circuit or superior court of Marion County, seeking approval of the agreed settlement.

(B) A copy of the petition shall be served on the commissioner and the health care provider at least ten (10) days before filing and must contain sufficient information to inform the other parties about the nature of the claim and the amount of the proposed settlement.

(C) The commissioner may agree to the settlement, or the commissioner may file written objections to the settlement. The agreement or objections shall be filed within twenty (20) days after the petition is filed.

(D) The judge of the court in which the petition is filed shall set the petition for approval or, if objections have been filed, for hearing, as soon as practicable. The court shall give notice of the hearing to the claimant, the health care provider, and the commissioner.

(E) At the hearing the commissioner, the claimant, and the health care provider may introduce relevant evidence to enable the court to determine whether or not the petition should be approved if the evidence is submitted on agreement without objections. If the commissioner and the claimant cannot agree on the amount, if any, to be paid out of the patient's compensation fund, the court shall determine the amount for which the fund is liable and render a finding and judgment accordingly. In approving a settlement or determining the amount, if any, to be paid from the patient's compensation fund, the court shall consider the liability of the health care provider as admitted and established.

(F) A settlement approved by the court may not be appealed. A judgment of the court fixing damages recoverable in a contested proceeding is appealable under the rules governing appeals in other civil cases tried by the court.

(b) The commissioner may adopt rules under IC 4-22-2 implementing this section.

As added by P.L.1-1998, SEC.13.

IC 34-18-6-7

Exemptions from state procurement statutes

Sec. 7. The following are exempt from IC 5-22 governing state purchasing:

(1) Technical contractual personnel and services retained by the commissioner for protecting and administering the patient's

compensation fund.

(2) Purchasing of annuities for structuring settlements from the patient's compensation fund or in combination with the patient's compensation fund and the health care provider's insurer.

As added by P.L.1-1998, SEC.13.

IC 34-18-7

Chapter 7. Statute of Limitations

IC 34-18-7-1

Limitations period

Sec. 1. (a) This section applies to all persons regardless of minority or other legal disability, except as provided in subsection (c).

(b) A claim, whether in contract or tort, may not be brought against a health care provider based upon professional services or health care that was provided or that should have been provided unless the claim is filed within two (2) years after the date of the alleged act, omission, or neglect, except that a minor less than six (6) years of age has until the minor's eighth birthday to file.

(c) If a patient meets the criteria stated in IC 34-18-8-6(c), the applicable limitations period is equal to the period that would otherwise apply to the patient under subsection (b) (or IC 27-12-7-1(b) before its repeal) plus one hundred eighty (180) days.

As added by P.L.1-1998, SEC.13.

IC 34-18-7-2

Time for filing claim; those under legal disability

Sec. 2. Notwithstanding IC 34-18-1-1, any claim, whether in contract or tort, by a minor or other person under legal disability against a health care provider stemming from professional services or health care provided based on an alleged act, omission, or neglect that occurred before July 1, 1975, shall be brought only within the longer of the following:

(1) Two (2) years after July 1, 1975.

(2) The period described in section 1 of this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-7-3

Tolling of statute of limitations; filing of proposed complaint

Sec. 3. (a) The filing of a proposed complaint tolls the applicable statute of limitations to and including a period of ninety (90) days following the receipt of the opinion of the medical review panel by the claimant.

(b) A proposed complaint under IC 34-18-8 is considered filed when a copy of the proposed complaint is delivered or mailed by registered or certified mail to the commissioner.

As added by P.L.1-1998, SEC.13.

IC 34-18-8

Chapter 8. Commencement of a Medical Malpractice Action

IC 34-18-8-1

Commencement of action; complaint

Sec. 1. Subject to IC 34-18-10 and sections 4 through 6 of this chapter, a patient or the representative of a patient who has a claim under this article for bodily injury or death on account of malpractice may do the following:

(1) File a complaint in any court of law having requisite jurisdiction.

(2) By demand, exercise the right to a trial by jury.

As added by P.L.1-1998, SEC.13.

IC 34-18-8-2

Fees

Sec. 2. The following fees must accompany each proposed complaint filed:

(1) A filing fee of five dollars ($5).

(2) A processing fee of two dollars ($2) for each additional defendant after the first defendant.

As added by P.L.1-1998, SEC.13.

IC 34-18-8-3

Demand; reasonable damages

Sec. 3. Except for the declaration called for in section 6(a) of this chapter, a dollar amount or figure may not be included in the demand in a malpractice complaint, but the prayer must be for such damages as are reasonable in the premises.

As added by P.L.1-1998, SEC.13.

IC 34-18-8-4

Prerequisites to commencement of action; presentation of claim to medical review panel

Sec. 4. Notwithstanding section 1 of this chapter, and except as provided in sections 5 and 6 of this chapter, an action against a health care provider may not be commenced in a court in Indiana before:

(1) the claimant's proposed complaint has been presented to a medical review panel established under IC 34-18-10 (or IC 27-12-10 before its repeal); and

(2) an opinion is given by the panel.

As added by P.L.1-1998, SEC.13.

IC 34-18-8-5

Agreements not to present claims to medical review panels

Sec. 5. Notwithstanding section 4 of this chapter, a claimant may commence an action in court for malpractice without the presentation of the claim to a medical review panel if the claimant and all parties named as defendants in the action agree that the claim is not to be presented to a medical review panel. The agreement must be in

writing and must be signed by each party or an authorized agent of the party. The claimant must attach a copy of the agreement to the complaint filed with the court in which the action is commenced.
As added by P.L.1-1998, SEC.13.

IC 34-18-8-6
Claims not greater than $15,000; commencement of action; dismissal without prejudice

Sec. 6. (a) Notwithstanding section 4 of this chapter, a patient may commence an action against a health care provider for malpractice without submitting a proposed complaint to a medical review panel if the patient's pleadings include a declaration that the patient seeks damages from the health care provider in an amount not greater than fifteen thousand dollars ($15,000). In an action commenced under this subsection (or IC 27-12-8-6(a) before its repeal), the patient is barred from recovering any amount greater than fifteen thousand dollars ($15,000), except as provided in subsection (b).

(b) A patient who:

(1) commences an action under subsection (a) (or IC 27-12-8-6(a) before its repeal) in the reasonable belief that damages in an amount not greater than fifteen thousand dollars ($15,000) are adequate compensation for the bodily injury allegedly caused by the health care provider's malpractice; and

(2) later learns, during the pendency of the action, that the bodily injury is more serious than previously believed and that fifteen thousand dollars ($15,000) is insufficient compensation for the bodily injury;

may move that the action be dismissed without prejudice and, upon dismissal of the action, may file a proposed complaint subject to section 4 of this chapter based upon the same allegations of malpractice as were asserted in the action dismissed under this subsection. In a second action commenced in court following the medical review panel's proceeding on the proposed complaint, the patient may recover an amount greater than fifteen thousand dollars ($15,000). However, a patient may move for dismissal without prejudice and, if dismissal without prejudice is granted, may commence a second action under this subsection only if the patient's motion for dismissal is filed within two (2) years after commencement of the original action under subsection (a) (or IC 27-12-8-6(a) before its repeal).

(c) If a patient:

(1) commences an action under subsection (a) (or IC 27-12-8-6(a) before its repeal);

(2) moves under subsection (b) (or IC 27-12-8-6(b) before its repeal) for dismissal of that action;

(3) files a proposed complaint subject to section 4 of this chapter based upon the same allegations of malpractice as were asserted in the action dismissed under subsection (b) (or IC 27-12-8-6(b) before its repeal); and

(4) commences a second action in court following the medical

review panel proceeding on the proposed complaint;

the timeliness of the second action is governed by IC 34-18-7-1(c).

(d) A medical liability insurer of a health care provider against whom an action has been filed under subsection (a) (or IC 27-12-8-6(a) before its repeal) shall provide written notice to the state health commissioner as required under IC 34-18-9-2.

As added by P.L.1-1998, SEC.13.

IC 34-18-8-7

Commencement of action while claim being considered by medical review panel

Sec. 7. (a) Notwithstanding section 4 of this chapter, beginning July 1, 1999, a claimant may commence an action in court for malpractice at the same time the claimant's proposed complaint is being considered by a medical review panel. In order to comply with this section, the:

(1) complaint filed in court may not contain any information that would allow a third party to identify the defendant;

(2) claimant is prohibited from pursuing the action; and

(3) court is prohibited from taking any action except setting a date for trial, an action under IC 34-18-8-8 (or IC 27-12-8-8 before its repeal), or an action under IC 34-18-11 (or IC 27-12-11 before its repeal);

until section 4 of this chapter has been satisfied.

(b) Upon satisfaction of section 4 of this chapter, the identifying information described in subsection (a)(1) shall be added to the complaint by the court.

As added by P.L.111-1998, SEC.9.

IC 34-18-8-8

Motion to dismiss filed by commissioner

Sec. 8. If action has not been taken in a case before the department of insurance for a period of at least two (2) years, the commissioner, on the:

(1) motion of a party; or

(2) commissioner's own initiative;

may file a motion in Marion county circuit court to dismiss the case under Rule 41(E) of the Indiana Rules of Trial Procedure.

As added by P.L.111-1998, SEC.10.

IC 34-18-9

Chapter 9. Reporting and Review of Claims

IC 34-18-9-1

Proposed complaints; notice to named defendants

Sec. 1. Within ten (10) days after receiving a proposed complaint under IC 34-18-8, the commissioner shall forward a copy of the complaint by registered or certified mail to each health care provider named as a defendant, at the defendant's last and usual place of residence or the defendant's office.

As added by P.L.1-1998, SEC.13.

IC 34-18-9-2

Medical liability insurers; notice of suit to commissioner

Sec. 2. A medical liability insurer of a health care provider against whom an action has been filed under IC 34-18-8-6(a) shall provide written notice to the commissioner within thirty (30) days after:

(1) the filing of the action; and

(2) the final disposition of the action.

As added by P.L.1-1998, SEC.13.

IC 34-18-9-3

Notice of reserve by medical liabilty insurer; report of final adjudications and settlements

Sec. 3. (a) A health care provider's insurer shall notify the commissioner of any malpractice case upon which the insurer has placed a reserve of at least one hundred twenty-five thousand dollars ($125,000). The insurer shall give notice to the commissioner under this subsection immediately after placing the reserve. The notice and all communications and correspondence relating to the notice are confidential and may not be made available to any person or any public or private agency.

(b) All malpractice claims settled or adjudicated to final judgment against a health care provider shall be reported to the commissioner by the plaintiff's attorney and by the health care provider or the health care provider's insurer or risk manager within sixty (60) days following final disposition of the claim. The report to the commissioner must state the following:

(1) The nature of the claim.

(2) The damages asserted and the alleged injury.

(3) The attorney's fees and expenses incurred in connection with the claim or defense.

(4) The amount of the settlement or judgment.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.11.

IC 34-18-9-4

Fitness reviews of health care providers

Sec. 4. (a) The medical review panel (as described in IC 34-18-10) shall make a separate determination, at the time that it renders its

opinion under IC 34-18-10-22, as to whether the name of the defendant health care provider should be forwarded to the appropriate board of professional registration for review of the health care provider's fitness to practice the health care provider's profession. The commissioner shall forward the name of the defendant health care provider if the medical review panel unanimously determines that it should be forwarded. The medical review panel determination concerning the forwarding of the name of the defendant health care provider is not admissible as evidence in a civil action. In each case involving review of a health care provider's fitness to practice forwarded under this section, the appropriate board of professional registration and examination may, in appropriate cases, take the following disciplinary action:

(1) censure;

(2) imposition of probation for a determinate period;

(3) suspension of the health care provider's license for a determinate period; or

(4) revocation of the license.

(b) Review of the health care provider's fitness to practice shall be conducted in accordance with IC 4-21.5.

(c) The appropriate board of professional registration and examination shall report to the commissioner the board's findings, the action taken, and the final disposition of each case involving review of a health care provider's fitness to practice forwarded under this section.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.12.

IC 34-18-10
Chapter 10. Medical Review Panel

IC 34-18-10-1
Establishment of medical review panels

Sec. 1. This chapter provides for the establishment of medical review panels to review proposed malpractice complaints against health care providers covered by this article.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-2
Request for formation of panels

Sec. 2. Not earlier than twenty (20) days after the filing of a proposed complaint, either party may request the formation of a medical review panel by serving a request by registered or certified mail upon all parties and the commissioner.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-3
Members; chairman; powers and duties

Sec. 3. (a) A medical review panel consists of one (1) attorney and three (3) health care providers.

(b) The attorney member of the medical review panel shall act as chairman of the panel and in an advisory capacity but may not vote.

(c) The chairman of the medical review panel shall expedite the selection of the other panel members, convene the panel, and expedite the panel's review of the proposed complaint. The chairman may establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to make full and adequate presentation of related facts and authorities.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-4
Selection of panel members

Sec. 4. A medical review panel shall be selected in the following manner:

(1) Within fifteen (15) days after the filing of a request for formation of a medical review panel under section 2 of this chapter, the parties shall select a panel chairman by agreement. If no agreement on a panel chairman can be reached, either party may request the clerk of the supreme court to draw at random a list of five (5) names of attorneys who:

(A) are qualified to practice;

(B) are presently on the rolls of the supreme court; and

(C) maintain offices in the county of venue designated in the proposed complaint or in a contiguous county.

(2) Before selecting the random list, the clerk shall collect a twenty-five dollar ($25) medical review panel selection fee from the party making the request for the formation of the random list.

(3) The clerk shall notify the parties, and the parties shall then strike names alternately with the plaintiff striking first until one (1) name remains. The remaining attorney shall be the chairman of the panel.
(4) After the striking, the plaintiff shall notify the chairman and all other parties of the name of the chairman.
(5) If a party does not strike a name within five (5) days after receiving notice from the clerk:
(A) the opposing party shall, in writing, request the clerk to strike for the party; and
(B) the clerk shall strike for that party.
(6) When one (1) name remains, the clerk shall within five (5) days notify the chairman and all other parties of the name of the chairman.
(7) Within fifteen (15) days after being notified by the clerk of being selected as chairman, the chairman shall:
(A) send a written acknowledgment of appointment to the clerk; or
(B) show good cause for relief from serving as provided in section 12 of this chapter.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-5
Eligibility for panel membership
Sec. 5. Except for health care providers who are health facility administrators, all health care providers in Indiana, whether in the teaching profession or otherwise, who hold a license to practice in their profession shall be available for selection as members of the medical review panel. Health facility administrators may not be members of the medical review panel.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-6
Selection of members by parties
Sec. 6. Each party to the action has the right to select one (1) health care provider, and upon selection, the two (2) health care providers thus selected shall select the third panelist.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-7
Selection of panel members by multiple parties
Sec. 7. If there are multiple plaintiffs or defendants, only one (1) health care provider shall be selected per side. The plaintiff, whether single or multiple, has the right to select one (1) health care provider and the defendant, whether single or multiple, has the right to select one (1) health care provider.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-8
Panelists to be members of defendant's profession

Sec. 8. If there is only one (1) party defendant who is an individual, two (2) of the panelists selected must be members of the profession identified in IC 34-18-2-14(1) of which the defendant is a member. If the individual defendant is a health care professional who specializes in a limited area, two (2) of the panelists selected must be health care professionals who specialize in the same area as the defendant.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-9
Selection periods; notification; selections by chairman
Sec. 9. Within fifteen (15) days after the chairman is selected, both parties shall select a health care provider and the parties shall notify the other party and the chairman of their selection. If a party fails to make a selection within the time provided, the chairman shall make the selection and notify both parties. Within fifteen (15) days after their selection, the health care provider members shall select the third member within the time provided and notify the chairman and the parties. If the providers fail to make a selection, the chairman shall make the selection and notify both parties.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-10
Challenges to panel member selections
Sec. 10. Within ten (10) days after the selection of a panel member, written challenge without cause may be made to the panel member. Upon challenge or excuse, the party whose appointee was challenged or dismissed shall select another panelist. If the challenged or dismissed panel member was selected by the other two (2) panel members, the panel members shall make a new selection. If two (2) such challenges are made and submitted, the chairman shall within ten (10) days appoint a panel consisting of three (3) qualified panelists and each side shall, within ten (10) days after the appointment, strike one (1) panelist. The party whose appointment was challenged shall strike last, and the remaining member shall serve.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-11
Formation of panel; notice to commissioner and parties
Sec. 11. When a medical review panel is formed, the chairman shall within five (5) days notify the commissioner and the parties by registered or certified mail of the following:
(1) The names and addresses of the panel members.
(2) The date on which the last member was selected.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-12
Excusing members from service
Sec. 12. (a) A member of a medical review panel who is selected

under this chapter shall serve unless:

(1) the parties by agreement excuse the panelist; or

(2) the panelist is excused as provided in this section for good cause shown.

(b) To show good cause for relief from serving, the attorney selected as chairman of a medical review panel must serve an affidavit upon the clerk of the supreme court. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The clerk may excuse the attorney from serving. The attorney shall notify all parties, who shall then select a new chairman as provided in section 4 of this chapter.

(c) To show good cause for relief from serving, a health care provider member of a medical review panel must serve an affidavit upon the panel chairman. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The chairman may excuse the member from serving and notify all parties.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-13

Panel expert opinion; time for issuance

Sec. 13. (a) The panel shall give its expert opinion within one hundred eighty (180) days after the selection of the last member of the initial panel. However, if:

(1) the chairman of the panel is removed under section 15 of this chapter, another member of the panel is removed under section 16 of this chapter, or any member of the panel, including the chairman, is removed by a court order; and

(2) a new member is selected to replace the removed member more than ninety (90) days after the last member of the initial panel is selected;

the panel has ninety (90) days after the selection of the new member to give an expert opinion.

(b) If the panel has not given an opinion within the time allowed under subsection (a), the panel shall submit a report to the commissioner, stating the reasons for the delay.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-14

Sanction for failure to act as required by chapter

Sec. 14. A party, attorney, or panelist who fails to act as required by this chapter without good cause shown is subject to mandate or appropriate sanctions upon application to the court designated in the proposed complaint as having jurisdiction.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-15

Removal of chairman

Sec. 15. (a) The commissioner may remove the chairman of the panel if the commissioner determines that the chairman is not

fulfilling the duties imposed upon the chairman by this chapter.

(b) If the chairman is removed under this section, a new chairman shall be selected under this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-16

Removal of panel member

Sec. 16. (a) The chairman may remove a member of the panel if the chairman determines that the member is not fulfilling the duties imposed upon the panel members by this chapter.

(b) If a member is removed under this section, a new member shall be selected under this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-17

Evidence; oath

Sec. 17. (a) The evidence in written form to be considered by the medical review panel shall be promptly submitted by the respective parties.

(b) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, and any other form of evidence allowable by the medical review panel.

(c) Depositions of parties and witnesses may be taken before the convening of the panel.

(d) The chairman shall ensure that before the panel gives its expert opinion under section 22 of this chapter, each panel member has the opportunity to review every item of evidence submitted by the parties.

(e) Before considering any evidence or deliberating with other panel members, each member of the medical review panel shall take an oath in writing on a form provided by the panel chairman, which must read as follows:

> "I (swear) (affirm) under penalties of perjury that I will well and truly consider the evidence submitted by the parties; that I will render my opinion without bias, based upon the evidence submitted by the parties, and that I have not and will not communicate with any party or representative of a party before rendering my opinion, except as authorized by law.".

As added by P.L.1-1998, SEC.13.

IC 34-18-10-18

Communication with panel by parties or their agents prohibited

Sec. 18. Neither a party, a party's agent, a party's attorney, nor a party's insurance carrier may communicate with any member of the panel, except as authorized by law, before the giving of the panel's expert opinion under section 22 of this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-19

Preparation of opinion by chairman

Sec. 19. The chairman of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in section 22 of this chapter.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-20
Convening and questioning of panel

Sec. 20. (a) Either party, after submission of all evidence and upon ten (10) days notice to the other side, has the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of the panel's report.

(b) The chairman of the panel shall preside at all meetings. Meetings shall be informal.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-21
Duties of panel in conduct of inquiry; access to information

Sec. 21. (a) The panel has the right and duty to request all necessary information.

(b) The panel may consult with medical authorities.

(c) The panel may examine reports of other health care providers necessary to fully inform the panel regarding the issue to be decided.

(d) Both parties shall have full access to any material submitted to the panel.
As added by P.L.1-1998, SEC.13.

IC 34-18-10-22
Expert opinions

Sec. 22. (a) The panel has the sole duty to express the panel's expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint.

(b) After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty (30) days, give one (1) or more of the following expert opinions, which must be in writing and signed by the panelists:

(1) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(3) There is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury.

(4) The conduct complained of was or was not a factor of the resultant damages. If so, whether the plaintiff suffered:

(A) any disability and the extent and duration of the disability; and

(B) any permanent impairment and the percentage of the impairment.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-23

Report of panel as evidence at trial; members as witnesses

Sec. 23. A report of the expert opinion reached by the medical review panel is admissible as evidence in any action subsequently brought by the claimant in a court of law. However, the expert opinion is not conclusive, and either party, at the party's cost, has the right to call any member of the medical review panel as a witness. If called, a witness shall appear and testify.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-24

Immunity from civil liability

Sec. 24. A panelist has absolute immunity from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-10-25

Compensation of members

Sec. 25. (a) Each health care provider member of the medical review panel is entitled to be paid:

(1) up to three hundred fifty dollars ($350) for all work performed as a member of the panel, exclusive of time involved if called as a witness to testify in court; and

(2) reasonable travel expense.

(b) The chairman of the panel is entitled to be paid:

(1) at the rate of two hundred fifty dollars ($250) per diem, not to exceed two thousand dollars ($2,000); and

(2) reasonable travel expenses.

(c) The chairman shall keep an accurate record of the time and expenses of all the members of the panel. The record shall be submitted to the parties for payment with the panel's report.

(d) Fees of the panel, including travel expenses and other expenses of the review, shall be paid by the side in whose favor the majority opinion is written. If there is no majority opinion, each side shall pay fifty percent (50%) of the cost.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.13.

IC 34-18-10-26

Copies of reports

Sec. 26. The chairman shall submit a copy of the panel's report to:

(1) the commissioner; and

(2) all parties and attorneys;

by registered or certified mail within five (5) days after the panel gives its opinion.

As added by P.L.1-1998, SEC.13.

IC 34-18-11

Chapter 11. Preliminary Determination of Affirmative Defense or Issue of Law or Fact; Discovery

IC 34-18-11-1

Discovery; preliminary rulings

Sec. 1. (a) A court having jurisdiction over the subject matter and the parties to a proposed complaint filed with the commissioner under this article may, upon the filing of a copy of the proposed complaint and a written motion under this chapter, do one (1) or both of the following:

(1) preliminarily determine an affirmative defense or issue of law or fact that may be preliminarily determined under the Indiana Rules of Procedure; or

(2) compel discovery in accordance with the Indiana Rules of Procedure.

(b) The court has no jurisdiction to rule preliminarily upon any affirmative defense or issue of law or fact reserved for written opinion by the medical review panel under IC 34-18-10-22(b)(1), IC 34-18-10-22(b)(2), and IC 34-18-10-22(b)(4).

(c) The court has jurisdiction to entertain a motion filed under this chapter only during that time after a proposed complaint is filed with the commissioner under this article but before the medical review panel gives the panel's written opinion under IC 34-18-10-22.

(d) The failure of any party to move for a preliminary determination or to compel discovery under this chapter before the medical review panel gives the panel's written opinion under IC 34-18-10-22 does not constitute the waiver of any affirmative defense or issue of law or fact.

As added by P.L.1-1998, SEC.13.

IC 34-18-11-2

Invoking jurisdiction of the court; issuance of summons

Sec. 2. (a) A party to a proceeding commenced under this article, the commissioner, or the chairman of a medical review panel, if any, may invoke the jurisdiction of the court by paying the statutory filing fee to the clerk and filing a copy of the proposed complaint and motion with the clerk.

(b) The filing of a copy of the proposed complaint and motion with the clerk confers jurisdiction upon the court over the subject matter and the parties to the proceeding for the limited purposes stated in this chapter, including the taxation and assessment of costs or the allowance of expenses, including reasonable attorney's fees, or both.

(c) The moving party or the moving party's attorney shall cause as many summonses as are necessary to be issued by the clerk and served on the commissioner, each nonmoving party to the proceedings, and the chairman of the medical review panel, if any, unless the commissioner or the chairman is the moving party, together with a copy of the proposed complaint and a copy of the

motion under Rules 4 through 4.17 of the Indiana Rules of Trial Procedure.
As added by P.L.1-1998, SEC.13.

IC 34-18-11-3
Time for reply to motion; rulings

Sec. 3. (a) Each nonmoving party to the proceeding, including the commissioner and the chairman of the medical review panel, if any, shall have a period of twenty (20) days after service, or a period of twenty-three (23) days after service if service is by mail, to appear and file and serve a written response to the motion, unless the court, for cause shown, orders the period enlarged.

(b) The court shall enter a ruling on the motion:

(1) within thirty (30) days after the motion is heard; or

(2) if no hearing is requested, granted or ordered, within thirty (30) days after the date on which the last written response to the motion is filed.

(c) The court shall order the clerk to serve a copy of the court's ruling on the motion by ordinary mail on the commissioner, each party to the proceeding, and the chairman of the medical review panel, if any.
As added by P.L.1-1998, SEC.13.

IC 34-18-11-4
Stay of proceedings

Sec. 4. Upon the filing of a copy of the proposed complaint and motion with the clerk of the court, all further proceedings before the medical review panel shall be stayed automatically until the court has entered a ruling on the motion.
As added by P.L.1-1998, SEC.13.

IC 34-18-11-5
Enforcement

Sec. 5. The court may enforce its ruling on any motion filed under this chapter in accordance with the Indiana Rules of Procedure, subject to the right of appeal.
As added by P.L.1-1998, SEC.13.

IC 34-18-12

Chapter 12. Liability Based on Breach of Contract; Informed Consent

IC 34-18-12-1

Health care provider liability; actions based on breach of contract

Sec. 1. Liability may not be imposed on a health care provider on the basis of an alleged breach of contract, express or implied, assuring results to be obtained from any procedure undertaken in the course of health care, unless the contract is in writing and signed by that health care provider or by an authorized agent of the health care provider.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-2

Informed consent; rebuttable presumption

Sec. 2. If a patient's written consent is:

(1) signed by the patient or the patient's authorized representative;

(2) witnessed by an individual at least eighteen (18) years of age; and

(3) explained, orally or in the written consent, to the patient or the patient's authorized representative before a treatment, procedure, examination, or test is undertaken;

a rebuttable presumption is created that the consent is an informed consent.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-3

Informed written consent; explanation of proposed treatment, outcome, and risks

Sec. 3. The explanation given in accordance with section 2(3) of this chapter must include the following information:

(1) The general nature of the patient's condition.

(2) The proposed treatment, procedure, examination, or test.

(3) The expected outcome of the treatment, procedure, examination, or test.

(4) The material risks of the treatment, procedure, examination, or test.

(5) The reasonable alternatives to the treatment, procedure, examination, or test.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-4

Duty to obtain informed consent

Sec. 4. This chapter does not relieve a qualified health care provider of the duty to obtain an informed consent.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-5

Withdrawal of consent

Sec. 5. This chapter does not prevent a patient, after having signed a consent, from withdrawing that consent.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-6

Writing not required

Sec. 6. This chapter does not require that a patient's consent or the information described under section 3 of this chapter be in writing in all cases.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-7

Compliance with chapter

Sec. 7. Compliance with this chapter is not required to create an informed consent.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-8

Patient refusal to receive information

Sec. 8. A patient may refuse to receive some or all of the information described in section 3 of this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-12-9

Consent not required; mental disability or emergency

Sec. 9. Sections 2 and 3 of this chapter do not apply to a person who is mentally incapable of understanding the information required to be provided by section 3 of this chapter. This section does not require consent to health care in an emergency.

As added by P.L.1-1998, SEC.13.

IC 34-18-13

Chapter 13. Malpractice Coverage

IC 34-18-13-1

Liability under chapter dependent upon maintenance of malpractice liability insurance

Sec. 1. Only while malpractice liability insurance remains in force are the health care provider and the health care provider's insurer liable to a patient or the patient's representative for malpractice to the extent and in the manner specified in this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-13-2

Acceptance of article; filing of proof of financial responsibility

Sec. 2. The filing of proof of financial responsibility with the commissioner constitutes, on the part of the insurer, a conclusive and unqualified acceptance of this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-13-3

Policy terms limiting liability void

Sec. 3. A provision in a policy attempting to limit or modify the liability of the insurer contrary to this article is void.

As added by P.L.1-1998, SEC.13.

IC 34-18-13-4

Included policy provisions

Sec. 4. Every policy issued under this article (or IC 27-12 before its repeal) is considered to include the following provisions, and any change made by legislation adopted by the general assembly as fully as if the change were written in the policy:

(1) The insurer assumes all obligations to pay an award imposed against its insured under this article (or IC 27-12 before its repeal).

(2) A termination of this policy by cancellation initiated by the insurance company is not effective for patients claiming against the insured covered by the policy, unless at least thirty (30) days before the taking effect of the cancellation, a written notice giving the date upon which termination becomes effective has been received by the insured and the commissioner at their offices.

(3) A termination of this policy by cancellation initiated by the insured is not effective for patients claiming against the insured covered by the policy, unless at least thirty (30) days before the taking effect of the cancellation, a written notice giving the date upon which termination becomes effective has been received by the commissioner at the commissioner's office.

As added by P.L.1-1998, SEC.13.

IC 34-18-13-5

Insurer's failure to pay judgment; revocation of policy form

Sec. 5. If an insurer fails or refuses to pay a final judgment, except during the pendency of an appeal, or fails, or refuses to comply with this article, in addition to any other legal remedy, the commissioner may also revoke the approval of the insurer's policy form until the insurer pays the award or judgment or has complied with the violated provisions of this article and has resubmitted its policy form and received the approval of the commissioner.

As added by P.L.1-1998, SEC.13.

IC 34-18-14

Chapter 14. Limits on Damages

IC 34-18-14-1

"Cost of the periodic payments agreement" defined

Sec. 1. As used in this chapter, "cost of the periodic payments agreement" means the amount expended by the health care provider (or its insurer), the commissioner, or the commissioner and the health care provider (or its insurer), at the time the periodic payments agreement is made, to obtain the commitment from a third party to make available money for use as future payment, the total of which may exceed the limits provided in section 3 of this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-14-2

"Periodic payments agreement" defined

Sec. 2. As used in this chapter, "periodic payments agreement" means a contract between a health care provider (or its insurer) and the patient (or the patient's estate), under which the health care provider is relieved from possible liability in consideration of:

(1) a present payment of money to the patient (or the patient's estate); and

(2) one (1) or more payments to the patient (or the patient's estate) in the future;

whether or not some or all of the payments are contingent upon the patient's survival to the proposed date of payment.

As added by P.L.1-1998, SEC.13.

IC 34-18-14-3

Recovery limitations

Sec. 3. (a) The total amount recoverable for an injury or death of a patient may not exceed the following:

(1) Five hundred thousand dollars ($500,000) for an act of malpractice that occurs before January 1, 1990.

(2) Seven hundred fifty thousand dollars ($750,000) for an act of malpractice that occurs:

(A) after December 31, 1989; and

(B) before July 1, 1999.

(3) One million two hundred fifty thousand dollars ($1,250,000) for an act of malpractice that occurs after June 30, 1999.

(b) A health care provider qualified under this article (or IC 27-12 before its repeal) is not liable for an amount in excess of two hundred fifty thousand dollars ($250,000) for an occurrence of malpractice.

(c) Any amount due from a judgment or settlement that is in excess of the total liability of all liable health care providers, subject to subsections (a), (b), and (d), shall be paid from the patient's compensation fund under IC 34-18-15.

(d) If a health care provider qualified under this article (or IC 27-12 before its repeal) admits liability or is adjudicated liable solely by reason of the conduct of another health care provider who

is an officer, agent, or employee of the health care provider acting in the course and scope of employment and qualified under this article (or IC 27-12 before its repeal), the total amount that shall be paid to the claimant on behalf of the officer, agent, or employee and the health care provider by the health care provider or its insurer is two hundred fifty thousand dollars ($250,000). The balance of an adjudicated amount to which the claimant is entitled shall be paid by other liable health care providers or the patient's compensation fund, or both.

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.14.

IC 34-18-14-4

Discharge of possible liability; periodic payments agreement

Sec. 4. (a) If the possible liability of the health care provider to the patient is discharged solely through an immediate payment, the limitations on recovery from a health care provider stated in section 3(b) and 3(d) of this chapter apply without adjustment.

(b) If the health care provider agrees to discharge its possible liability to the patient through a periodic payments agreement, the amount of the patient's recovery from a health care provider in a case under this subsection is the amount of any immediate payment made by the health care provider or the health care provider's insurer to the patient, plus the cost of the periodic payments agreement to the health care provider or the health care provider's insurer. For the purpose of determining the limitations on recovery stated in section 3(b) and 3(d) of this chapter and for the purpose of determining the question under IC 34-18-15-3 of whether the health care provider or the health care provider's insurer has agreed to settle its liability by payment of its policy limits, the sum of:

(1) the present payment of money to the patient (or the patient's estate) by the health care provider (or the health care provider's insurer); plus

(2) the cost of the periodic payments agreement expended by the health care provider (or the health care provider's insurer);

must exceed one hundred eighty-seven thousand dollars ($187,000).

(c) More than one (1) health care provider may contribute to the cost of a periodic payments agreement, and in such an instance the sum of the amounts expended by each health care provider for immediate payments and for the cost of the periodic payments agreement shall be used to determine whether the one hundred eighty-seven thousand dollar ($187,000) requirement in subsection (b) has been satisfied. However, one (1) health care provider or its insurer must be liable for at least fifty thousand dollars ($50,000).

As added by P.L.1-1998, SEC.13. Amended by P.L.111-1998, SEC.15.

IC 34-18-14-5

Limitations on recovery from fund; direct payments; periodic payments

Sec. 5. (a) If the possible liability of the fund to the patient is discharged solely through a direct payment made under IC 34-18-15-1, the limitations on recovery from the patient's compensation fund established under section 3 of this chapter apply without adjustment.

(b) If an agreement is made to discharge the fund's possible liability to the patient through a periodic payments agreement, the amount of the patient's recovery from the fund is:

(1) the amount of any immediate payment made directly to the patient from the fund; plus

(2) the cost of the periodic payments agreement paid by the commissioner on behalf of the fund;

for the purposes of the limitations on recovery from the fund established under section 3 of this chapter.

As added by P.L.1-1998, SEC.13.

IC 34-18-15

Chapter 15. Payment From the Patient's Compensation Fund

IC 34-18-15-1

Discharge of obligations

Sec. 1. (a) The obligation to pay an amount from the patient's compensation fund under IC 34-18-14-3(c), IC 34-18-6-6, or section 3 of this chapter (or IC 27-12-14-3(c), IC 27-12-6-6, or IC 27-12-15-3 before their repeal) may be discharged as follows:

(1) Payment in one (1) lump amount.

(2) An agreement requiring periodic payments from the fund over a period of years.

(3) The purchase of an annuity payable to the patient.

(4) Any combination of subdivisions (1), (2), and (3).

(b) The commissioner may contract with approved insurers to insure the ability of the fund to make periodic payments under subsection (a)(2).

As added by P.L.1-1998, SEC.13.

IC 34-18-15-2

Periodic payments; combined payments

Sec. 2. Notwithstanding IC 34-18-6, the commissioner may:

(1) discharge the possible liability of the patient's compensation fund to a patient through a periodic payments agreement (as defined in IC 34-18-14-2); and

(2) combine money from the fund with money of the health care provider (or its insurer) to pay the cost of the periodic payments agreement with the patient (or the patient's estate). However, the amount provided by the commissioner may not exceed eighty percent (80%) of the total amount expended for the agreement.

As added by P.L.1-1998, SEC.13.

IC 34-18-15-3

Demand in excess of policy limits; procedure

Sec. 3. If a health care provider or its insurer has agreed to settle its liability on a claim by payment of its policy limits of two hundred fifty thousand dollars ($250,000), and the claimant is demanding an amount in excess of that amount, the following procedure must be followed:

(1) A petition shall be filed by the claimant in the court named in the proposed complaint, or in the circuit or superior court of Marion County, at the claimant's election, seeking:

(A) approval of an agreed settlement, if any; or

(B) demanding payment of damages from the patient's compensation fund.

(2) A copy of the petition with summons shall be served on the commissioner, the health care provider, and the health care provider's insurer, and must contain sufficient information to inform the other parties about the nature of the claim and the additional amount demanded.

(3) The commissioner and either the health care provider or the insurer of the health care provider may agree to a settlement with the claimant from the patient's compensation fund, or the commissioner, the health care provider, or the insurer of the health care provider may file written objections to the payment of the amount demanded. The agreement or objections to the payment demanded shall be filed within twenty (20) days after service of summons with copy of the petition attached to the summons.

(4) The judge of the court in which the petition is filed shall set the petition for approval or, if objections have been filed, for hearing, as soon as practicable. The court shall give notice of the hearing to the claimant, the health care provider, the insurer of the health care provider, and the commissioner.

(5) At the hearing, the commissioner, the claimant, the health care provider, and the insurer of the health care provider may introduce relevant evidence to enable the court to determine whether or not the petition should be approved if the evidence is submitted on agreement without objections. If the commissioner, the health care provider, the insurer of the health care provider, and the claimant cannot agree on the amount, if any, to be paid out of the patient's compensation fund, the court shall, after hearing any relevant evidence on the issue of claimant's damage submitted by any of the parties described in this section, determine the amount of claimant's damages, if any, in excess of the two hundred fifty thousand dollars ($250,000) already paid by the insurer of the health care provider. The court shall determine the amount for which the fund is liable and make a finding and judgment accordingly. In approving a settlement or determining the amount, if any, to be paid from the patient's compensation fund, the court shall consider the liability of the health care provider as admitted and established.

(6) A settlement approved by the court may not be appealed. A judgment of the court fixing damages recoverable in a contested proceeding is appealable pursuant to the rules governing appeals in any other civil case tried by the court.

(7) A release executed between the parties does not bar access to the patient's compensation fund unless the release specifically provides otherwise.

As added by P.L.1-1998, SEC.13. Amended by P.L.233-1999, SEC.15.

IC 34-18-15-4

Failure to pay settlement or judgment

Sec. 4. If a health care provider or the health care provider's surety or liability insurance carrier fails to pay any agreed settlement or final judgment within ninety (90) days, the agreed settlement or final judgment shall be paid from the patient's compensation fund, and the fund shall be subrogated to any and all of claimant's rights against the health care provider, the health care provider's surety or liability

insurance carrier, or both, with interest, reasonable costs, and attorney's fees.

As added by P.L.1-1998, SEC.13.

IC 34-18-16

Chapter 16. Evidence of Advanced Payment; Assignability of Claim

IC 34-18-16-1

Advanced payment not admission of liability

Sec. 1. Except as provided in IC 34-18-15-3, any advance payment made by the defendant health care provider or the health care provider's insurer to or for the plaintiff or any other person may not be construed as an admission of liability for injuries or damages suffered by the plaintiff or anyone else in an action brought for medical malpractice.

As added by P.L.1-1998, SEC.13.

IC 34-18-16-2

Admissibility; payment exceeds liability of defendant; adjustment of judgments

Sec. 2. (a) Evidence of an advance payment is not admissible until there is a final judgment in favor of the plaintiff. In this case the court shall reduce the judgment to the plaintiff to the extent of the advance payment. The advance payment inures to the exclusive benefit of the defendant or the defendant's insurer making the payment.

(b) If the advance payment exceeds the liability of the defendant or the insurer making the advance payment, the court shall order any adjustment necessary to equalize the amount that each defendant is obligated to pay, exclusive of costs. An advance payment in excess of an award is not repayable by the person receiving the advance payment.

As added by P.L.1-1998, SEC.13.

IC 34-18-16-3

Claim not assignable

Sec. 3. A patient's claim for compensation under this article is not assignable.

As added by P.L.1-1998, SEC.13.

IC 34-18-17

Chapter 17. Residual Malpractice Insurance Authority

IC 34-18-17-1

Purpose of chapter

Sec. 1. The purpose of this chapter is to make malpractice liability insurance available to risks (as defined in this article).

As added by P.L.1-1998, SEC.13.

IC 34-18-17-2

Residual malpractice authority created

Sec. 2. (a) The residual malpractice insurance authority is created.

(b) The department of insurance is designated as the residual malpractice insurance authority for the purposes of this article.

(c) The authority may engage in making malpractice liability insurance, as described in IC 27-1-5-1, Class 2(h), in Indiana.

As added by P.L.1-1998, SEC.13.

IC 34-18-17-3

Appointment of risk manager; liability limit

Sec. 3. The commissioner shall appoint a risk manager for the authority. The separate, personal, or independent assets of the risk manager are not liable for or subject to use or expenditure for the purpose of providing insurance by the authority.

As added by P.L.1-1998, SEC.13.

IC 34-18-17-4

Powers and duties of risk manager

Sec. 4. In the administration and provision for malpractice liability insurance by the authority, the risk manager shall do the following:

(1) Obey all Indiana statutes and rules that apply to insurance described in IC 27-1-5-1, Class 2(h).

(2) Prepare and file appropriate forms with the department of insurance.

(3) Prepare and file premium rates with the department of insurance.

(4) Perform the underwriting function.

(5) Dispose of all claims and litigations arising out of insurance policies.

(6) Maintain adequate books and records.

(7) File an annual financial statement regarding its operations under this chapter with the department of insurance on forms prescribed by the commissioner.

(8) Obtain private reinsurance for the authority, if necessary.

(9) Prepare and file for approval of the commissioner a schedule of agent's compensation.

(10) Prepare and file a plan of operations with the commissioner for approval.

As added by P.L.1-1998, SEC.13.

IC 34-18-17-5
Compensation of risk manager

Sec. 5. The risk manager shall receive, as compensation for services, a percentage of all premiums received by the risk manager under this chapter, as determined by the commissioner. The rate of compensation may be adjusted by the commissioner.
As added by P.L.1-1998, SEC.13.

IC 34-18-17-6
Applications for insurance

Sec. 6. If a risk, after diligent effort, has been declined by at least two (2) insurers, the risk may forward an application to the risk manager, together with evidence of the two (2) declinations.
As added by P.L.1-1998, SEC.13.

IC 34-18-17-7
Rejection of risk by manager; appeal

Sec. 7. If the risk manager declines to accept the risk, notice of declination, together with the reasons, shall be sent to the applicant and the commissioner. The applicant has ten (10) days after the date of notice to file an appeal for review by the commissioner. On appeal, the commissioner shall review the decision of the risk manager and enter an appropriate order.
As added by P.L.1-1998, SEC.13.

IC 34-18-17-8
Investment of surplus premiums over losses; segregation of funds

Sec. 8. All money appropriated by the state and any surplus of premiums over losses and expenses received by the authority shall be placed in a segregated fund and shall be invested and reinvested by the commissioner within the limitations set forth in IC 27-1-13. Investment income generated shall remain in the segregated fund.
As added by P.L.1-1998, SEC.13.

IC 34-18-18

Chapter 18. Attorney's Fees

IC 34-18-18-1

Limitation on fees

Sec. 1. When a plaintiff is represented by an attorney in the prosecution of the plaintiff's claim, the plaintiff's attorney's fees from any award made from the patient's compensation fund may not exceed fifteen percent (15%) of any recovery from the fund.

As added by P.L.1-1998, SEC.13.

IC 34-18-18-2

Per diem payment by written agreement

Sec. 2. A patient has the right to elect to pay for the attorney's services on a mutually satisfactory per diem basis. The election, however, must be exercised in written form at the time of employment.

As added by P.L.1-1998, SEC.13.

IC 34-19

ARTICLE 19. REPEALED

(Repealed by P.L.2-2002, SEC.128.)

IC 34-20

ARTICLE 20. CAUSES OF ACTION: PRODUCT LIABILITY

IC 34-20-1

Chapter 1. General Provisions

IC 34-20-1-1

Application of article

Sec. 1. This article governs all actions that are:

(1) brought by a user or consumer;

(2) against a manufacturer or seller; and

(3) for physical harm caused by a product;

regardless of the substantive legal theory or theories upon which the action is brought.

As added by P.L.1-1998, SEC.15.

IC 34-20-1-2

Remedies cumulative

Sec. 2. This article shall not be construed to limit any other action from being brought against a seller of a product.

As added by P.L.1-1998, SEC.15.

IC 34-20-1-3

Severability

Sec. 3. If a provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications, and to this end the provisions of this article are severable.

As added by P.L.1-1998, SEC.15.

IC 34-20-1-4

Effective date

Sec. 4. This article does not apply to a cause of action that accrues before June 1, 1978.

As added by P.L.1-1998, SEC.15.

IC 34-20-2

Chapter 2. Product Liability Actions

IC 34-20-2-1

Grounds for action

Sec. 1. Except as provided in section 3 of this chapter, a person who sells, leases, or otherwise puts into the stream of commerce any product in a defective condition unreasonably dangerous to any user or consumer or to the user's or consumer's property is subject to liability for physical harm caused by that product to the user or consumer or to the user's or consumer's property if:

(1) that user or consumer is in the class of persons that the seller should reasonably foresee as being subject to the harm caused by the defective condition;

(2) the seller is engaged in the business of selling the product; and

(3) the product is expected to and does reach the user or consumer without substantial alteration in the condition in which the product is sold by the person sought to be held liable under this article.

As added by P.L.1-1998, SEC.15.

IC 34-20-2-2

Exercise of reasonable care; privity

Sec. 2. The rule stated in section 1 of this chapter applies although:

(1) the seller has exercised all reasonable care in the manufacture and preparation of the product; and

(2) the user or consumer has not bought the product from or entered into any contractual relation with the seller.

However, in an action based on an alleged design defect in the product or based on an alleged failure to provide adequate warnings or instructions regarding the use of the product, the party making the claim must establish that the manufacturer or seller failed to exercise reasonable care under the circumstances in designing the product or in providing the warnings or instructions.

As added by P.L.1-1998, SEC.15.

IC 34-20-2-3

Strict liability of manufacturer

Sec. 3. A product liability action based on the doctrine of strict liability in tort may not be commenced or maintained against a seller of a product that is alleged to contain or possess a defective condition unreasonably dangerous to the user or consumer unless the seller is a manufacturer of the product or of the part of the product alleged to be defective.

As added by P.L.1-1998, SEC.15.

IC 34-20-2-4

Principal distributor or seller considered manufacturer

Sec. 4. If a court is unable to hold jurisdiction over a particular manufacturer of a product or part of a product alleged to be defective, then that manufacturer's principal distributor or seller over whom a court may hold jurisdiction shall be considered, for the purposes of this chapter, the manufacturer of the product.
As added by P.L.1-1998, SEC.15.

IC 34-20-3

Chapter 3. Statute of Limitations

IC 34-20-3-1

Negligence and strict liability in tort actions

Sec. 1. (a) This section applies to all persons regardless of minority or legal disability. Notwithstanding IC 34-11-6-1, this section applies in any product liability action in which the theory of liability is negligence or strict liability in tort.

(b) Except as provided in section 2 of this chapter, a product liability action must be commenced:

(1) within two (2) years after the cause of action accrues; or

(2) within ten (10) years after the delivery of the product to the initial user or consumer.

However, if the cause of action accrues at least eight (8) years but less than ten (10) years after that initial delivery, the action may be commenced at any time within two (2) years after the cause of action accrues.

As added by P.L.1-1998, SEC.15.

IC 34-20-3-2

Asbestos related actions

Sec. 2. (a) A product liability action that is based on:

(1) property damage resulting from asbestos; or

(2) personal injury, disability, disease, or death resulting from exposure to asbestos;

must be commenced within two (2) years after the cause of action accrues. The subsequent development of an additional asbestos related disease or injury is a new injury and is a separate cause of action.

(b) A product liability action for personal injury, disability, disease, or death resulting from exposure to asbestos accrues on the date when the injured person knows that the person has an asbestos related disease or injury.

(c) A product liability action for property damage accrues on the date when the injured person knows that the property damage has resulted from asbestos.

(d) This section applies only to product liability actions against:

(1) persons who mined and sold commercial asbestos; and

(2) funds that have, as a result of bankruptcy proceedings or to avoid bankruptcy proceedings, been created for the payment of asbestos related disease claims or asbestos related property damage claims.

(e) For the purposes of IC 1-1-1-8, if any part of this section is held invalid, the entire section is void.

(f) Except for the cause of action expressly recognized in this section, this section does not otherwise modify the limitation of action or repose period contained in section 1 of this chapter.

As added by P.L.1-1998, SEC.15.

IC 34-20-4

Chapter 4. Defective Products

IC 34-20-4-1

Products considered defective

Sec. 1. A product is in a defective condition under this article if, at the time it is conveyed by the seller to another party, it is in a condition:

(1) not contemplated by reasonable persons among those considered expected users or consumers of the product; and

(2) that will be unreasonably dangerous to the expected user or consumer when used in reasonably expectable ways of handling or consumption.

As added by P.L.1-1998, SEC.15.

IC 34-20-4-2

Failure to provide adequate warnings or instructions

Sec. 2. A product is defective under this article if the seller fails to:

(1) properly package or label the product to give reasonable warnings of danger about the product; or

(2) give reasonably complete instructions on proper use of the product;

when the seller, by exercising reasonable diligence, could have made such warnings or instructions available to the user or consumer.

As added by P.L.1-1998, SEC.15.

IC 34-20-4-3

Products made safe for reasonably expectable handling and consumption not considered defective

Sec. 3. A product is not defective under this article if it is safe for reasonably expectable handling and consumption. If an injury results from handling, preparation for use, or consumption that is not reasonably expectable, the seller is not liable under this article.

As added by P.L.1-1998, SEC.15.

IC 34-20-4-4

Products incapable of being made safe not considered defective

Sec. 4. A product is not defective under this article if the product is incapable of being made safe for its reasonably expectable use, when manufactured, sold, handled, and packaged properly.

As added by P.L.1-1998, SEC.15.

IC 34-20-5

Chapter 5. Rebuttable Presumption That Product Is Not Defective

IC 34-20-5-0.2

Application of prior law

Sec. 0.2. The addition of IC 33-1-1.5-4.5 (before its repeal, now codified at section 1 of this chapter) by P.L.278-1995 applies to a cause of action that accrues after June 30, 1995.

As added by P.L.220-2011, SEC.553.

IC 34-20-5-1

Rebuttable presumption

Sec. 1. In a product liability action, there is a rebuttable presumption that the product that caused the physical harm was not defective and that the manufacturer or seller of the product was not negligent if, before the sale by the manufacturer, the product:

(1) was in conformity with the generally recognized state of the art applicable to the safety of the product at the time the product was designed, manufactured, packaged, and labeled; or

(2) complied with applicable codes, standards, regulations, or specifications established, adopted, promulgated, or approved by the United States or by Indiana, or by an agency of the United States or Indiana.

As added by P.L.1-1998, SEC.15.

IC 34-20-6
Chapter 6. Defenses

IC 34-20-6-1
Applicability of defenses
Sec. 1. The defenses in this chapter are defenses to an action brought under this article (or IC 33-1-1.5 before its repeal).
As added by P.L.1-1998, SEC.15.

IC 34-20-6-2
Burden of proof
Sec. 2. The burden of proof of any defense raised in an action under this article (or IC 33-1-1.5 before its repeal) is on the party raising the defense.
As added by P.L.1-1998, SEC.15.

IC 34-20-6-3
Use of product with knowledge of defect or danger
Sec. 3. It is a defense to an action under this article (or IC 33-1-1.5 before its repeal) that the user or consumer bringing the action:
(1) knew of the defect;
(2) was aware of the danger in the product; and
(3) nevertheless proceeded to make use of the product and was injured.
As added by P.L.1-1998, SEC.15.

IC 34-20-6-4
Misuse of product
Sec. 4. It is a defense to an action under this article (or IC 33-1-1.5 before its repeal) that a cause of the physical harm is a misuse of the product by the claimant or any other person not reasonably expected by the seller at the time the seller sold or otherwise conveyed the product to another party.
As added by P.L.1-1998, SEC.15.

IC 34-20-6-5
Modification or alteration of product
Sec. 5. It is a defense to an action under this article (or IC 33-1-1.5 before its repeal) that a cause of the physical harm is a modification or alteration of the product made by any person after the product's delivery to the initial user or consumer if the modification or alteration is the proximate cause of physical harm where the modification or alteration is not reasonably expectable to the seller.
As added by P.L.1-1998, SEC.15.

IC 34-20-7
Chapter 7. Assessing Liability With Multiple Defendants

IC 34-20-7-0.2
Application of prior law

Sec. 0.2. The addition of IC 33-1-1.5-9 (before its repeal, now codified at section 1 of this chapter) by P.L.278-1995 applies to a cause of action that accrues after June 30, 1995.
As added by P.L.220-2011, SEC.554.

IC 34-20-7-1
Assessment of liability

Sec. 1. In a product liability action where liability is assessed against more than one (1) defendant, a defendant is not liable for more than the amount of fault, as determined under IC 34-20-8, directly attributable to that defendant. A defendant in a product liability action may not be held jointly liable for damages attributable to the fault of another defendant.
As added by P.L.1-1998, SEC.15.

IC 34-20-8

Chapter 8. Assessing Percentage of Fault

IC 34-20-8-0.2

Application of prior law

Sec. 0.2. The addition of IC 33-1-1.5-10 (before its repeal, now codified at section 1 of this chapter) by P.L.278-1995 applies to a cause of action that accrues after June 30, 1995.

As added by P.L.220-2011, SEC.555.

IC 34-20-8-1

Assessment of percentage of fault

Sec. 1. (a) In a product liability action, the fault of the person suffering the physical harm, as well as the fault of all others who caused or contributed to cause the harm, shall be compared by the trier of fact in accordance with IC 34-51-2-7, IC 34-51-2-8, or IC 34-51-2-9.

(b) In assessing percentage of fault, the jury shall consider the fault of all persons who contributed to the physical harm, regardless of whether the person was or could have been named as a party, as long as the nonparty was alleged to have caused or contributed to cause the physical harm.

As added by P.L.1-1998, SEC.15. Amended by P.L.1-1999, SEC.71.

IC 34-20-9

Chapter 9. Indemnity

IC 34-20-9-1

Indemnification from person actually at fault for defect

Sec. 1. This article does not affect the right of any person who is found liable to seek and obtain indemnity from any other person whose actual fault caused a product to be defective.

As added by P.L.1-1998, SEC.15.

IC 34-21

ARTICLE 21. REPEALED

(Repealed by P.L.2-2002, SEC.128.)

IC 34-22

ARTICLE 22. CAUSES OF ACTION: SURETY'S REMEDIES AGAINST PRINCIPAL

IC 34-22-1

Chapter 1. Remedies of Sureties Against Their Principals

IC 34-22-1-1

Applicability of chapter; surety may require creditor or obligee to commence action on contract

Sec. 1. (a) This chapter applies to a person who is bound as surety upon a contract in writing for the:

(1) payment of money; or

(2) performance of any act.

(b) When the right of action has accrued, the surety may require, by notice in writing, the creditor or obligee to immediately institute an action upon the contract.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-2

Discharge of surety

Sec. 2. If the creditor or obligee does not:

(1) proceed within a reasonable time to bring an action upon the contract; and

(2) prosecute the action to judgment and execution;

the surety is discharged from all liability on the contract.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-3

Trial on issue of suretyship; two or more defendants

Sec. 3. (a) This section applies when:

(1) an action is brought against two (2) or more defendants upon a contract; and

(2) at least one (1) or more of the defendants is a surety for the others.

(b) The surety may, upon a written complaint to the court, cause the question of suretyship to be tried and determined, upon the issue made by the parties at:

(1) the trial of the cause; or

(2) any time before or after the trial.

(c) Proceedings described in subsection (b) do not affect the proceedings of the plaintiff.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-4

Order of levy upon property of principal and surety

Sec. 4. (a) If the finding upon the issue described in section 3(b) of this chapter is in favor of the surety, the court shall make an order directing the sheriff to:

(1) levy the execution, first upon the property of the principal;

and

(2) exhaust the property of the principal;

before making a levy upon the property of the surety.

(b) The clerk shall endorse a memorandum of the order on the execution.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-5

Judgment remaining in force for use of surety or other person making payment

Sec. 5. (a) This section applies to a:

(1) defendant-surety in a:

(A) judgment;

(B) special bail; or

(C) replevin bail;

(2) surety in a delivery bond or replevin bond; or

(3) person who is a surety in any undertaking.

(b) This section does not apply to a sheriff, officer, or surety providing bond in an official capacity who:

(1) fails to pay over money collected; or

(2) wastes property upon which the sheriff, officer, or surety has levied.

(c) When a person described in subsection (a):

(1) is compelled to pay a judgment, or part of a judgment;

(2) makes any payment which is applied to a judgment by reason of the person's suretyship; or

(3) is compelled, by reason of a default of a sheriff, officer or surety providing bond in an official capacity, to pay a judgment, or part of a judgment;

the judgment is not discharged by the payment.

(d) However, the judgment remains in force for the use of the bail, surety, officer, or other person making the payment, and after the plaintiff is paid, so much of the judgment as remains unsatisfied may be prosecuted to execution for use by the person making the payment.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-6

Remedies against codefendants and cosureties

Sec. 6. A person who:

(1) is one (1) of several:

(A) judgment defendants; or

(B) replevin sureties; and

(2) paid and satisfied the plaintiff;

has the remedy provided in section 5 of this chapter against the codefendants or cosureties to collect from them the ratable proportion each is equitably bound to pay.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-7

When confessed judgment or default judgment by surety not

permitted

Sec. 7. No surety or representative of a surety shall confess judgment or suffer judgment, by default, in any case, when the surety or representative is notified that there is a valid defense, if the principal will:

(1) enter as a defendant to the action; and

(2) tender to the surety or the representative good security to indemnify him, to be approved by the court.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-8

No relief from valuation or appraisement laws

Sec. 8. Whenever a surety seeks a remedy against the principal for discharging a debt, or claim upon contract, in whole or in part, without any relief from valuation or appraisement laws, the remedy of the surety is also enforced without any relief from valuation or appraisement laws.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-9

Applicability of provisions to heirs, executors, administrators, and persons under legal disabilities

Sec. 9. Sections 1 through 8 of this chapter extend to:

(1) heirs;

(2) executors; and

(3) administrators;

of deceased persons. However, the provisions concerning sureties giving notice to the creditor do not operate against persons under legal disabilities.

As added by P.L.1-1998, SEC.17.

IC 34-22-1-10

Surety's recovery of interest on debt paid

Sec. 10. When a surety on a bill, note, bond, or other instrument in writing, is compelled to pay the debt or obligation of the principal debtor, the surety shall recover the rate of interest on the amount paid by the surety for the principal, as was originally provided for in the bill, note, bond, or other instrument in writing, held against the principal debtor. The judgment given to the surety bears the same rate of interest, not exceeding ten percent (10%) per year.

As added by P.L.1-1998, SEC.17.

IC 34-23

ARTICLE 23. CAUSES OF ACTION: WRONGFUL DEATH

IC 34-23-1

Chapter 1. Wrongful Death Generally

IC 34-23-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 2 of this chapter by P.L.84-1999 applies only to a cause of action that accrues after December 31, 1999.

As added by P.L.220-2011, SEC.556.

IC 34-23-1-1

Death from wrongful act or omission

Sec. 1. When the death of one is caused by the wrongful act or omission of another, the personal representative of the former may maintain an action therefor against the latter, if the former might have maintained an action had he or she, as the case may be, lived, against the latter for an injury for the same act or omission. When the death of one is caused by the wrongful act or omission of another, the action shall be commenced by the personal representative of the decedent within two (2) years, and the damages shall be in such an amount as may be determined by the court or jury, including, but not limited to, reasonable medical, hospital, funeral and burial expenses, and lost earnings of such deceased person resulting from said wrongful act or omission. That part of the damages which is recovered for reasonable medical, hospital, funeral and burial expense shall inure to the exclusive benefit of the decedent's estate for the payment thereof. The remainder of the damages, if any, shall, subject to the provisions of this article, inure to the exclusive benefit of the widow or widower, as the case may be, and to the dependent children, if any, or dependent next of kin, to be distributed in the same manner as the personal property of the deceased. If such decedent depart this life leaving no such widow or widower, or dependent children or dependent next of kin, surviving her or him, the damages inure to the exclusive benefit of the person or persons furnishing necessary and reasonable hospitalization or hospital services in connection with the last illness or injury of the decedent, performing necessary and reasonable medical or surgical services in connection with the last illness or injury of the decedent, to a funeral director or funeral home for the necessary and reasonable funeral and burial expenses, and to the personal representative, as such, for the necessary and reasonable costs and expenses of administering the estate and prosecuting or compromising the action, including a reasonable attorney's fee, and in case of a death under such circumstances, and when such decedent leaves no such widow, widower, or dependent children, or dependent next of kin, surviving him or her, the measure of damages to be recovered shall be the total

of the necessary and reasonable value of such hospitalization or hospital service, medical and surgical services, such funeral expenses, and such costs and expenses of administration, including attorney fees.
As added by P.L.1-1998, SEC.18.

IC 34-23-1-2
Wrongful death actions; damages

Sec. 2. (a) As used in this section, "adult person" means an unmarried individual:

(1) who does not have any dependents; and
(2) who is not a child (as defined in IC 34-23-2-1).

(b) If the death of an adult person is caused by the wrongful act or omission of another person, only the personal representative of the adult person may maintain an action against the person whose wrongful act or omission caused the death of the adult person.

(c) In an action to recover damages for the death of an adult person, the damages:

(1) must be in an amount determined by a:
(A) court; or
(B) jury;
(2) may not include:
(A) damages awarded for a person's grief; or
(B) punitive damages; and
(3) may include but are not limited to the following:
(A) Reasonable medical, hospital, funeral, and burial expenses necessitated by the wrongful act or omission that caused the adult person's death.
(B) Loss of the adult person's love and companionship.

(d) Damages awarded under subsection (c)(3)(A) for medical, hospital, funeral, and burial expenses inure to the exclusive benefit of the adult person's estate for the payment of the expenses. The remainder of the damages inure to the exclusive benefit of a nondependent parent or nondependent child of the adult person.

(e) Aggregate damages that may be recovered under subsection (c)(3)(B) may not exceed three hundred thousand dollars ($300,000). A jury may not be advised of the monetary limits placed on damages under this subsection. If the jury awards the plaintiff damages under subsection (c)(3)(B) in an amount that exceeds three hundred thousand dollars ($300,000), the court shall reduce that part of the damages awarded to the plaintiff to three hundred thousand dollars ($300,000).

(f) A parent or child who wishes to recover damages under this section has the burden of proving that the parent or child had a genuine, substantial, and ongoing relationship with the adult person before the parent or child may recover damages.

(g) In an action brought under this section, a court or a jury may not hear evidence concerning the lost earnings of the adult person that occur as a result of the wrongful act or omission.

(h) In awarding damages under this section to more than one (1)

person, the court or the jury shall specify the amount of the damages that should be awarded to each person.

(i) In an action brought under this section, the trier of fact shall make a separate finding with respect to damages awarded under subsection (c)(3)(B).

As added by P.L.84-1999, SEC.2.

IC 34-23-2

Chapter 2. Wrongful Death or Injury of a Child

IC 34-23-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.129-2009 apply only to a cause of action that accrues after June 30, 2009.

As added by P.L.220-2011, SEC.557.

IC 34-23-2-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-1-1-8 (before its repeal, now codified at section 1 of this chapter) by P.L.306-1987 do not apply to causes of action that accrue before May 8, 1987.

As added by P.L.220-2011, SEC.558.

IC 34-23-2-1

Injury or death of child; action by parent or guardian

Sec. 1. (a) This section does not apply to an abortion performed in compliance with:

(1) IC 16-34; or

(2) IC 35-1-58.5 (before its repeal).

(b) As used in this section, "child" means an unmarried individual without dependents who is:

(1) less than twenty (20) years of age; or

(2) less than twenty-three (23) years of age and is enrolled in a postsecondary educational institution or a career and technical education school or program that is not a postsecondary educational program.

The term includes a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) An action may be maintained under this section against the person whose wrongful act or omission caused the injury or death of a child. The action may be maintained by:

(1) the father and mother jointly, or either of them by naming the other parent as a codefendant to answer as to his or her interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

(d) In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

(e) In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

(f) In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

(g) Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; or

(B) twenty-three (23) years of age, if the child was enrolled in a postsecondary educational institution or in a career and technical education school or program that is not a postsecondary educational program; or

(2) the date of the child's last surviving parent's death;

whichever first occurs.

(h) Damages may be awarded under subsection (f)(2) only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

(i) Damages awarded under subsection (f)(1), (f)(2), (f)(3)(C), and (f)(3)(D) inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

(2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or

(3) a custodial grandparent of the child if the child was not survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child while the child was alive is not entitled to any recovery under this chapter.

(j) This section does not affect or supersede any other right, remedy, or defense provided by any other law.

As added by P.L.1-1998, SEC.18. Amended by P.L.2-2007, SEC.373; P.L.234-2007, SEC.169; P.L.3-2008, SEC.242; P.L.129-2009, SEC.8.

IC 34-24

ARTICLE 24. CIVIL PROCEEDINGS RELATED TO CRIMINAL ACTIVITIES

IC 34-24-1

Chapter 1. Forfeiture of Property Used in Violation of Certain Criminal Statutes

IC 34-24-1-0.1

Repealed

(Repealed by P.L.63-2012, SEC.40.)

IC 34-24-1-1

Seizure of vehicles and property commonly used as consideration for controlled substances offenses; seizure of tobacco products and personal property owned and used to facilitate violation

Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(xi) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

(D) A bomb (as defined in IC 35-31.5-2-31) or weapon of mass destruction (as defined in IC 35-31.5-2-354) used to commit, used in an attempt to commit, or used in a

conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-31.5-2-329).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(F) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in

IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a vehicle used by a person who operates the vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driving privileges are suspended in violation of IC 9-24-19-2 through IC 9-24-19-3, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a vehicle to be registered in the name of the person whose vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(17) An automated sales suppression device (as defined in IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in IC 35-43-5-4.6(a)(3)).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(2) IC 35-48-4-1.1 (dealing in methamphetamine).

(3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.

(6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.

(7) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.

(8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.

(9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

(e) A vehicle operated by a person who is not:

(1) an owner of the vehicle; or

(2) the spouse of the person who owns the vehicle;

is not subject to seizure under subsection (a)(15) unless it can be

proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).
As added by P.L.1-1998, SEC.19. Amended by P.L.17-2001, SEC.9; P.L.3-2002, SEC.1; P.L.123-2002, SEC.30; P.L.117-2003, SEC.2; P.L.253-2003, SEC.2; P.L.45-2005, SEC.1; P.L.160-2005, SEC.17; P.L.181-2005, SEC.4; P.L.212-2005, SEC.75; P.L.1-2006, SEC.518; P.L.94-2006, SEC.11; P.L.151-2006, SEC.13; P.L.137-2007, SEC.34; P.L.114-2008, SEC.27; P.L.119-2008, SEC.13; P.L.1-2009, SEC.162; P.L.143-2009, SEC.44; P.L.138-2011, SEC.8; P.L.182-2011, SEC.8; P.L.114-2012, SEC.64; P.L.125-2012, SEC.411; P.L.196-2013, SEC.15; P.L.293-2013(ts), SEC.42; P.L.158-2013, SEC.349; P.L.217-2014, SEC.187.

IC 34-24-1-2
Seizure procedure; custody

Sec. 2. (a) Property may be seized under this chapter by a law enforcement officer only if:

(1) the seizure is incident to a lawful:
(A) arrest;
(B) search; or
(C) administrative inspection;

(2) the property has been the subject of a prior judgment in favor of the state or unit in a proceeding under this chapter (or IC 34-4-30.1 before its repeal); or

(3) a court, after making an ex parte determination that there is probable cause to believe the property is subject to seizure under this chapter, issues an order for seizure.

(b) When property is seized under subsection (a), the law enforcement agency making the seizure may, pending final disposition:

(1) place the property under seal;

(2) remove the property to a place designated by the court; or

(3) require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(c) Property that is seized under subsection (a) (or IC 34-4-30.1-2(a) before its repeal) is not subject to replevin but is considered to be in the custody of the law enforcement agency making the seizure.
As added by P.L.1-1998, SEC.19.

IC 34-24-1-3
Action for reimbursement of law enforcement costs and forfeiture; procedure

Sec. 3. (a) The prosecuting attorney for the county in which the seizure occurs may, within ninety (90) days after receiving written notice from the owner demanding return of the seized property or within one hundred eighty (180) days after the property is seized, whichever occurs first, cause an action for reimbursement of law enforcement costs and forfeiture to be brought by filing a complaint

in the circuit or superior court in the jurisdiction where the seizure occurred. The action must be brought:

(1) in the name of the state or the state and the unit that employed the law enforcement officers who made the seizure if the state was not the employer; and

(2) within the period that a prosecution may be commenced under IC 35-41-4-2 for the offense that is the basis for the seizure.

(b) If the property seized was a vehicle or real property, the prosecuting attorney shall serve, under the Indiana Rules of Trial Procedure, a copy of the complaint upon each person whose right, title, or interest is of record in the bureau of motor vehicles, in the county recorder's office, or other office authorized to receive or record vehicle or real property ownership interests.

(c) The owner of the seized property, or any person whose right, title, or interest is of record may, within twenty (20) days after service of the complaint under the Indiana Rules of Trial Procedure, file an answer to the complaint and may appear at the hearing on the action.

(d) If, at the end of the time allotted for an answer, there is no answer on file, the court, upon motion, shall enter judgment in favor of the state and the unit (if appropriate) for reimbursement of law enforcement costs and shall order the property disposed of in accordance with section 4 of this chapter.

As added by P.L.1-1998, SEC.19. Amended by P.L.201-2011, SEC.108.

IC 34-24-1-4

Hearing; burden of proof; disposition of seized property

Sec. 4. (a) At the hearing, the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under section 1 of this chapter. If the property seized was a vehicle, the prosecuting attorney must also show by a preponderance of the evidence that a person who has an ownership interest of record in the bureau of motor vehicles knew or had reason to know that the vehicle was being used in the commission of the offense.

(b) If the prosecuting attorney fails to meet the burden of proof, the court shall order the property released to the owner.

(c) If the court enters judgment in favor of the state, or the state and a unit (if appropriate), the court, subject to section 5 of this chapter, shall order delivery to the law enforcement agency that seized the property. The court's order may permit the agency to use the property for a period not to exceed three (3) years. However, the order must require that, after the period specified by the court, the law enforcement agency shall deliver the property to the county sheriff for public sale.

(d) If the court enters judgment in favor of the state, or the state and a unit (if appropriate), the court shall, subject to section 5 of this chapter:

(1) determine the amount of law enforcement costs; and
(2) order that:
(A) the property, if it is not money or real property, be sold under section 6 of this chapter, by the sheriff of the county in which the property was seized, and if the property is a vehicle, this sale must occur after any period of use specified in subsection (c);
(B) the property, if it is real property, be sold in the same manner as real property is sold on execution under IC 34-55-6;
(C) the proceeds of the sale or the money be:
(i) deposited in the general fund of the state, or the unit that employed the law enforcement officers that seized the property; or
(ii) deposited in the general fund of a unit if the property was seized by a local law enforcement agency of the unit for an offense, an attempted offense, or a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism; and
(D) any excess in value of the proceeds or the money over the law enforcement costs be forfeited and transferred to the treasurer of state for deposit in the common school fund.

(e) If property that is seized under this chapter (or IC 34-4-30.1-4 before its repeal) is transferred:
(1) after its seizure, but before an action is filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal); or
(2) when an action filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal) is pending;
the person to whom the property is transferred must establish an ownership interest of record as a bona fide purchaser for value. A person is a bona fide purchaser for value under this section if the person, at the time of the transfer, did not have reasonable cause to believe that the property was subject to forfeiture under this chapter.

(f) If the property seized was an unlawful telecommunications device (as defined in IC 35-45-13-6) or plans, instructions, or publications used to commit an offense under IC 35-45-13, the court may order the sheriff of the county in which the person was convicted of an offense under IC 35-45-13 to destroy as contraband or to otherwise lawfully dispose of the property.

As added by P.L.1-1998, SEC.19. Amended by P.L.123-2002, SEC.31.

IC 34-24-1-5
Determination of secured interest and appraised value; disposition of property; payment

Sec. 5. (a) If:
(1) the court has entered judgment in favor of the state, and a unit (if appropriate) concerning property that is subject to seizure under this chapter; and
(2) a person:

(A) holding a valid lien, mortgage, security interest, or interest under a conditional sales contract; or

(B) who is a co-owner of the property;

did not know of the illegal use;

the court shall determine whether the secured interest or the co-owner's interest is equal to or in excess of the appraised value of the property.

(b) Appraised value is to be determined as of the date of judgment on a wholesale basis by:

(1) agreement between the secured party or the co-owner and the prosecuting attorney; or

(2) the inheritance tax appraiser for the county in which the action is brought.

(c) If the amount:

(1) due to the secured party; or

(2) of the co-owner's interest;

is equal to or greater than the appraised value of the property, the court shall order the property released to the secured party or the co-owner.

(d) If the amount:

(1) due the secured party; or

(2) of the co-owner's interest;

is less than the appraised value of the property, the holder of the interest or the co-owner may pay into the court an amount equal to the owner's equity, which shall be the difference between the appraised value and the amount of the lien, mortgage, security interest, interest under a conditional sales contract, or co-owner's interest. Upon such payment, the state or unit, or both, shall relinquish all claims to the property, and the court shall order the payment deposited as provided in section 4(d) of this chapter.

(e) If the seized property is a vehicle and if the security holder or the co-owner elects not to make payment as stated in subsection (d), the vehicle shall be disposed of in accordance with section 4(c) of this chapter.

As added by P.L.1-1998, SEC.19.

IC 34-24-1-6

Public sale of property; publication of notice; proceeds

Sec. 6. (a) Where disposition of property is to be made at a public sale, notice of sale shall be published in accordance with IC 34-55-6.

(b) When property is sold at a public sale under this chapter, the proceeds shall be distributed in the following order:

(1) First, to the sheriff of the county for all expenditures made or incurred in connection with the sale, including storage, transportation, and necessary repair.

(2) Second, to any person:

(A) holding a valid lien, mortgage, land contract, or interest under a conditional sales contract or the holder of other such interest; or

(B) who is a co-owner and has an ownership interest;

up to the amount of that person's interest as determined by the court.

(3) The remainder, if any, shall be transferred by the sheriff to the appropriate fund as ordered by the court in section 4(d) of this chapter.

As added by P.L.1-1998, SEC.19.

IC 34-24-1-7

Court order; filing; effect

Sec. 7. (a) If the property seized was a vehicle, a copy of the court's order under this chapter (or IC 34-4-30.1-7 before its repeal):

(1) shall be filed with the department of motor vehicles or other appropriate agency; and

(2) constitutes authority for the issuance of clear title to that vehicle in the name of the person or purchaser to whom the order authorizes delivery.

(b) If the property seized was real property, a copy of the court's order under this chapter (or IC 34-4-30.1-7 before its repeal):

(1) shall be filed with the county recorder; and

(2) constitutes authority for:

(A) the sale of the property in the manner provided under IC 34-55-6; and

(B) the issuance of clear title to a bona fide purchaser for value who acquires the real property at the sale.

As added by P.L.1-1998, SEC.19.

IC 34-24-1-8

Retention of attorney to bring action

Sec. 8. (a) A prosecuting attorney may retain an attorney to bring an action under this chapter.

(b) An attorney retained under this section is not required to be a deputy prosecuting attorney but must be admitted to the practice of law in Indiana.

As added by P.L.1-1998, SEC.19.

IC 34-24-1-9

Disposition of seized property; expenditures of money

Sec. 9. (a) Upon motion of a prosecuting attorney under IC 35-33-5-5(j), property seized under this chapter must be transferred, subject to the perfected liens or other security interests of any person in the property, to the appropriate federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice.

(b) Money received by a law enforcement agency as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice must be deposited into a nonreverting fund and may be expended only with the approval of:

(1) the executive (as defined in IC 36-1-2-5), if the money is

received by a local law enforcement agency; or

(2) the governor, if the money is received by a law enforcement agency in the executive branch.

The money received under this subsection must be used solely for the benefit of any agency directly participating in the seizure or forfeiture for purposes consistent with federal laws and regulations.

As added by P.L.174-1999, SEC.1. Amended by P.L.97-2004, SEC.115.

IC 34-24-2

Chapter 2. Civil Remedies for Racketeering Activity

IC 34-24-2-1

Injunctive relief from corrupt business influence; action by prosecuting attorney

Sec. 1. The prosecuting attorney in a county in which the violation occurs may bring an action under this section to enjoin a violation of IC 35-45-6-2 (corrupt business influence). An action under this section may be brought in any circuit or superior court in a county in which the violation occurs. If the court finds by a preponderance of the evidence that a violation of IC 35-45-6-2 has occurred, the court may:

(1) order a defendant to divest the defendant of any interest in any enterprise or property;

(2) impose reasonable restrictions upon the future activities or investments of a defendant, including prohibiting a defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of IC 35-45-6-2;

(3) order the dissolution or reorganization of any enterprise;

(4) order the suspension or revocation of a license, permit, or prior approval granted to any enterprise by any agency of the state;

(5) order the forfeiture of the charter of a corporation organized under the laws of Indiana, or the revocation of a certificate authorizing a foreign corporation to conduct business within the state, upon finding that:

(A) the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of IC 35-45-6-2; and

(B) for the prevention of future criminal activity, the public interest requires the charter of the corporation be forfeited and the corporation dissolved or the certificate revoked; and

(6) make any other order or judgment that the court considers appropriate.

In any order or judgment made by the court under this section, the judge shall make due provision for the rights of innocent persons, including a person having any rights, title, or interest of record in any of the property.

As added by P.L.1-1998, SEC.19.

IC 34-24-2-2

Action for forfeiture of property incident to corrupt business influence

Sec. 2. (a) The prosecuting attorney in a county in which any of the property is located may bring an action for the forfeiture of any property:

(1) used in the course of;

(2) intended for use in the course of;

(3) derived from; or
(4) realized through;
conduct in violation of IC 35-45-6-2.

(b) The inspector general may bring an action for forfeiture in accordance with IC 4-2-7-6 in a county where property that is:
(1) derived from; or
(2) realized through;
misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the state is located.

(c) An action for forfeiture may be brought in any circuit or superior court in a county in which any of the property is located.

(d) Upon a showing by a preponderance of the evidence that:
(1) property described in subsection (a) was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of IC 35-45-6-2; or
(2) property described in subsection (b) was derived from or realized through conduct described in subsection (b);
the court shall, subject to the right, title, or interest of record of any other party in the property determined under section 4 of this chapter, order the property forfeited to the state and specify the manner of disposition of the property, including the manner of disposition if the property is not transferable for value.

(e) The court shall order forfeitures and dispositions under this section:
(1) with due provision for the rights of innocent persons; and
(2) as provided under section 4 of this chapter.

As added by P.L.1-1998, SEC.19. Amended by P.L.222-2005, SEC.40.

IC 34-24-2-3
Order to have property subject to forfeiture seized

Sec. 3. When an action is filed under section 2 of this chapter, the prosecuting attorney or the inspector general may move for an order to have property subject to forfeiture seized by a law enforcement agency. The judge shall issue such an order upon a showing of probable cause to believe that:
(1) a violation of IC 35-45-6-2, in the case of property described in section 2(a) of this chapter; or
(2) conduct described in section 2(b) of this chapter, in case of property described in section 2(b) of this chapter;
has occurred.

As added by P.L.1-1998, SEC.19. Amended by P.L.222-2005, SEC.41.

IC 34-24-2-4
Seizure of property subject to forfeiture; requisites; custody; limitation of actions

Sec. 4. (a) Property subject to forfeiture under this chapter shall be seized by a law enforcement officer upon court order. Seizure may be

made without a court order only if:

(1) the seizure is incident to a lawful arrest or search, or to an inspection under an administrative inspection warrant; or

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding under this chapter (or IC 34-4-30.5 before its repeal).

(b) When property is seized under subsection (a), pending forfeiture and final disposition, the law enforcement officer making the seizure may:

(1) place the property under seal;

(2) remove the property to a place designated by the court; or

(3) require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(c) Property seized under subsection (a) (or IC 34-4-30.5-4(a) before its repeal) is not subject to replevin, but is considered to be in the custody of the law enforcement officer making the seizure, subject only to order of the court. However, if a seizure of property is made in accordance with subsection (a), the prosecuting attorney or the inspector general shall bring an action for forfeiture under section 2 of this chapter within:

(1) thirty (30) days after receiving notice from any person claiming a right, title, or interest in the property; or

(2) one hundred eighty (180) days after the property is seized;

whichever occurs first.

(d) If an action under subsection (c) is not filed within thirty (30) days after receiving notice from any person claiming a right, title, or interest in the property, the claimant:

(1) is entitled to file a complaint seeking:

(A) replevin;

(B) foreclosure; or

(C) other appropriate remedy; and

(2) shall immediately obtain a hearing on the complaint as provided in subsection (f).

If an action is not filed within one hundred eighty (180) days after the date of the seizure, and the property has not been previously released to an innocent person under section 5 of this chapter (or IC 34-4-30.5-4.5 before its repeal), the law enforcement agency whose officer made the seizure shall return the property to its owner.

(e) If property is seized under subsection (a) (or IC 34-4-30.5-4(a) before its repeal) and the property is a vehicle or real property, the prosecuting attorney or the inspector general shall serve, within thirty (30) days after the date the property is seized and as provided by the Indiana Rules of Trial Procedure, notice of seizure upon each person whose right, title, or interest is of record in the bureau of motor vehicles, in the county recorder's office, or other office authorized to receive or record vehicle or real property ownership interests.

(f) The person whose right, title, or interest is of record may at any time file a complaint seeking:

(1) replevin;

(2) foreclosure; or

(3) another appropriate remedy;

to which the state may answer in forfeiture within the appropriate statutory period. The court shall promptly set the matter for a hearing, and in the case of replevin or foreclosure, the court shall set the hearing as provided by the applicable statutory provisions.

As added by P.L.1-1998, SEC.19. Amended by P.L.222-2005, SEC.42.

IC 34-24-2-5

Rights of secured party in property subject to forfeiture

Sec. 5. (a) If a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract did not know the property was the object of corrupt business influence or conduct described in section 2(b) of this chapter, the court shall determine whether the secured interest is equal to or in excess of the appraised value of the property.

(b) Appraised value is to be determined as of the date of judgment on a wholesale basis by:

(1) agreement between the secured party and the prosecuting attorney; or

(2) the inheritance tax appraiser for the county in which the action is brought.

(c) If the amount due to the secured party is equal to or greater than the appraised value of the property, the court shall order the property released to the secured party.

(d) If the amount due the secured party is less than the appraised value of the property, the holder of the interest may pay into the court an amount equal to the owner's equity, which shall be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon payment, the state or unit, or both, shall relinquish all claims to the property.

As added by P.L.1-1998, SEC.19. Amended by P.L.222-2005, SEC.43.

IC 34-24-2-6

Action of aggrieved person for injunctive relief and damages from corrupt business influence; jury trial; right to forfeited property; state as aggrieved person

Sec. 6. (a) An aggrieved person may, in addition to proceeding under section 4 of this chapter, bring an action for injunctive relief from corrupt business influence in a circuit or superior court in the county of the aggrieved person's residence, or in a county where any of the affected property or the affected enterprise is located. If the court finds, through a preponderance of the evidence, that the aggrieved person is suffering from corrupt business influence, the court shall make an appropriate order for injunctive relief. This order must be made in accordance with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that a showing of special or irreparable damage to

the aggrieved person is not required. The court may order injunctive relief only after the execution of a bond by the aggrieved person for an injunction improvidently granted, in an amount established by the court. In addition, the court may order a temporary restraining order or a preliminary injunction, but only after a showing of immediate danger of significant loss or damage to the aggrieved person.

(b) An aggrieved person may bring an action against a person who has violated IC 35-45-6-2 in a circuit or superior court in the county of the aggrieved person's residence, or in a county where any of the affected property or the affected enterprise is located, for damages suffered as a result of corrupt business influence. Upon a showing by a preponderance of the evidence that the aggrieved person has been damaged by corrupt business influence, the court shall order the person causing the damage through a violation of IC 35-45-6-2 to pay to the aggrieved person:

(1) an amount equal to three (3) times the person's actual damages;

(2) the costs of the action;

(3) a reasonable attorney's fee; and

(4) any punitive damages awarded by the court and allowable under law.

(c) The defendant and the aggrieved person are entitled to a trial by jury in an action brought under this section (or IC 34-4-30.5-5 before its repeal).

(d) In addition to any rights provided under section 4 of this chapter, an aggrieved person has a right or claim to forfeited property or to the proceeds derived from forfeited property superior to any right or claim the state has in the same property or proceeds.

(e) If the state is an aggrieved person, the attorney general and the inspector general have concurrent jurisdiction with the prosecuting attorney to bring an action under this section.

As added by P.L.1-1998, SEC.19. Amended by P.L.222-2005, SEC.44.

IC 34-24-2-7

Relitigation of issues determined in criminal proceeding barred by collateral estoppel

Sec. 7. In any action brought under this chapter (or IC 34-4-30 before its repeal), the principle of collateral estoppel operates to bar relitigation of the issues previously determined in a criminal proceeding under IC 35-45-6-2.

As added by P.L.1-1998, SEC.19.

IC 34-24-2-8

Retention of attorney to bring action

Sec. 8. (a) A prosecuting attorney or the inspector general may retain an attorney to bring an action under this chapter.

(b) An attorney retained under this section is not required to be a deputy prosecuting attorney but must be admitted to the practice of law in Indiana.

As added by P.L.1-1998, SEC.19. Amended by P.L.222-2005, SEC.45.

IC 34-24-3

Chapter 3. Treble Damages Allowed in Certain Civil Actions by Crime Victims

IC 34-24-3-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-30-3 (before its repeal, now codified at section 4 of this chapter) by P.L.316-1987 does not apply to a cause of action accruing before April 27, 1987.

As added by P.L.220-2011, SEC.560.

IC 34-24-3-1

Offenses against property; recovery of damages, costs, and attorney's fee

Sec. 1. If a person has an unpaid claim on a liability that is covered by IC 24-4.6-5 or suffers a pecuniary loss as a result of a violation of IC 35-43, IC 35-42-3-3, IC 35-42-3-4, or IC 35-45-9, the person may bring a civil action against the person who caused the loss for the following:

(1) An amount not to exceed three (3) times:

(A) the actual damages of the person suffering the loss, in the case of a liability that is not covered by IC 24-4.6-5; or

(B) the total pump price of the motor fuel received, in the case of a liability that is covered by IC 24-4.6-5.

(2) The costs of the action.

(3) A reasonable attorney's fee.

(4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:

(A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

(B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.

(5) A reasonable amount to compensate the person suffering loss for time used to:

(A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

(B) travel to and from activities described in clause (A).

(6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:

(A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

(B) travel to and from activities described in clause (A).

(7) All other reasonable costs of collection.

As added by P.L.1-1998, SEC.19. Amended by P.L.97-2011, SEC.3.

IC 34-24-3-1.5

Offenses concerning adoption deception and unauthorized

adoption facilitation; recovery of damages or amounts paid, costs, and attorney's fees

Sec. 1.5. (a) If a prospective adoptive parent suffers pecuniary loss as a result of a violation of IC 35-46-1-9.5, the prospective adoptive parent may bring a civil action against a person who benefits from adoption related expenses in violation of IC 35-46-1-9.5, even if the person has not been prosecuted or convicted of the offense under IC 35-46-1-9.5. In an action under this subsection, a prospective adoptive parent may seek an award of the following:

(1) Actual damages caused by the violation if the prospective adoptive parent has not been awarded damages under IC 35-46-1-9.5.

(2) An amount not to exceed three (3) times the amount of actual damages of the prospective adoptive parent suffering the loss.

(3) The costs of the action.

(4) A reasonable attorney's fee.

(b) A prospective adoptive parent may bring a civil action against a person who commits unauthorized adoption facilitation under IC 35-46-1-22, even if the person has not been prosecuted or convicted of the offense under IC 35-46-1-22. In an action under this subsection, a prospective adoptive parent may seek an award of the following:

(1) An amount not to exceed three (3) times the amount that the prospective adoptive parent paid for the adoption services provided to the prospective adoptive parent in the commission of unauthorized adoption facilitation under IC 35-46-1-22.

(2) The costs of the action.

(3) A reasonable attorney's fee.

As added by P.L.146-2007, SEC.16.

IC 34-24-3-2

Irrebuttable presumption of retailer's pecuniary loss; insurance or indemnification prohibited

Sec. 2. (a) For purposes of determining the amount of damages recoverable under section 1(1) of this chapter, there is an irrebuttable presumption that a retailer who brings a civil action under this chapter (or IC 34-4-30 before its repeal) as the result of a violation of IC 35-43-4-2 (theft) or IC 35-43-4-3 (conversion) suffers a pecuniary loss in the amount of:

(1) one hundred dollars ($100) regardless of whether:

(A) the property is returned to the retailer; or

(B) the actual retail value of the property is less than one hundred dollars ($100); or

(2) the retailer's actual damages;

whichever is greater.

(b) An individual found liable in a civil action under this chapter (or IC 34-4-30 before its repeal) for violating IC 35-43-4-2 or IC 35-43-4-3 may not be indemnified or insured for any penalties, damages, or settlement arising from the violation.

As added by P.L.1-1998, SEC.19.

IC 34-24-3-3
Action for punitive damages

Sec. 3. It is not a defense to an action for punitive damages that the defendant is subject to criminal prosecution for the act or omission that gave rise to the civil action. However, a person may not recover both:

(1) punitive damages; and

(2) the amounts provided for under section 1 or 1.5 of this chapter.

As added by P.L.1-1998, SEC.19. Amended by P.L.146-2007, SEC.17.

IC 34-24-3-4
Damages inflicted by operation of motor vehicle excepted unless intentional

Sec. 4. This chapter does not apply to a person who suffers pecuniary damages as a result of the operation of a vehicle in violation of IC 35-43-1-2 or IC 35-43-2-2, unless the damage was intentionally inflicted.

As added by P.L.1-1998, SEC.19.

IC 34-24-4

Chapter 4. Drug Dealer Liability

IC 34-24-4-0.3

Application of statute of limitations

Sec. 0.3. The statute of limitations under this chapter (or IC 34-1-70 before its repeal) for a claim based on participation in the illegal drug market that occurred before July 1, 1997, does not begin to run until July 1, 1997.

As added by P.L.220-2011, SEC.561.

IC 34-24-4-1

Liability of person participating in illegal drug market; exception for law enforcement investigations

Sec. 1. (a) A person who knowingly participates in the illegal drug market in Indiana is liable for civil damages as provided in this chapter.

(b) A person may recover damages under this chapter for an injury that results from an individual's use of an illegal drug.

(c) A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for participating in the illegal drug market if the participation is to further an official investigation.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-2

Parties plaintiff

Sec. 2. The following persons may bring an action for damages caused by an individual drug user's use of an illegal drug:

(1) A:

(A) parent;

(B) legal guardian;

(C) child;

(D) spouse; or

(E) sibling;

of the individual drug user.

(2) An individual who was exposed to an illegal drug in utero.

(3) An employer of the individual drug user.

(4) A medical facility, insurer, governmental entity, employer, or other entity that:

(A) funds a drug treatment program or employee assistance program for the individual drug user; or

(B) otherwise expends money on behalf of the individual drug user.

(5) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user.

(6) Any neighborhood association registered with the municipal governing body, the official geographic boundaries of which encompass the location of the complained-of illegal drug dealing or use.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-3
Parties defendant

Sec. 3. A person who may bring an action under section 2 of this chapter may recover damages from the following persons:

(1) A person who knowingly distributed or knowingly participated in the chain of distribution of an illegal drug that was actually used by the individual drug user.

(2) A person who knowingly participated in the illegal drug market if the:

(A) individual drug user's place of illegal drug activity is within the person's illegal drug market target community;

(B) person's participation in the illegal drug market was connected with the same type of illegal drug used by the individual drug user; and

(C) person participated in the illegal drug market at any time during the individual drug user's period of illegal drug use.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-4
Recovery of damages, costs, and attorney's fees

Sec. 4. A person who may bring an action under section 2 of this chapter may recover the following damages:

(1) Economic damages, including costs for the following:

(A) Treatment and rehabilitation.

(B) Medical expenses.

(C) Loss of economic or educational potential.

(D) Loss of productivity.

(E) Absenteeism.

(F) Support expenses.

(G) Accidents or injury.

(H) Any other pecuniary loss proximately caused by the illegal drug use.

(2) Noneconomic damages, including costs for the following:

(A) Physical and emotional pain and suffering.

(B) Physical impairment.

(C) Emotional distress.

(D) Medical anguish.

(E) Disfigurement.

(F) Loss of enjoyment.

(G) Loss of companionship, services, and consortium.

(H) Any other nonpecuniary loss proximately caused by the illegal drug use.

(3) Exemplary damages.

(4) Reasonable attorney's fees.

(5) Court costs, including reasonable expenses for expert testimony.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-5
Action by individual drug user

Sec. 5. (a) Except as provided in this section, an individual drug user may not bring an action for damages caused by the use of an illegal drug.

(b) An individual drug user may bring an action for damages caused by the use of an illegal drug if the individual drug user satisfies all of the following conditions:

(1) At least six (6) months before filing an action, the individual drug user personally discloses to law enforcement officers all of the information known to the individual drug user regarding all the individual drug user's sources of illegal drugs.

(2) The individual drug user does not use an illegal drug within the six (6) months immediately preceding the date the individual drug user files the action.

(3) The individual drug user does not use an illegal drug while the action is pending.

(c) An individual drug user who brings an action under this section (or IC 34-1-70-12 before its repeal) may recover damages only from a person who:

(1) distributed; or

(2) is in the chain of distribution of;

an illegal drug that was used by the individual drug user.

(d) An individual drug user who may bring an action under this section (or IC 34-1-70-12 before its repeal) may recover only the following damages:

(1) Economic damages, including costs for the following:

(A) Treatment and rehabilitation.

(B) Medical expenses.

(C) Loss of economic or educational potential.

(D) Loss of productivity.

(E) Absenteeism.

(F) Accidents or injury.

(G) Any other pecuniary loss proximately caused by the illegal drug use.

(2) Reasonable attorney's fees.

(3) Court costs, including reasonable expenses for expert testimony.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-6
Third party insurance or indemnification prohibited

Sec. 6. A third party may not:

(1) pay damages awarded under this chapter (or IC 34-1-70 before its repeal); or

(2) provide a defense or money for a defense;

on behalf of an insured under a contract of insurance or indemnification.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-7
Joinder of parties and actions

Sec. 7. (a) Two (2) or more persons may join as plaintiffs in one (1) action under this chapter (or IC 34-1-70 before its repeal) if:

(1) each plaintiff's respective actions have at least one (1) place of illegal drug activity in common; and

(2) any portion of the period of illegal drug use in one (1) plaintiff's action overlaps with the period of illegal drug use for every other plaintiff's action.

(b) Two (2) or more persons may be joined in one (1) action under this chapter (or IC 34-1-70 before its repeal) as defendants if all the persons may be liable to at least one (1) plaintiff.

(c) A plaintiff does not have to be interested in obtaining and a defendant does not have to be interested in defending against all relief demanded under this chapter. Judgment may be given:

(1) for one (1) or more plaintiffs according to each plaintiff's respective rights to relief; and

(2) against one (1) or more defendants according to each defendant's respective liabilities.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-8
Comparative liability of individual drug user as plaintiff

Sec. 8. (a) An action by an individual drug user brought under this chapter (or IC 34-1-70 before its repeal) is governed by the principles of comparative liability under state law. Comparative liability attributed to a plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally according to the measure of responsibility attributed to the plaintiff.

(b) The burden of proving the comparative liability of the plaintiff:

(1) is on the defendant; and

(2) must be shown by clear and convincing evidence.

(c) Comparative liability may not be attributed to a plaintiff who is not an individual drug user.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-9
Right of contribution

Sec. 9. (a) A person who is subject to liability under this chapter (or IC 34-1-70 before its repeal) has a right of action for contribution against another person subject to liability under this chapter (or IC 34-1-70 before its repeal).

(b) Contribution may be enforced in:

(1) the original action; or

(2) a separate action brought for that purpose.

(c) A plaintiff may seek recovery under this chapter and any other applicable law against a person whom a defendant has asserted a right of contribution.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-10
Burden of proof

Sec. 10. (a) Proof of participation in the illegal drug market in an action brought under this chapter (or IC 34-1-70 before its repeal) must be shown by clear and convincing evidence. Unless otherwise provided in this chapter, other elements of an action brought under this chapter must be shown by a preponderance of the evidence.

(b) A person:

(1) against whom recovery is sought; and

(2) who has a criminal conviction under:

(A) a state drug law; or

(B) the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.);

is estopped from denying participation in the illegal drug market.

(c) A conviction described in subsection (b) constitutes prima facie evidence of the person's participation in the illegal drug market during the two (2) years preceding the date of the act that was the basis for the conviction.

(d) Notwithstanding subsection (c), a person may not be prohibited from bringing an action under this chapter (or IC 34-1-70 before its repeal) against another person because the other person has not been convicted of a criminal drug offense.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-11
Prejudgment attachment

Sec. 11. (a) Subject to subsection (c), a plaintiff in an action brought under this chapter may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award. If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant:

(1) demonstrates that the defendant's assets will be available for a potential award; or

(2) posts a bond in an amount that is sufficient to cover a potential award.

(b) A person against whom a judgment has been rendered under this chapter (or IC 34-1-70 before its repeal) may not exempt any property from process to levy or process to execute on the judgment.

(c) Any assets that are:

(1) sought to satisfy a judgment under this chapter (or IC 34-1-70 before its repeal); and

(2) involved in a forfeiture action or that have been seized for forfeiture by any state or federal agency;

may not be used to satisfy a judgment until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-12

Limitation of actions

Sec. 12. (a) Except as otherwise provided in this section, a claim under this chapter (or IC 34-1-70 before its repeal) may not be brought more than two (2) years after the date the cause of action accrues. A cause of action accrues under this chapter (or IC 34-1-70 before its repeal) when a person who may bring the cause of action has reason to know:

(1) of the harm from illegal drug use that is the basis for the cause of action; and

(2) that the illegal drug use is the cause of the harm.

(b) The statute of limitations under this section is tolled for a:

(1) plaintiff while the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery under this chapter (or IC 34-1-70 before its repeal) or as otherwise provided by any other law; and

(2) defendant until six (6) months after the individual potential defendant is convicted of a criminal drug offense or as otherwise provided by law.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-13

Attorney general representing state or political subdivision; stay of action pending investigation or prosecution

Sec. 13. (a) The attorney general may represent the state or a political subdivision of the state in an action brought under this chapter (or IC 34-1-70 before its repeal).

(b) On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this chapter (or IC 34-1-70 before its repeal) must be stayed until the completion of the drug investigation or prosecution that was the basis for the motion for a stay of the action.

As added by P.L.1-1998, SEC.19.

IC 34-24-4-14

Intrafamilial tort immunity

Sec. 14. This chapter may not be construed to alter any law regarding tort immunity within a family.

As added by P.L.1-1998, SEC.19.

IC 34-25

ARTICLE 25. SPECIAL PROCEEDINGS: ATTACHMENT AND GARNISHMENT

IC 34-25-1

Chapter 1. General Provisions Applying to Attachment and Garnishment

IC 34-25-1-1

Execution of judgments; law governing

Sec. 1. The execution of judgments is governed by IC 34-55.

As added by P.L.1-1998, SEC.20.

IC 34-25-1-2

Nonresidents; personal earnings or wages

Sec. 2. Indiana courts do not have and shall not entertain jurisdiction in any action of attachment, garnishment, or supplementary proceeding, when:

(1) the plaintiff and principal defendant are both nonresidents of Indiana; and

(2) the money sought to be reached by the attachment, garnishment, or supplementary proceedings is the personal earnings or wages due or owing to the principal defendant from a person or corporation doing business in Indiana.

As added by P.L.1-1998, SEC.20.

IC 34-25-1-3

Judgment for attachment or garnishment; service and venue requirements

Sec. 3. The plaintiff is not entitled to judgment in an action for attachment or garnishment unless:

(1) the defendant is personally served with process;

(2) the property of the defendant is attached in the county where the action is brought; or

(3) a garnishee is summoned in the county where the action is brought, who is indebted to the defendant, or has possession of property or assets subject to the attachment.

As added by P.L.1-1998, SEC.20.

IC 34-25-1-4

Payment of costs and expenses; proportional payment of multiple creditors; surplus

Sec. 4. The money realized from the attachment and the garnishees, under the direction of the court, and after paying all costs and expenses, shall be paid to the several creditors in proportion to the amount of their several claims as adjusted. The surplus, if any, shall be paid to the defendant.

As added by P.L.1-1998, SEC.20.

IC 34-25-2
Chapter 2. Attachment

IC 34-25-2-1
Attachment of property at or after filing complaint

Sec. 1. (a) At or after the time of filing a complaint, the plaintiff may have an attachment against the property of the defendant, in the cases described in subsection (b) and in the manner described in this chapter.

(b) The plaintiff may attach property when the action is for the recovery of money and the defendant:

(1) is, or one (1) of several defendants is, a foreign corporation or a nonresident of Indiana;

(2) is, or one (1) of several defendants is, secretly leaving or has left Indiana with intent to defraud:

(A) the defendant's creditors;
(B) the state;
(C) a municipal corporation;
(D) a political subdivision; or
(E) a school corporation (as defined in IC 20-18-2-16(c));

(3) is concealed so that a summons cannot be served upon the defendant;

(4) is removing or about to remove the defendant's property subject to execution, or a material part of the property, outside Indiana, not leaving enough behind to satisfy the plaintiff's claim;

(5) has sold, conveyed, or otherwise disposed of the defendant's property subject to execution, or permitted the property to be sold with the fraudulent intent to cheat, hinder, or delay:

(A) the defendant's creditors;
(B) the state;
(C) a municipal corporation;
(D) a political subdivision; or
(E) a school corporation (as defined in IC 20-18-2-16(c)); or

(6) is about to sell, convey, or otherwise dispose of the defendant's property subject to execution with the fraudulent intent to cheat, hinder, or delay:

(A) the defendant's creditors;
(B) the state;
(C) a municipal corporation;
(D) a political subdivision; or
(E) a school corporation (as defined in IC 20-18-2-16(c)).

(c) The plaintiff is entitled to an attachment for the causes mentioned in subsection (b)(2), (b)(4), (b)(5), and (b)(6) whether the cause of action is due or not.

As added by P.L.1-1998, SEC.20. Amended by P.L.176-2009, SEC.22.

IC 34-25-2-2
Attachment barred while debtor's spouse and family reside within

county; limitation on debtor's absence

Sec. 2. (a) Except as provided in subsection (b), an attachment, may not issue against any debtor while the debtor's spouse and family remain settled within the county where the debtor usually resided before the debtor's absence, if the debtor does not remain absent from Indiana more than one (1) year.

(b) This section does not apply if:

(1) the attachment is requested in a cause of action described in section 1(b)(4), 1(b)(5), or 1(b)(6) of this chapter; or

(2) an attempt is made to conceal the debtor's absence.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-3

Concealment of debtor's absence by spouse or family

Sec. 3. If the spouse or family of the debtor:

(1) refuse or are unable to:

(A) account for the debtor's absence; or

(B) indicate the place where the debtor may be found; or

(2) give a false account of the debtor's absence or place where the debtor may be found;

the refusal, inability, or false account is considered an attempt to conceal the debtor's absence for the purposes of this chapter.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-4

Plaintiff's affidavit

Sec. 4. The plaintiff or a person representing the plaintiff shall make an affidavit showing:

(1) the nature of the plaintiff's claim;

(2) that the plaintiff's claim is just;

(3) the amount that the plaintiff ought to recover; and

(4) that one (1) of the grounds for an attachment enumerated in section 1 of this chapter is present.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-5

Plaintiff's undertaking

Sec. 5. Except for actions filed by the attorney general under IC 5-11-5-1 or IC 5-11-6-1, the plaintiff or a person representing the plaintiff shall execute a written undertaking, with sufficient surety, to be approved by the clerk, payable to the defendant, to the effect that the plaintiff will:

(1) duly prosecute the proceeding in attachment; and

(2) pay all damages that may be sustained by the defendant if the proceedings of the plaintiff are wrongful and oppressive.

As added by P.L.1-1998, SEC.20. Amended by P.L.176-2009, SEC.23.

IC 34-25-2-6

Order of attachment

Sec. 6. Upon the filing of the affidavit and written undertaking in the office of the clerk, the clerk shall issue an order of attachment, which shall be directed and delivered to the sheriff. The order of attachment must require the sheriff to seize and take into possession the property of the defendant in the county that is not exempt from execution.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-7
Issuance of order to sheriff of other county; orders issued simultaneously or in succession; recovery of costs
Sec. 7. Orders of attachment may be issued to the sheriff of any other county, and several orders of attachment may, at the option of the plaintiff, be issued at the same time or in succession. Only the costs of orders of attachment that have been executed in whole or in part shall be recovered against the defendant unless otherwise directed by the court.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-8
Issuance of execution of order on Sunday
Sec. 8. An order of attachment may be issued and executed on Sunday, if the plaintiff's affidavit shows that the defendant is about to abscond on that day, to the injury of the plaintiff.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-9
Assistance of householder; inventory; appraisement
Sec. 9. The sheriff shall proceed, with the assistance of a disinterested and credible householder of the county, to:
(1) attach the lands, tenements, goods, and chattels of the defendant, subject to execution; and
(2) make an inventory and appraisement of the property described in subdivision (1) and return the inventory and appraisement with the order.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-10
Order becomes lien on property
Sec. 10. An order of attachment binds the defendant's property in the county subject to execution and becomes a lien on the property from the time of the delivery of the order to the sheriff, in the same manner as an execution.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-11
Order in which property taken; pursuing property in another county
Sec. 11. (a) The sheriff shall first take the defendant's personal property under an attachment.

(b) If the sheriff does not find enough personal property of the defendant to satisfy the plaintiff's claim and costs of the action, then the sheriff shall take the defendant's real estate under attachment.

(c) If any property of the defendant is removed from the county after an order of attachment is placed in the hands of the sheriff, the sheriff may pursue and attach the property in any county within three (3) days after the removal.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-12

Undertaking by defendant or person having possession of property

Sec. 12. The defendant or other person who has possession of attached property may have the property, or any part of the property, delivered to the defendant or person by executing and delivering to the sheriff a written undertaking, with surety, to be approved by the sheriff, payable to the plaintiff, to the effect that:

(1) the property shall be:

(A) properly kept and taken care of; and

(B) delivered to the sheriff on demand, or so much of the property as may be required to be sold on execution to satisfy any judgment that may be recovered against the defendant or person in the action; or

(2) the defendant or person will pay the appraised value of the property, not exceeding the amount of the judgment and costs.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-13

Third party's duty to prosecute claim

Sec. 13. Whenever any person other than the defendant claims any property attached, the right of property may be tried as in cases of property taken in execution, and the claimant, having notice of the attachment, shall be bound to prosecute the claim as in such cases or be barred of the right.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-14

Duty of defendant or claimant to give information under oath

Sec. 14. The defendant or claimant of any attached property may be required by the court to appear and give information, under oath, respecting the property.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-15

Lien on goods attached in hands of consignee

Sec. 15. Goods attached in the hands of a consignee are subject to a lien for any debt due the consignee from the consignor.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-16

Undertaking by defendant; discharge of attachment; restitution of

property

Sec. 16. If the defendant or other person representing the defendant, at any time before judgment, executes a written undertaking to the plaintiff with sufficient surety, to be approved by the court, clerk, or sheriff, to the effect that the defendant will:

(1) appear in the action; and

(2) perform the judgment of the court;

the attachment shall be discharged and restitution made of any property taken under the attachment or the proceeds of the property.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-17

Property that is perishable or expensive to keep; procedure for sale at public auction

Sec. 17. When attached personal property is perishable in nature or expensive to keep, the court may direct the sheriff to sell the property at public auction upon reasonable notice. If the property is liable to immediate damage, the sheriff may sell the property by giving ten (10) days notice, without an order of court, and the proceeds of all sales shall be deposited with the clerk.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-18

Allowance of sheriff's expenses of keeping attached property

Sec. 18. The sheriff shall be allowed by the court the necessary expenses of keeping the attached property, to be paid by the plaintiff and taxed in the costs.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-19

Effect of dismissal by first attaching creditor

Sec. 19. (a) This section applies when the first attaching creditor dismisses the action or proceedings in attachment.

(b) A dismissal described in subsection (a) does not operate as a dismissal of the action or proceedings of any subsequent attaching creditor.
As added by P.L.1-1998, SEC.20.

IC 34-25-2-20

Motion for discharge and restitution; undertaking; judgment for plaintiff

Sec. 20. (a) After appearing in the action, a defendant against whom an order of attachment has been issued may move to have:

(1) the attachment discharged; and

(2) restitution awarded for any property taken under the attachment.

(b) An appearance in the action may not operate to discharge the attachment unless the defendant files a written undertaking as required in section 16 of this chapter.

(c) If:

(1) the defendant appears in the action;
(2) judgment is rendered in favor of the plaintiff; and
(3) part of the judgment remains unsatisfied after exhausting the property attached;

the judgment is considered a judgment against the defendant personally.

(d) A judgment described in subsection (c) has the same force and effect as other judgments, and execution shall issue on the judgment accordingly for the collection of the residue.

(e) If the plaintiff's undertaking is insufficient, the plaintiff is entitled to a reasonable time to file an additional undertaking.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-21

Judgment for defendant; appeal

Sec. 21. (a) Except as provided in subsection (b), if the judgment in the action is rendered for the defendant:

(1) the attachment shall be discharged; and
(2) the attached property or proceeds from the property shall be returned to the defendant.

(b) If the plaintiff:

(1) serves notice with the clerk or judge within seventy-two (72) hours that the plaintiff:
    (A) intends to appeal from the judgment; and
    (B) will file a bond, approved by the court; and
(2) files an appeal, as provided by law, within sixty (60) days from the date of the judgment;

the attachment or any bond given to release the property or thing attached shall not be discharged, and the attached property or proceeds from the property shall not be returned to the defendant until final disposition of such action.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-22

Judgment for plaintiff; execution

Sec. 22. After judgment for the plaintiff or one (1) or more of several plaintiffs, attached property that remains unsold may be sold on execution, as in other cases.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-23

Action on undertaking; damages

Sec. 23. Every defendant is entitled to an action on the written undertaking of the plaintiff or creditor by whose proceedings in attachment the defendant is aggrieved, if it appears that the proceedings were wrongful and oppressive. The defendant shall recover damages at the discretion of the jury.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-24

Actions in name of state

Sec. 24. In all actions in the name of the state of Indiana, or of any person, agent, or officer, for the use of the state, if process is returned indicating that the defendant was not found, an order of attachment may be issued and proceedings may be had, as in other cases, without filing an affidavit or a written undertaking.

As added by P.L.1-1998, SEC.20.

IC 34-25-2-25

Order executed and discharged; return

Sec. 25. When an order of attachment is fully executed or discharged, the sheriff shall return the order to the court, with the sheriff's proceedings noted upon the order.

As added by P.L.1-1998, SEC.20.

IC 34-25-3
Chapter 3. Garnishment

IC 34-25-3-1
Officers subject to garnishment

Sec. 1. (a) This section applies to:
(1) all officers who may collect money by virtue of their office, including:
(A) clerks of the circuit and superior courts;
(B) sheriffs; and
(C) constables;
(2) executors;
(3) administrators;
(4) guardians; and
(5) trustees.

(b) Persons described in subsection (a) are subject to garnishment at the suit of any creditor who has money or choses in action in the hands of the officer, executor, administrator, guardian, or trustee at the time of the service of the garnishee process, in the same manner as and to the same extent that other persons are subject to garnishment.

As added by P.L.1-1998, SEC.20.

IC 34-25-3-2
Personal actions arising upon contract or judgment; affidavit; undertaking; summons

Sec. 2. (a) In all personal actions arising upon contract, express or implied, or upon a judgment or decree of any court, if at the time the action is commenced or at any time afterwards, whether a writ of attachment has been issued or not, the plaintiff, or a person representing the plaintiff, shall file with the clerk an affidavit that the plaintiff has good reason to believe, and does believe, that the person named in the affidavit:
(1) has property of the defendant in the person's possession or under the person's control;
(2) is indebted to the defendant;
(3) has the control or agency of any property, money, credits, or effects of the defendant; or
(4) has control over the defendant's share or interest in the stock of any association or corporation.

(b) The plaintiff shall file a written undertaking, as described in IC 34-25-2-5, payable to the defendant, with freehold surety to be approved by the clerk, stating that the plaintiff will:
(1) prosecute the proceedings in garnishment to effect; and
(2) pay to the defendant all damages the defendant may sustain if the proceedings are wrongful and oppressive.

(c) The clerk shall issue a summons notifying the person, association, or corporation to appear at the court and answer as garnishee in the action. The summons must contain the name and address of the defendant. The summons shall be served in the manner

provided by the Indiana rules of trial procedure.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-3
Accountability of garnishee to plaintiff

Sec. 3. From the day of the service of the summons, the garnishee is accountable to the plaintiff in the action for the amount of money, property, or credits in the garnishee's possession or due and owing from the garnishee to the defendant.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-4
Certificate and examination of garnishee; enforcement

Sec. 4. (a) This section applies to an officer or agent of an association or corporation and every other person summoned as a garnishee.

(b) A person described in subsection (a) shall, when served, or not later than five (5) days after being served the summons, furnish the sheriff with a certificate of:

(1) the number of shares or rights of the defendants in the stock of the corporation or association;

(2) a description of the property held by the corporation, association, or person that belongs to the defendant or is held for the benefit of the defendant; or

(3) the amount of the debt owing to the defendant by the association, corporation, or person, whether due or not.

The sheriff shall return the certificate with the summons.

(c) If the person refuses to provide the information set forth in subsection (b), the person may be required by the court to appear and be examined under oath concerning the information. Obedience to the orders may be enforced by attachment.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-5
Garnishee's failure to appear or provide information; effect; procedure

Sec. 5. (a) This section applies to a garnishee who is summoned and:

(1) fails to appear and provide discovery as required by law; or

(2) fails to answer or demur to the matters set forth against the garnishee in the affidavit, additional complaint, or interrogatories.

(b) When a garnishee fails to provide information as described in subsection (a):

(1) the information may be taken as confessed;

(2) judgment may be entered by default; or

(3) the garnishee may be examined under oath concerning all the matters charged in the affidavit or additional complaint.

(c) Proceedings, pleadings, and process under this section must conform to the practice in other cases, as necessary to determine the

rights of the parties and render a final judgment.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-6
Absconding garnishee; order of arrest

Sec. 6. If the plaintiff or person representing the plaintiff files an affidavit with the clerk stating that the plaintiff or person:

(1) fears that the garnishee will abscond before judgment with intent to defraud the plaintiff; and
(2) believes that the garnishee:
(A) has money, things in action, goods, chattels, or effects of the defendant in the garnishee's possession; or
(B) is indebted to the defendant;

the clerk shall issue an order of arrest against the garnishee and hold the garnishee to bail as in a civil action.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-7
Final judgment against garnishee; discharge of garnishee; costs

Sec. 7. The court shall not render final judgment against the garnishee until the action against the defendant has been determined. If the plaintiff fails to recover judgment either against the defendant or the garnishee, the garnishee shall be discharged and recover costs.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-8
Return of "no property found"

Sec. 8. The return of "no property found" upon the order of attachment does not affect the proceedings against the garnishee.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-9
Judgment recovered; liability of defendant or garnishee for costs

Sec. 9. (a) If the plaintiff wins judgment against the defendant and before the judgment the garnishee:

(1) delivers to the sheriff:
(A) all the defendant's goods and chattels, or other effects in the garnishee's possession subject to execution; or
(B) an inventory of the items described in subdivision (1)(A); and
(2) pays to the sheriff or into court all money due from the garnishee or belonging to the defendant;

the costs in the proceeding against the garnishee shall be paid by the defendant.

(b) If the garnishee does not appear or appears and refuses to accurately confess the matter alleged and at the trial:

(1) the plaintiff recovers judgment against the garnishee; or
(2) the garnishee admits to having possession of money, credits, or effects belonging to the defendant and refuses to pay or deliver the money, credits, or effects;

the garnishee shall pay costs.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-10
Compelling garnishee to pay or perform contracts

Sec. 10. The garnishee may not be compelled to pay or perform any contract in any other manner or at any other time, than the garnishee would be bound to do for the defendant.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-11
Payment to sheriff or court; discharge of garnishee

Sec. 11. A garnishee may pay money the garnishee owes to the defendant to the sheriff or into court and is discharged from liability to the defendant for the amount of money paid to the sheriff or into court that does not exceed the plaintiff's claim.
As added by P.L.1-1998, SEC.20.

IC 34-25-3-12
Examination of garnishee; delivery of property and payment; undertaking

Sec. 12. (a) This section applies to a garnishee or an officer of a corporation summoned as a garnishee.

(b) Five (5) or more days after being served with the summons, the garnishee may be examined under oath in open court.

(c) If the examination reveals that at the time the summons was served, or after the service of the summons upon the garnishee, the garnishee or the corporation possessed any property of the defendant or was indebted to the defendant, the court may order:

(1) the delivery of the property and the payment of the indebtedness into court; or

(2) the execution of a written undertaking by the garnishee, with sufficient sureties, to be approved by the court, payable to the plaintiff, to the effect that the indebtedness shall be paid or the property forthcoming as the court shall direct.

As added by P.L.1-1998, SEC.20.

IC 34-25-3-13
Creditor of defendant; intervention in action

Sec. 13. At any time before the final judgment in the suit, any creditor of the defendant, upon filing an affidavit and written undertaking, as required of an attaching creditor, may do the following:

(1) Become a party to the action, file a complaint, and prove the claim or demand against the defendant.

(2) Have any person summoned as garnishee or held to bail who has not before been summoned or held to bail.

(3) Propound interrogatories to the garnishee and enforce answers to the interrogatories in like manner, as the creditor who is plaintiff.

As added by P.L.1-1998, SEC.20.

IC 34-25-3-14
Judgment for plaintiff or creditor; execution

Sec. 14. (a) If:

(1) judgment in the action is rendered for the plaintiff, or one (1) or more of several plaintiffs; and

(2) sufficient proof is made of the goods, chattels, rights, credits, money, and effects in the possession of the garnishee;

the court shall also give judgment in favor of the plaintiff or creditors against the garnishee, or the property of the defendant, or both, as the case may require.

(b) A judgment described in subsection (a) may be enforced by execution.

As added by P.L.1-1998, SEC.20.

IC 34-25-3-15
Procedurally defective order; immunity of person who complies

Sec. 15. (a) In addition to other proceedings, this section applies to proceedings supplementary to execution involving a depository financial institution under IC 28-9.

(b) A person, whether designated as a garnishee defendant, an income payor, or otherwise, who complies with what purports to be a garnishment, an income withholding order, or a hold or restriction on withdrawal order issued under:

(1) the Indiana Rules of Trial Procedure;

(2) this article (or IC 34-1-11 before its repeal);

(3) IC 31-16-15 (or IC 31-2-10 before its repeal) or a similar law of Indiana or another state pertaining to support or maintenance of any person; or

(4) IC 34-55-8-7 (or IC 34-1-44-7 before its repeal) concerning proceedings supplementary to execution;

is not personally liable for the amounts withheld if, for any reason, the order is determined by a court to be procedurally defective.

As added by P.L.1-1998, SEC.20.

IC 34-25.5

ARTICLE 25.5. SPECIAL PROCEEDINGS: HABEAS CORPUS

IC 34-25.5-1

Chapter 1. Persons Entitled to Writ of Habeas Corpus

IC 34-25.5-1-1

Persons entitled to writ

Sec. 1. Every person whose liberty is restrained, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered from the restraint if the restraint is illegal.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-2

Chapter 2. Application for Writ

IC 34-25.5-2-1

Application for writ; contents

Sec. 1. (a) Application for the writ must be made by complaint, signed and verified either by:

(1) the applicant; or

(2) some person on the applicant's behalf.

(b) The complaint must specify the following:

(1) Who is restraining the applicant's liberty, the place where the applicant is being held, and the names of all the parties, if they are known, or descriptions of them if they are not known.

(2) The cause or pretense of the restraint, according to the best of the knowledge and belief of the applicant.

(3) If the restraint is alleged to be illegal, the nature of the illegality.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-2-2

Courts and judges authorized to grant writ

Sec. 2. (a) Writs of habeas corpus may be granted by:

(1) the circuit or superior courts of the county in which the person applying for the writ may be restrained of his or her liberty, or by the judges of those courts; or

(2) if the judges described in subdivision (1) are:

(A) absent from their circuits; or

(B) by reason of sickness or other cause, unable or incompetent to hear and determine the application for the writ;

then by any judge of an adjoining circuit.

(b) Upon application, a writ granted under subsection (a) shall be granted without delay.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-2-3

Criminal circuit judges authorized to grant writ

Sec. 3. The criminal circuit judges in Indiana may:

(1) issue writs of habeas corpus within their respective counties;

(2) hear and determine writs of habeas corpus in favor of all persons arrested and held upon any charge in violation of Indiana criminal laws; and

(3) admit to bail, or discharge the prisoner;

in the same manner, to the same extent, and under the same rules and regulations as judges of the circuit courts are authorized by law to do.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-2-4

Contents of writ

Sec. 4. The writ shall be directed to the office or party restraining

the applicant, commanding the party to have the applicant before the court or judge, at the time and place the court or judge directs, to do and receive the court's order concerning the applicant.
As added by P.L.1-1998, SEC.21.

IC 34-25.5-3

Chapter 3. Service and Return of Writ

IC 34-25.5-3-1

Delivery of writ to sheriff

Sec. 1. If the writ is directed to the sheriff, the clerk shall deliver it to the sheriff without delay.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-2

Writs directed to any other person; delivery and service by sheriff

Sec. 2. If the writ is directed to any other person, the writ shall be delivered to the sheriff. The sheriff shall serve the writ by delivering the writ to the person without delay.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-3

Service of writ by leaving at residence or affixing in conspicuous place

Sec. 3. If the person to whom a writ is directed cannot be found or refuses admittance to the sheriff, the writ may be served by:

(1) leaving the writ at the residence of the person to whom the writ is directed; or

(2) affixing the writ on some conspicuous place, either at the person's dwelling house or where the party is confined or under restraint.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-4

Return of writ required

Sec. 4. The sheriff or other person to whom the writ is directed shall return the writ immediately and if the person to whom the writ is directed refuses after due service to return the writ, the court shall enforce obedience by attachment.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-5

Return of writ; requisites

Sec. 5. The return must be signed and verified by the person making it, who shall state the following:

(1) The authority or cause of the restraint of the applicant in the custody of the person to whom the writ is directed.

(2) If the authority is in writing, the person to whom the writ is directed shall return a copy and produce the original at the hearing.

(3) If the person to whom the writ is directed has had the applicant in custody or under restraint, and has transferred the applicant to another, the person to whom the writ is directed shall state to whom, the time, place, and cause of the applicant's transfer.

The person to whom the writ is directed shall produce the applicant at the hearing unless prevented by sickness or infirmity, which must be shown in the return.
As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-6
Issuance of writ or process by clerk of court; time for service and return

Sec. 6. (a) All writs and other process authorized under this article shall be issued by the clerk of the court, and, except summonses, sealed with the seal of the court.

(b) Documents described in subsection (a) shall be served and returned immediately unless the court or judge specifies a particular time for the return.
As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-7
Immaterial defects in writ or process

Sec. 7. A writ or other process shall not be disregarded for any defect if enough is shown to notify the officer or person to whom the writ is directed of the purpose of the process.
As added by P.L.1-1998, SEC.21.

IC 34-25.5-3-8
Amendments to writ; temporary commitments

Sec. 8. The court may allow amendments to a writ, and temporary commitments, when necessary.
As added by P.L.1-1998, SEC.21.

IC 34-25.5-4

Chapter 4. Hearings

IC 34-25.5-4-1

Sickness or infirmity of applicant; procedure

Sec. 1. The court or judge, if satisfied of the truth of the allegation of sickness or infirmity under IC 34-25.5-3-5, may:

(1) proceed to decide on the return; or

(2) adjourn the hearing:

(A) until the party can be produced; or

(B) for other good cause.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-4-2

Return of writ; proceedings and pleadings

Sec. 2. The applicant may:

(1) except to the sufficiency of, or controvert the return, or any part of the return; or

(2) allege any new matter in avoidance.

The new matter must be verified except in cases of commitment on a criminal charge. The return and pleadings may be amended without causing any delay.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-4-3

Summary hearings

Sec. 3. The court or judge shall proceed in a summary way to hear and determine the cause. If no legal cause is shown for the restraint or for the continuation of the restraint, the court shall discharge the applicant.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-4-4

Powers of court or judge

Sec. 4. The court or judge may require and compel the attendance of witnesses and do all other acts necessary to determine the case.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-5

Chapter 5. Issuance of Writ

IC 34-25.5-5-1

Limitation on questioning legality of judgment or process

Sec. 1. (a) Except as provided in subsection (b), the court or judge shall not inquire into the legality of any judgment or process by which the party is in custody, or discharge the party when the term of commitment has not expired in any of the following cases:

(1) Upon process issued by any court or judge of the United States where the court or judge has exclusive jurisdiction.

(2) Upon any process issued on a final judgment of a court of competent jurisdiction.

(3) For any contempt of any court, officer, or body with authority to commit.

(4) Upon a warrant issued from the circuit court upon an indictment or information.

(b) Subsection (a)(1), (a)(2), and (a)(3) do not include an order of commitment, as for contempt, upon proceedings to enforce the remedy of a party.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-5-2

When persons not to be discharged from order of commitment

Sec. 2. (a) A person shall not be discharged from an order of commitment issued by any judicial or peace officer:

(1) for want of bail, or in cases not bailable, on account of a defect in the charge or process; or

(2) for alleged want of probable cause.

(b) In cases described in subsection (a), the court or judge shall:

(1) summon the prosecuting witnesses;

(2) investigate the criminal charge;

(3) discharge, let to bail, or recommit the prisoner, as may be just and legal; and

(4) recognize witnesses when proper.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-5-3

Writ issued to let a prisoner to bail

Sec. 3. The writ may be used for the purpose of letting a prisoner to bail in civil and criminal actions.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-5-4

Notice of discharge to person having interest in detention of prisoner

Sec. 4. When any person has an interest in the detention, the prisoner shall not be discharged until the person having an interest in the detention is notified.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-5-5

Immunity of sheriff or officer obeying writ or order of discharge

Sec. 5. A sheriff or other officer shall not be liable to a civil action for obeying a writ of habeas corpus or an order of discharge made pursuant to a writ of habeas corpus.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-6

Chapter 6. Emergency Warrant

IC 34-25.5-6-1

Warrant for appearance of illegally held person

Sec. 1. Whenever it appears by affidavit that a person is illegally held in custody or restraint and there is good reason to believe that the applicant:

(1) will be carried out of the jurisdiction of the court or judge before whom the application is made; or

(2) will suffer some irreparable injury before compliance with the writ can be enforced;

the court or judge may cause a warrant to be issued, reciting the facts and directed to the sheriff or any constable of the county, commanding the sheriff or constable to take the restrained person and immediately bring the person before the court or judge, to be dealt with according to law.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-6-2

Apprehension of persons charged with illegal restraint

Sec. 2. The court or judge may also, if considered necessary, insert in the warrant a command for the apprehension of the person charged with causing the illegal restraint.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-6-3

Execution of warrant

Sec. 3. The officer shall execute the warrant by bringing the person named in the warrant before the court or judge, and the same return and proceedings shall be required as in case of writs of habeas corpus.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-6-4

Issuance and service of writ on Sunday; temporary orders; changing custody of restrained person

Sec. 4. (a) Any writ or process authorized by this article may be issued and served on Sunday in cases of emergency.

(b) The court or judge may make any temporary orders in the cause or disposition of the party, during the progress of the proceedings, that justice may require. The custody of any party restrained may be changed from one (1) person to another by order of the court or judge.

As added by P.L.1-1998, SEC.21.

IC 34-25.5-7

Chapter 7. Writs in Favor of Parents, Guardians, and Spouses, and to Enforce Rights of Minors and Incapacitated Persons

IC 34-25.5-7-1

Writ to enforce rights of minors and incapacitated persons

Sec. 1. Writs of habeas corpus shall be granted in favor of parents, guardians, and spouses to enforce the rights and for the protection of minors and incapacitated persons whose incapacity is not caused only by a physical illness, impairment, or infirmity (as defined in IC 29-3-1-7.5). The proceedings must in all cases, conform to the provisions of this article.

As added by P.L.1-1998, SEC.21.

IC 34-26

ARTICLE 26. SPECIAL PROCEEDINGS: INJUNCTIONS AND RESTRAINING ORDERS

IC 34-26-1

Chapter 1. Injunctions and Restraining Orders Generally

IC 34-26-1-1

Additional provisions concerning injunctions or restraining orders

Sec. 1. In addition to the injunctions and restraining orders discussed in this article, the following statutes also contain provisions concerning injunctions or restraining orders:

(1) IC 32-30-6 (governing nuisance actions).

(2) IC 32-30-7 (governing actions for indecent nuisance).

(3) IC 34-24-2 (governing civil remedies for racketeering activities).

As added by P.L.1-1998, SEC.22. Amended by P.L.2-2002, SEC.91.

IC 34-26-1-2

Supreme court and justices authorized to grant restraining orders and injunctions

Sec. 2. Restraining orders and injunctions may be granted by the supreme court or a justice of the supreme court when necessary and proper for the due exercise of the jurisdiction and powers of the supreme court.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-3

Circuit courts and judges authorized to grant temporary injunctions or restraining orders

Sec. 3. (a) Restraining orders and injunctions may be granted by the circuit courts or the judges of the circuit courts in their respective counties.

(b) If the circuit court judges are:

(1) absent from their circuits; or

(2) by reason of sickness or other cause unable or incompetent to hear and determine the granting of a temporary injunction or restraining order;

any circuit court judge of an adjoining circuit may hear and determine the granting of a temporary injunction or restraining order.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-4

Judges authorized to make injunction or restraining order permanent or operable in other county; place of filing petition

Sec. 4. (a) The regular presiding judge in the county where the petition was filed shall hear and determine whether an injunction or restraining order issued under section 3(b) of this chapter (or IC 34-1-10-1 before its repeal) shall be made permanent.

(b) The circuit courts, or the circuit court judges may, in any

county of the circuit, issue restraining orders or injunctions to operate in any other county in the circuit.

(c) All petitions for restraining orders and injunctions shall be filed in the clerk's office in the county in which the order or injunction is requested.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-5

Injunction to restrain act or proceeding; modification of injunction

Sec. 5. (a) This section applies:

(1) when it appears by the complaint that the plaintiff is entitled to the relief demanded, and the relief or any part of the relief consists in restraining the commission or continuance of some act, the commission or continuance of which, during the litigation, would produce great injury to the plaintiff;

(2) when, during the litigation, it appears that the defendant is:

(A) doing;

(B) threatening;

(C) about to do; or

(D) procuring or suffering to be done;

some act in violation of the plaintiff's rights, respecting the subject of the action, and tending to render the judgment ineffectual; or

(3) when the relief or part of the relief demanded by the plaintiff consists in restraining proceedings upon any final order or judgment.

(b) An injunction may be granted to restrain an act or proceeding described in subsection (a) until the further order of the court. The injunction may, afterwards, be modified upon motion.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-6

Temporary injunction to restrain removal or disposition of defendant's property

Sec. 6. When it appears:

(1) in the complaint at the commencement of the action; or

(2) during the pendency of the action by affidavit;

that the defendant threatens, or is about to remove or dispose of the defendant's property, with intent to defraud the defendant's creditors, a temporary injunction may be granted, to restrain the removal or disposition of the defendant's property.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-7

Complaint verified by affidavit; time for granting injunction

Sec. 7. In all applications for an injunction, the complaint or as much of the complaint as pertains to the acts or proceedings to be enjoined, must be verified by affidavit. The injunction may be granted at the time of commencing the action, or at any time afterwards before judgment is rendered in the proceeding.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-8
Hearing; access to affidavits or evidence

Sec. 8. On the hearing of an application for a restraining order or temporary injunction, each party may read affidavits or documentary or record evidence.
As added by P.L.1-1998, SEC.22.

IC 34-26-1-9
Terms and conditions of injunction

Sec. 9. Upon the granting or continuing of an injunction, such terms and conditions may be imposed upon the party obtaining the injunction that are considered equitable.
As added by P.L.1-1998, SEC.22.

IC 34-26-1-10
Second undertaking not required

Sec. 10. When an injunction is granted upon the hearing, after a temporary restraining order, the plaintiff shall not be required to enter into a second written undertaking unless the original undertaking is considered insufficient. However, the plaintiff and the plaintiff's surety remain liable upon the original undertaking.
As added by P.L.1-1998, SEC.22.

IC 34-26-1-11
Issuance and service of copy of order on adverse party

Sec. 11. It is not necessary to issue a writ of injunction. However, the clerk shall issue a copy of the order of injunction, certified by the clerk, which shall be served promptly by delivering the order to the adverse party.
As added by P.L.1-1998, SEC.22.

IC 34-26-1-12
Stay of proceedings; endorsement of release of errors upon complaint

Sec. 12. In applications to stay proceedings after judgment, the plaintiff shall endorse upon the complaint a release of errors in the judgment whenever required to do so by the judge or court.
As added by P.L.1-1998, SEC.22.

IC 34-26-1-13
Money collected upon judgment; payment

Sec. 13. Money that is:

(1) collected upon a judgment that is later enjoined; and
(2) remains in the hands of the collecting officer;

shall be paid to the clerk of the court granting the injunction, subject to the order of the court.
As added by P.L.1-1998, SEC.22.

IC 34-26-1-14
Attachment for contempt; rule to show cause; service

Sec. 14. (a) This section applies when it appears to any court or judge granting an order of injunction, by affidavit, that any person has willfully disobeyed the order.

(b) After giving notice, the court or judge shall award an attachment for contempt against the party charged or a rule to show cause why the attachment for contempt should not issue. The attachment or rule shall be issued by the clerk of the court, and directed to the sheriff, and shall be served by the sheriff.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-15
Attachment for contempt; arrest of party; indemnity

Sec. 15. The attachment for contempt shall be immediately served by arresting the party charged, and bringing the party into court, if in session, to be dealt with as in other cases of contempt. The court shall also take all necessary measures to secure and indemnify the plaintiff against damages in the premises.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-16
Arrest; undertaking; commitment to jail

Sec. 16. (a) If the court is not in session, the officer making the arrest shall cause the person to enter into a written undertaking, with surety to be approved by the officer. The written undertaking must contain the person's assurances to:

(1) personally appear in open court;
(2) answer the contempt; and
(3) pay to the plaintiff all damages and costs occasioned by the breach of the order.

(b) In default of the provisions in subsection (a), the person shall be committed to the jail of the county, until the person enters into a written undertaking with surety, or is otherwise legally discharged.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-17
Stay of proceedings; dissolution; damages

Sec. 17. (a) This section applies when an injunction to stay proceedings after judgment for debt or damages is dissolved.

(b) The court shall award damages, not exceeding ten percent (10%), on the judgment, as the court considers right against the party in whose favor the injunction issued.

As added by P.L.1-1998, SEC.22.

IC 34-26-1-18
Stay of proceedings; recovery of real estate; damages

Sec. 18. (a) This section applies if an injunction to stay proceedings after verdict or judgment in an action for the recovery or possession of real estate is dissolved.

(b) The damages assessed against the party obtaining the injunction shall include the reasonable rents and profits of the land recovered and all waste committed after granting the injunction.
As added by P.L.1-1998, SEC.22.

IC 34-26-2
Repealed

(Repealed by P.L.133-2002, SEC.69.)

IC 34-26-2.5
Repealed

(Repealed by P.L.133-2002, SEC.69.)

IC 34-26-3

Chapter 3. Injunction Against Posting of Notices and Bills on Telephone and Utility Poles

IC 34-26-3-1

Injunction or order of removal

Sec. 1. Upon petition by any party, the court may enjoin the posting of, or may order the removal of, handbills, notices, or other written material on telephone or utility poles in any case in which the court finds that to allow the posting, or permit the posting to continue, would be either unsafe or unsightly.

As added by P.L.1-1998, SEC.22.

IC 34-26-4

Chapter 4. Injunction Against Distribution of Tobacco to Persons Less Than 18 Years of Age

IC 34-26-4-1

Violation of IC 35-46-1-10; application for injunction

Sec. 1. If a violation of IC 35-46-1-10 is being committed, any person may apply for an order enjoining the violation from the circuit court or a superior court of the county in which the violation occurs.
As added by P.L.1-1998, SEC.22.

IC 34-26-4-2

Issuance of injunction or order; costs and attorney's fees; waiver of bond

Sec. 2. (a) Upon a showing that a person has violated IC 35-46-1-10, the court may grant:

(1) an injunction, restraining order, or other appropriate order; and

(2) the costs and reasonable attorney's fees of the person bringing the action.

(b) The court may grant an order under subsection (a) without requiring the person bringing the action to post a bond.
As added by P.L.1-1998, SEC.22.

IC 34-26-5

Chapter 5. Indiana Civil Protection Order Act

IC 34-26-5-1

Prevention of domestic and family violence

Sec. 1. This chapter shall be construed to promote the:

(1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner; and

(2) prevention of future domestic and family violence.

As added by P.L.133-2002, SEC.56.

IC 34-26-5-2

Persons eligible to file petition for order of protection; petition on behalf of a child; prohibition on mutual orders; jurisdiction for order sought against a minor

Sec. 2. (a) A person who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:

(1) family or household member who commits an act of domestic or family violence; or

(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.

(b) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:

(1) family or household member who commits an act of domestic or family violence; or

(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child.

(c) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall:

(1) assign a new case number; and

(2) maintain a separate court file;

for each respondent.

(d) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.

As added by P.L.133-2002, SEC.56.

IC 34-26-5-3

Forms; clerical assistance; protective order registry

Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35;

(iv) forms relating to workplace violence restraining orders under IC 34-26-6; and

(v) forms relating to a child protective order under IC 31-34-2.3;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order;

(E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, or a child protective order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY

SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

(1) the forms adopted under subsection (a);

(2) all other forms required to petition for an order for protection, including forms:

(A) necessary for service; and

(B) required under IC 31-21 (or IC 31-17-3 before its repeal); and

(3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

(1) verified or under oath under Trial Rule 11; and

(2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

(g) After receiving a petition for an order for protection, the clerk of the circuit court shall immediately enter the case in the Indiana protective order registry established by IC 5-2-9-5.5.

As added by P.L.133-2002, SEC.56. Amended by P.L.39-2003, SEC.1; P.L.221-2003, SEC.8; P.L.52-2007, SEC.11; P.L.138-2007, SEC.92; P.L.3-2008, SEC.243; P.L.116-2009, SEC.11; P.L.130-2009, SEC.22.

IC 34-26-5-4

Jurisdiction; venue; prohibition on minimum residency requirement

Sec. 4. (a) Any court of record has jurisdiction to issue a civil order for protection.

(b) A petition for an order for protection must be filed in the county in which the:

(1) petitioner currently or temporarily resides;

(2) respondent resides; or

(3) domestic or family violence occurred.

(c) There is no minimum residency requirement to petition for an order for protection.

As added by P.L.133-2002, SEC.56.

IC 34-26-5-5
Duty to inform court of other legal proceedings involving a party or child of a party

Sec. 5. At a hearing to obtain an order for protection, each party has a continuing duty to inform the court of:

(1) each separate proceeding for an order for protection;
(2) any civil litigation;
(3) each proceeding in a family, domestic relations, or juvenile court; and
(4) each criminal case;

involving a party or a child of a party. The information provided under this section must include the case name, the case number, and the county and state in which the proceeding is held, if that information is known by the party.

As added by P.L.133-2002, SEC.56.

IC 34-26-5-6
Rules

Sec. 6. The following rules apply to an order for protection issued under this chapter:

(1) An order for protection is in addition to, and not instead of, another available civil or criminal proceeding.
(2) A petitioner is not barred from seeking an order because of another pending proceeding.
(3) A court may not delay granting relief because of the existence of a pending action between the petitioner and respondent.
(4) If a person who petitions for an ex parte order for protection also has a pending case involving:
    (A) the respondent; or
    (B) a child of the petitioner and respondent;
the court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer that matter to the court in which the other case is pending.
(5) If a person files a petition for an order of protection requesting relief that:
    (A) does not require a hearing under sections 9(b) and 10(a) of this chapter; and
    (B) requires a hearing under sections 9(c) and 10(b) of this chapter;
the court may issue an ex parte order for protection providing relief under clause (A) at any time before the required hearing under clause (B).

As added by P.L.133-2002, SEC.56. Amended by P.L.221-2003, SEC.9.

IC 34-26-5-7
Address confidentiality

Sec. 7. A petitioner may omit the petitioner's address from all nonconfidential documents filed with a court. However, a petitioner

must provide the court with complete information concerning the protected address on the uniform statewide confidential form and on other confidential forms developed by the division of state court administration under section 3 of this chapter. A petitioner shall also provide the clerk with a public mailing address for purposes of serving pleadings, notices, and court orders. The petitioner may use the address confidentiality program under IC 5-26.5. If disclosure of a petitioner's address is necessary to determine jurisdiction or to consider venue, the court may order the disclosure to be made:

(1) after receiving a petitioner's consent;

(2) orally in the judge's chambers and out of the presence of a respondent with a sealed record made; or

(3) after a hearing in which the court considers the safety of a petitioner and finds that disclosure of the address is in the interest of justice.

As added by P.L.133-2002, SEC.56. Amended by P.L.221-2003, SEC.10.

IC 34-26-5-8

Use of forms; transmission to clerk

Sec. 8. If a petitioner seeks:

(1) an order for protection;

(2) an extension of an order for protection;

(3) a modification of an order for protection;

(4) the termination of an order for protection; or

(5) the registration of a foreign protective order;

the petitioner is responsible for completing the forms prescribed by the division of state court administration and for transmitting those forms to the clerk of the court.

As added by P.L.133-2002, SEC.56. Amended by P.L.116-2009, SEC.12; P.L.130-2009, SEC.23.

IC 34-26-5-9

Ex parte orders; relief after notice and hearing; duties of issuing court; effective dates; burden of proof; superseding orders; presumptions

Sec. 9. (a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

(1) without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte; or

(2) upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.

(b) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification:

(1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a

petitioner and each designated family or household member.

(2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.

(3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.

(4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.

(5) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision, the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:

(A) ensure that a petitioner is safely restored to possession of the residence, automobile, and other essential personal effects; or

(B) supervise a petitioner's or respondent's removal of personal belongings.

(6) Order other relief necessary to provide for the safety and welfare of a petitioner and each designated family or household member.

(c) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

(1) Grant the relief under subsection (b).

(2) Specify arrangements for parenting time of a minor child by a respondent and:

(A) require supervision by a third party; or

(B) deny parenting time;

if necessary to protect the safety of a petitioner or child.

(3) Order a respondent to:

(A) pay attorney's fees;

(B) pay rent or make payment on a mortgage on a petitioner's residence;

(C) if the respondent is found to have a duty of support, pay for the support of a petitioner and each minor child;

(D) reimburse a petitioner or other person for expenses related to the domestic or family violence, including:

(i) medical expenses;

(ii) counseling;

(iii) shelter; and

(iv) repair or replacement of damaged property;

(E) pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (i); or

(F) pay the costs and fees incurred by a petitioner in bringing the action.

(4) Prohibit a respondent from using or possessing a firearm,

ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.

(d) The court shall:

(1) cause the order for protection to be delivered to the county sheriff for service;

(2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;

(3) electronically notify each law enforcement agency:

(A) required to receive notification under IC 5-2-9-6; or

(B) designated by the petitioner;

(4) transmit a copy of the order to the clerk for processing under IC 5-2-9;

(5) indicate in the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); and

(6) require the clerk of court to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.

(e) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

(f) A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:

(1) in the control, ownership, or possession of a respondent; or

(2) in the control or possession of another person on behalf of a respondent;

for the duration of the order for protection unless another date is ordered by the court.

(g) An order for custody, parenting time, or possession or control of property issued under this chapter is superseded by an order issued from a court exercising dissolution, legal separation, paternity, or guardianship jurisdiction over the parties.

(h) The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or hearings between the parties.

(i) Upon a finding of a violation of an order for protection, the court may:

(1) require a respondent to wear a GPS tracking device; and

(2) prohibit the respondent from approaching or entering certain locations where the petitioner may be found.

If the court requires a respondent to wear a GPS tracking device under subdivision (1), the court shall, if available, require the respondent to wear a GPS tracking device with victim notification capabilities.

(j) The court may permit a victim, a petitioner, another person, an organization, or an agency to pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (i).

As added by P.L.133-2002, SEC.56. Amended by P.L.68-2005, SEC.59; P.L.116-2009, SEC.13; P.L.130-2009, SEC.24; P.L.1-2010, SEC.135.

IC 34-26-5-10

Hearing after ex parte order

Sec. 10. (a) Except as provided in subsection (b), if a court issues:

(1) an order for protection ex parte; or

(2) a modification of an order for protection ex parte;

and provides relief under section 9(b) of this chapter, upon a request by either party not more than thirty (30) days after service of the order or modification, the court shall set a date for a hearing on the petition. The hearing must be held not more than thirty (30) days after the request for a hearing is filed unless continued by the court for good cause shown. The court shall notify both parties by first class mail of the date and time of the hearing.

(b) A court shall set a date for a hearing on the petition not more than thirty (30) days after the filing of the petition if a court issues an order for protection ex parte or a modification of an order of protection ex parte and:

(1) a petitioner requests or the court provides relief under section 9(b)(3), 9(b)(5), or 9(b)(6) of this chapter; or

(2) a petitioner requests relief under section 9(c)(2), 9(c)(3), or 9(c)(4) of this chapter.

The hearing must be given precedence over all matters pending in the court except older matters of the same character.

(c) In a hearing under subsection (a) or (b):

(1) relief under section 9 of this chapter is available; and

(2) if a respondent seeks relief concerning an issue not raised by a petitioner, the court may continue the hearing at the petitioner's request.

As added by P.L.133-2002, SEC.56.

IC 34-26-5-11

Exclusion from residence not waived by invitation from petitioner

Sec. 11. If a respondent is excluded from the residence of a petitioner or ordered to stay away from a petitioner, an invitation by

the petitioner to do so does not waive or nullify an order for protection.
As added by P.L.133-2002, SEC.56.

IC 34-26-5-12
Dismissal
Sec. 12. If a petitioner:
(1) files a written request for dismissal with a court; or
(2) makes an oral request on the record to dismiss the case in open court;
the court shall without delay or any conditions dismiss the case without prejudice.
As added by P.L.133-2002, SEC.56.

IC 34-26-5-13
Lapse of time between act and filing of petition
Sec. 13. A court may not deny a petitioner relief under section 9 of this chapter solely because of a lapse of time between an act of domestic or family violence and the filing of a petition.
As added by P.L.133-2002, SEC.56.

IC 34-26-5-14
Prohibition on mutual orders
Sec. 14. (a) A court may not grant a mutual order for protection to opposing parties.
(b) If both parties allege injury, the parties shall do so by separate petitions. The trial court shall review each petition separately in an individual or a consolidated hearing and grant or deny each petition on the petition's individual merits. If the trial court finds cause to grant both petitions, the court shall do so by separate orders with specific findings justifying the issuance of each order.
As added by P.L.133-2002, SEC.56.

IC 34-26-5-15
Prohibition on mediation
Sec. 15. A court may not:
(1) order parties into mediation; or
(2) refer parties to mediation;
for resolution of the issues in a petition for an order for protection regarding family or domestic violence. This section may not be construed to preclude mediation in other cases involving the same parties.
As added by P.L.133-2002, SEC.56.

IC 34-26-5-16
Fees
Sec. 16. Fees for:
(1) filing;
(2) service of process;
(3) witnesses; or

(4) subpoenas;

may not be charged for a proceeding seeking relief or enforcement as provided in this chapter, including a proceeding concerning a foreign protection order as described in section 17 of this chapter. This section may not be construed to prevent the collecting of costs from a party against whom an order for protection is sought if the court finds a claim to be meritorious and issues an order for protection under this chapter.

As added by P.L.133-2002, SEC.56. Amended by P.L.176-2005, SEC.23.

IC 34-26-5-17

Validity of foreign protection orders; full faith and credit; enforcement; duties of law enforcement officers

Sec. 17. (a) A foreign protection order is facially valid if it:

(1) identifies the protected person and the respondent;

(2) is currently in effect;

(3) was issued by a state or tribal court with jurisdiction over the:

(A) parties; and

(B) subject matter;

under the law of the issuing state or Indian tribe; and

(4) was issued after a respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of an ex parte order, notice and opportunity to be heard must be provided within the time required by state or tribal law and within a reasonable time after the order is issued sufficient to protect the respondent's due process rights.

(b) A facially valid foreign protection order is prima facie evidence of its validity. The protection order may be inscribed on a tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of an order for protection is not required for enforcement.

(c) Except as provided in subsection (d), a protection order that is facially valid and issued by a court of a state (issuing state) or Indian tribe shall be accorded full faith and credit by Indiana courts.

(d) A mutual foreign protection order is not entitled to full faith and credit if the order is issued by a state or tribal court against a person who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against a family or household member, unless:

(1) a separate petition or motion was filed by a respondent;

(2) the issuing court has reviewed each motion separately and granted or denied each on its individual merits; and

(3) separate orders were issued and the issuing court made specific findings that each party was entitled to an order.

(e) Registration or filing of a foreign protection order is not a prerequisite to enforcement of the order in Indiana, and a protection order that is consistent with this section shall be accorded full faith

and credit notwithstanding a failure to register or file the order in Indiana. However, if a petitioner wishes to register a foreign protection order in Indiana, all Indiana courts of record shall accommodate the request. The division of state court administration shall develop a form to be used by courts, clerks, and law enforcement agencies when a petitioner makes a request to register a foreign protection order. Except for a protective order issued to the Indiana protective order registry established by IC 5-2-9-5.5, the courts, clerks of the courts, and sheriffs or law enforcement agencies maintaining depositories shall employ the same procedures required under IC 5-2-9-6 for entering, modifying, extending, or terminating a foreign protection order as those used for a protection order and a no contact order originating in Indiana.

(f) A facially valid foreign protection order shall be enforced by a law enforcement officer and a state court as if it were an order originating in Indiana. The order must be enforced if the foreign protection order contains relief that the state courts lack the power to provide in an order for protection issued in Indiana.

(g) An Indiana law enforcement officer:

(1) may not require notification, registration, or filing of a facially valid foreign order for protection as a prerequisite to enforcement of an order;

(2) if a foreign protection order is not presented, may consider other information to determine under a totality of the circumstances whether there is probable cause to believe that a valid foreign order for protection exists; and

(3) who determines that an otherwise valid foreign protection order cannot be enforced because a respondent has not been notified or served with the order, shall:

(A) inform the respondent of the order;

(B) serve the order on the respondent;

(C) ensure that the order and service of the order are entered into the state depository;

(D) allow the respondent a reasonable opportunity to comply with the order before enforcing the order; and

(E) ensure the safety of the protected person while giving the respondent the opportunity to comply with the order.

(h) After a foreign protective order is registered, the clerk shall enter the order in the Indiana protective order registry established by IC 5-2-9-5.5.

As added by P.L.133-2002, SEC.56. Amended by P.L.116-2009, SEC.14; P.L.130-2009, SEC.25.

IC 34-26-5-18

Orders entered into Indiana data and communication system (IDACS)

Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

(1) A no contact order issued under IC 31-32-13 in a juvenile

case.

(2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.

(3) A no contact order issued under IC 31-34-25 in a CHINS case.

(4) A no contact order issued under IC 31-37-19 in a delinquency case.

(5) A no contact order issued under IC 31-37-25 in a delinquency case.

(6) A no contact order issued under IC 33-39-1-8 in a criminal case.

(7) An order for protection issued under this chapter.

(8) A workplace violence restraining order issued under IC 34-26-6.

(9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.

(10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.

(11) A child protective order issued under IC 31-34-2.3.

(12) A foreign protective order registered under section 17 of this chapter.

As added by P.L.133-2002, SEC.56. Amended by P.L.98-2004, SEC.121; P.L.52-2007, SEC.12; P.L.116-2009, SEC.15; P.L.130-2009, SEC.26; P.L.1-2010, SEC.136.

IC 34-26-5-19
Guardian ad litem

Sec. 19. In a proceeding under this chapter, a court may appoint a guardian ad litem to represent the interests of a child of one (1) or both parents.

As added by P.L.133-2002, SEC.56.

IC 34-26-5-20
Effect of certain protective orders; use of forms

Sec. 20. (a) A protective order issued before July 1, 2002, under IC 31-34-17, IC 31-37-16, or IC 34-26-2 (before their repeal) remains in effect for the period indicated in the court order granting the protective order.

(b) A protective order issued before July 1, 2002, under IC 31-14-16 or IC 31-15-5 remains in effect for the period indicated in the court order granting the protective order.

(c) After June 30, 2002, a protected person must use the forms developed by the division of state court administration under section 3 of this chapter if the person is seeking an extension or a modification of an order issued under subsection (a) or (b).

As added by P.L.16-2009, SEC.32.

IC 34-26-6

Chapter 6. Workplace Violence Restraining Orders

IC 34-26-6-0.5

Application

Sec. 0.5. This chapter does not apply to a case involving or growing out of a labor dispute covered by IC 22-6-1.

As added by P.L.221-2003, SEC.11.

IC 34-26-6-1

"Course of conduct"

Sec. 1. As used in this chapter, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, indicating a continuity of purpose, that includes the following:

(1) Following or stalking an employee to or from the employee's place of work.

(2) Entering the employee's place of work.

(3) Following an employee during the employee's hours of employment.

(4) Making telephone calls to an employee during the employee's hours of employment.

(5) Sending correspondence to an employee by means such as public or private mail, interoffice mail, fax, or electronic mail.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-2

"Credible threat of violence"

Sec. 2. As used in this chapter, "credible threat of violence" means a knowing and willful statement or course of conduct that does not serve a legitimate purpose and that causes a reasonable person to fear for the person's safety or for the safety of the person's immediate family.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-3

"Employee"

Sec. 3. As used in this chapter, "employee" means:

(1) a person employed or permitted to work or perform a service for remuneration;

(2) a member of a board of directors for a private, public, or quasi-public corporation;

(3) an elected or appointed public officer; and

(4) a volunteer or an independent contractor who performs services for an employer at the employer's place of work.

As added by P.L.133-2002, SEC.57. Amended by P.L.221-2003, SEC.12.

IC 34-26-6-4

"Employer"

Sec. 4. As used in this chapter, "employer" means:

(1) an individual;
(2) a partnership;
(3) an association;
(4) a limited liability company;
(5) a corporation;
(6) a business trust;
(7) the state;
(8) a governmental agency; or
(9) a political subdivision;

that has at least two (2) employees during any work week.
As added by P.L.133-2002, SEC.57. Amended by P.L.221-2003, SEC.13.

IC 34-26-6-5
"Unlawful violence"

Sec. 5. As used in this chapter, "unlawful violence", except for lawful acts of self-defense or defense of others, means battery under IC 35-42-2 or stalking under IC 35-45-10.
As added by P.L.133-2002, SEC.57.

IC 34-26-6-6
Employer may seek restraining order or injunction

Sec. 6. An employer may seek a temporary restraining order or injunction on behalf of an employee to prohibit further violence or threats of violence by a person if:

(1) the employee has suffered unlawful violence or a credible threat of violence from the person; and
(2) the unlawful violence has been carried out at the employee's place of work or the credible threat of violence can reasonably be construed to be carried out at the employee's place of work by the person.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-7
Affidavit; irreparable harm

Sec. 7. A plaintiff may obtain a temporary restraining order under section 6 of this chapter by filing a petition for an injunction if the plaintiff:

(1) files an affidavit that shows, to the satisfaction of the court, reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant; and
(2) demonstrates that great or irreparable harm has been suffered by the employee or will be suffered by the employee.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-8
Hearing; responsive pleading; burden of proof

Sec. 8. A court shall hold a hearing not more than fifteen (15) days after a petition for an injunction is filed under section 7 of this

chapter. The defendant may file a cross-complaint or a responsive pleading that explains, excuses, justifies, or denies the alleged unlawful violence or credible threat of violence. The court shall:

(1) receive testimony and may make independent inquiry; and

(2) if the defendant is a current employee of the entity requesting the injunction, receive testimony of the employer's decision to retain, terminate, or otherwise discipline the defendant.

If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, the judge shall issue an injunction prohibiting further unlawful violence or credible threats of violence.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-9

Effective dates; renewal

Sec. 9. An injunction issued under section 8 of this chapter may remain in effect for not more than three (3) years. Not more than three (3) months before the expiration of an injunction, a plaintiff may apply for a renewal of the injunction by filing a new petition under section 8 of this chapter.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-10

Service

Sec. 10. A defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and a notice of the hearing not less than five (5) days before the hearing. However, the court may, for good cause, upon the filing of a motion by a plaintiff or upon the court's own motion, shorten the time for service on the defendant.

As added by P.L.133-2002, SEC.57.

IC 34-26-6-11

Delivery to law enforcement agency; availability of information in order or injunction to responding law enforcement officers

Sec. 11. The court shall order a plaintiff or the attorney for a plaintiff to deliver a copy of each:

(1) temporary restraining order;

(2) injunction;

(3) modification of a temporary restraining order or an injunction; and

(4) termination of a temporary restraining order or an injunction;

to a law enforcement agency that is requested by a plaintiff and approved by the court. The copies under subdivisions (1) through (4) must be delivered by the close of the business day on which the order is granted. Each law enforcement agency shall make information on the existence and status of an order available to a law enforcement officer responding to the scene of unlawful violence or a credible

threat of violence.
As added by P.L.133-2002, SEC.57.

IC 34-26-6-12
Intentional violation; invasion of privacy

Sec. 12. An intentional violation of a temporary restraining order or an injunction issued under this chapter is punishable as set forth under IC 35-46-1-15.1.
As added by P.L.133-2002, SEC.57.

IC 34-26-6-13
Forms; instructions; rules; transmission to IDACS

Sec. 13. (a) The division of state court administration shall develop forms, instructions, and rules for the scheduling of hearings and other procedures under this chapter. A party to an action under this chapter must use the forms developed by the division of state court administration.

(b) A temporary restraining order or an injunction issued for harassment or domestic or family violence under this chapter must be issued on forms adopted and approved by the division of state court administration and must be consistent with IC 34-26-5-3. However, an order or injunction issued under this section is not rendered unenforceable solely because it is not issued on forms adopted and approved by the division of state court administration.

(c) Information in a temporary restraining order or an injunction relating to harassment or domestic or family violence must be transmitted to the Indiana data and communication system (IDACS) as required under IC 34-26-5-18.
As added by P.L.133-2002, SEC.57.

IC 34-26-6-14
Fees

Sec. 14. A filing fee may not be charged for a petition that alleges that a person has:

(1) inflicted or threatened violence against an employee of the plaintiff;
(2) stalked an employee of the plaintiff; or
(3) spoken in a manner that has placed an employee in reasonable fear of violence;

and that seeks a temporary restraining order or an injunction to restrain future violence or threats of violence. A filing fee may not be charged for a responsive pleading described under section 8 of this chapter.
As added by P.L.133-2002, SEC.57. Amended by P.L.221-2003, SEC.14.

IC 34-26-6-15
Limitations on orders and injunctions

Sec. 15. This chapter may not be construed to:

(1) permit a court to issue a temporary restraining order or an

injunction that prohibits speech or any other activity that is constitutionally protected or otherwise protected by another law;

(2) prevent either party from representation by private counsel or from pro se representation; or

(3) expand, diminish, alter, or modify the duty, if any, of an employer to provide a safe workplace for an employee or another person.

As added by P.L.133-2002, SEC.57.

IC 34-27

ARTICLE 27. SPECIAL PROCEEDINGS: MANDATE AND PROHIBITION

IC 34-27-1

Chapter 1. Writs of Mandate and Prohibition

IC 34-27-1-1

Actions for mandate; procedure

Sec. 1. Writs of mandate in the circuit and superior courts are abolished. Causes of action previously remedied by writs of mandate may be remedied by means of complaint and summons in the name of the state on relation of the party in interest in the circuit, superior, and probate courts as other civil actions. Such actions are to be known as actions for mandate.

As added by P.L.1-1998, SEC.23.

IC 34-27-1-2

Writs of mandate and prohibition in aid of appellate powers and functions

Sec. 2. (a) The supreme court may issue writs of mandate and prohibition in aid of the appellate powers and functions of the supreme court.

(b) The court of appeals may issue writs of mandate and prohibition in aid of the appellate powers and functions of the court of appeals.

As added by P.L.1-1998, SEC.23.

IC 34-27-1-3

Supreme court writ of mandate or prohibition to inferior court

Sec. 3. (a) The supreme court may issue writs of mandate to any and all inferior courts compelling the performance of any duty enjoined by law upon the inferior courts, including the granting of changes of venue from the county in cases where:

(1) change of venue is allowed by law;

(2) timely, proper, and sufficient motion and affidavit have been filed for a change of venue; and

(3) the motion for change of venue was refused.

(b) The supreme court may also issue a writ of prohibition to an inferior court to restrain and confine the inferior court to the inferior court's lawful jurisdiction.

As added by P.L.1-1998, SEC.23.

IC 34-27-1-4

Costs

Sec. 4. Costs shall be awarded in these proceedings as in civil actions.

As added by P.L.1-1998, SEC.23.

IC 34-27-2

Chapter 2. Writs of Prohibition

IC 34-27-2-1

Writ of prohibition; contents

Sec. 1. The writ of prohibition commands the court and party to whom the writ is directed:

(1) to refrain from any further proceedings in the matter specified in the action until the return of the writ and further order of the court; and

(2) upon the return, to show cause why the party to whom the writ is directed is not absolutely restrained from any further proceedings in the matter.

As added by P.L.1-1998, SEC.23.

IC 34-27-2-2

Judgment in prohibition proceeding

Sec. 2. The court renders judgment by either:

(1) issuing a prohibition absolute, restraining the court and party from proceeding; or

(2) authorizing the court and party to proceed;

in the matter in question.

As added by P.L.1-1998, SEC.23.

IC 34-27-3

Chapter 3. Actions for Mandate

IC 34-27-3-1

Action for mandate; scope

Sec. 1. An action for mandate may be prosecuted against any inferior tribunal, corporation, public or corporate officer, or person to compel the performance of any:

(1) act that the law specifically requires; or

(2) duty resulting from any office, trust, or station.

As added by P.L.1-1998, SEC.23.

IC 34-27-3-2

Complaint procedure

Sec. 2. (a) Except as provided in subsection (b), in an action for mandate, as in other civil actions:

(1) the complaint must be verified;

(2) the summons must be issued, or publication made, and proof of service and notice made; and

(3) the person, body, or tribunal defendant shall:

(A) appear and answer the complaint; or

(B) suffer default.

(b) When an emergency is shown in the complaint, the court or the judge may issue an order at the time the complaint is filed, directing a shorter time for the return of the summons and for the appearance and answer of the defendant than is provided in civil cases. The return of the summons and the time for appearance must be fixed by the court.

As added by P.L.1-1998, SEC.23.

IC 34-27-3-3

Trial of issues; final judgment

Sec. 3. (a) An action for mandate shall stand for trial, and as in other civil actions, the court hearing the action may:

(1) join issues of law and fact;

(2) grant amendments, continuances, and appeals; and

(3) render final judgments.

(b) In actions for mandate, if the finding and judgments are for the plaintiff, the court rendering the final judgment shall grant the plaintiff:

(1) relief the plaintiff is entitled to under the law and facts in the action;

(2) damages, as in actions for false returns; and

(3) costs as the court directs.

As added by P.L.1-1998, SEC.23.

IC 34-27-3-4

Notice of judgment; enforcement

Sec. 4. (a) All defendants served with process or notified by publication in an action for mandate shall:

(1) take notice of the judgment and mandate of the court in the case; and

(2) promptly perform the mandate issued by the court.

(b) Obedience to a judgment and mandate is enforceable by:

(1) attachment and fine;

(2) imprisonment; or

(3) both subdivisions (1) and (2).

As added by P.L.1-1998, SEC.23.

IC 34-28

ARTICLE 28. SPECIAL PROCEEDINGS: MISCELLANEOUS CIVIL PROCEEDINGS AND REMEDIES

IC 34-28-1

Chapter 1. Birth: Establishing Public Record of Time and Place

IC 34-28-1-1

Application of resident; procedure

Sec. 1. (a) This section applies to a person who is a resident of Indiana.

(b) To establish a public record of the time and place of a person's birth the person must:

(1) have been a bona fide resident, for more than six (6) months, of the county where the application is filed; and

(2) file a verified application and petition in the circuit or superior court of the county.

(c) The circuit court, the superior court, or the judge of the circuit or superior court shall hear and determine the matter set out in the application and petition, without the intervention of a jury.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-2

Application of nonresident; procedure

Sec. 2. (a) This section applies to a person who:

(1) was born in Indiana; and

(2) is not a resident of Indiana at the time of the application.

(b) The person may file a verified application in the circuit or superior court of the county of the person's birth for an order to establish a public record of the time and place of the birth of the applicant.

(c) The court or the judge shall hear and determine the matter set out in the application and petition without the intervention of a jury.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-3

Clerk of court to provide forms for petition

Sec. 3. The clerk of the court shall provide the forms for the petition in the same manner as other forms are provided for by law.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-4

Publication of notice of application; form

Sec. 4. (a) This section applies to any person, resident or nonresident, who has filed an application in any court as provided in this chapter.

(b) Except as provided in subsection (c), the applicant shall give notice of the application by one (1) insertion in a qualified newspaper

of general circulation, printed and published in the county where the application is filed.

(c) If no newspaper is published in the county where the application is filed, the applicant shall give notice in the closest newspaper printed and published in an adjoining county.

(d) The notice must be in the following form:

Birth Certificate

Notice is given that _____ has filed a petition in the _____ Court of _____ County, Indiana, to have the time and place of his (her) birth determined. This petition is set for hearing on the _____ day of _____, _____.

_____

Clerk of the _____ Court.

(e) The notice shall be published at a cost not to exceed one dollar and fifty cents ($1.50), and if the applicant cannot publish the notice for that amount, notice shall be given by posting the notice at a door of the courthouse. The clerk of the court shall post the notice and file proof of its posting.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-5

Hearing and determination on application

Sec. 5. Upon the filing of proof of notice by publication or posting, as provided in section 4 of this chapter, the court or judge may hear the application and enter a determination of status of the applicant as to time and place of birth.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-6

Jurisdictional requirements; supporting testimony of two freeholders

Sec. 6. Before the court or judge has jurisdiction to determine the application, the applicant must demonstrate:

(1) that at least two (2) freeholders, either of the county of the residence of the applicant or of the county of birth have:

(A) knowledge of the facts stated in the application; or

(B) reason to believe that the facts are true; and

(2) to the satisfaction of the court or the judge that the applicant meets the qualifications provided in this chapter for the filing of the application.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-7

Appearance of applicant; conduct of hearing; finality of determination; rehearing

Sec. 7. (a) The applicant may appear:

(1) in person; and

(2) with or without an attorney.

(b) If the applicant appears without an attorney, the judge shall conduct the hearing of the applicant and the examination of the

witnesses.

(c) The judge may continue the hearing from time to time.

(d) Except as provided in subsection (e), the determination of the court or the judge, after conclusion of the hearing, is final.

(e) Upon petition for sufficient cause, if the court or judge sets aside the former order and assigns the application for rehearing and determination, the determination of the court on rehearing is final.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-8

Copy of court decree as evidence

Sec. 8. A copy of the decree of the court or judge certified under the seal of the clerk of the court is prima facie evidence in any court, board, council, or commission of Indiana to show time and place of birth of the person named in the decree.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-9

Index record; copy of judgment and decree to vital records division

Sec. 9. (a) The clerk of the court shall:

(1) make and keep an index record to be known as the birth certificate record; and

(2) enter the judgment and decree into the proper index of the record.

(b) The clerk shall also send a certified copy of the judgment and decree to the division of vital records, state department of health, Indianapolis, Indiana. The judgment and decree shall be considered to be a delayed certificate of birth under IC 16-37-2.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-10

Collection of fee

Sec. 10. The clerk shall collect the fee provided in IC 33-37-4-4. However, a fee may not be collected if the petitioner is a resident of Indiana.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2004, SEC.122.

IC 34-28-1-11

Dismissal of application for want of prosecution

Sec. 11. Where the applicant fails to prosecute the cause for one hundred twenty (120) days after filing the application, the court or judge shall dismiss the application for want of prosecution, and the clerk of the circuit court shall destroy the application immediately following the dismissal.

As added by P.L.1-1998, SEC.24.

IC 34-28-2

Chapter 2. Change of Name

IC 34-28-2-1

Petition to circuit court

Sec. 1. Except as provided in section 1.5 of this chapter, the circuit courts in Indiana may change the names of natural persons on application by petition.

As added by P.L.1-1998, SEC.24. Amended by P.L.18-1998, SEC.1.

IC 34-28-2-1.5

Incarcerated persons may not petition for change of name

Sec. 1.5. A person may not petition for a change of name under this chapter if the person is confined to a department of correction facility.

As added by P.L.18-1998, SEC.2.

IC 34-28-2-2

Filing petition; procedure for change of name of minor

Sec. 2. (a) The petition described in section 1 of this chapter must:

(1) if applicable, include the information required by section 2.5 of this chapter;

(2) in the case of a petition filed by a person described in section 2.5 of this chapter, be subscribed and sworn to (or affirmed):

(A) under the penalties of perjury; and

(B) before a notary public or other person authorized to administer oaths; and

(3) be filed with the circuit court of the county in which the person resides.

(b) In the case of a parent or guardian who wishes to change the name of a minor child, the petition must be verified, and it must state in detail the reason the change is requested. In addition, except where a parent's consent is not required under IC 31-19-9, the written consent of a parent, or the written consent of the guardian if both parents are dead, must be filed with the petition.

(c) Before a minor child's name may be changed, the parents or guardian of the child must be served with a copy of the petition as required by the Indiana trial rules.

As added by P.L.1-1998, SEC.24. Amended by P.L.61-2010, SEC.1.

IC 34-28-2-2.5

Contents of petition

Sec. 2.5. (a) If a person petitioning for a change of name under this chapter is at least seventeen (17) years of age, the person's petition must include at least the following information:

(1) The person's date of birth.

(2) The person's current:

(A) residence address; and

(B) if different than the person's residence address, mailing address.

(3) The person's valid:
(A) Indiana driver's license number; or
(B) Indiana identification card (as described in IC 9-24-16) number.
(4) A list of all previous names used by the person.
(5) Proof that the person is a United States citizen.
(6) A statement concerning whether the person holds a valid United States passport.
(7) A description of all judgments of criminal conviction of a felony under the laws of any state or the United States that have been entered against the person.

(b) A petition under subsection (a) is subject to Indiana Rules of Court Administrative Rule 9.

As added by P.L.61-2010, SEC.2.

IC 34-28-2-3
Notice of petition

Sec. 3. (a) Upon filing a petition for a name change, the applicant shall give notice of the petition as follows:
(1) By three (3) weekly publications in a newspaper of general circulation published in the county in which the petition is filed in court.
(2) If no newspaper is published in the county in which the petition is filed, the applicant shall give notice in a newspaper published nearest to that county in an adjoining county.
(3) The last weekly publication shall be published not less than thirty (30) days before the day the petition will be heard as indicated in the notice.

(b) In the case of a petition described in section 2(b) of this chapter, the notice required by this section must include the following:
(1) The name of the petitioner.
(2) The name of the minor child whose name is to be changed.
(3) The new name desired.
(4) The name of the court in which the action is pending.
(5) The date on which the petition was filed.
(6) A statement that any person has the right to appear at the hearing and to file objections.

(c) Except as provided in section 1.5 of this chapter, in the case of a person who has had a felony conviction within ten (10) years before filing a petition for a change of name, at least thirty (30) days before the hearing the petitioner must give notice of the filing of the petition to:
(1) the sheriff of the county in which the petitioner resides;
(2) the prosecuting attorney of the county in which the petitioner resides; and
(3) the Indiana central repository for criminal history information.

(d) The notice given to the Indiana central repository for criminal history information under subsection (c) must include the petitioner's

full current name, requested name change, date of birth, address, physical description, and a full set of classifiable fingerprints.

(e) The Indiana central repository for criminal history information shall forward a copy of any criminal records of the petitioner to the court for the court's information.

(f) A copy of the court decree granting or denying such a petition shall be sent to the Indiana state police.

(g) A person who violates subsection (c) commits a Class A misdemeanor.

As added by P.L.1-1998, SEC.24. Amended by P.L.18-1998, SEC.3; P.L.1-1999, SEC.72; P.L.61-2010, SEC.3.

IC 34-28-2-4

Proof of publication; time of hearing; notice requirements; determination on petition

Sec. 4. (a) Proof of the publication required in this chapter is made by filing a copy of the published notice, verified by the affidavit of a disinterested person, and when proof of publication is made, the court shall, subject to the limitations imposed by subsections (b), (c), and (d), proceed to hear the petition and make an order and decree the court determines is just and reasonable.

(b) In the case of a petition described in section 2(b) of this chapter, the court may not hear the petition and issue a final decree until after thirty (30) days from the later of:

(1) the filing of proof of publication of the notice required under subsection (a); or

(2) the service of the petition upon the parents or guardian of the minor child.

(c) In the case of a petition described in section 2(b) of this chapter, the court shall set a date for a hearing on the petition if:

(1) written objections have been filed; or

(2) either parent or the guardian of the minor child has refused or failed to give written consent as described in section 2(b) of this chapter.

The court shall require that appropriate notice of the hearing be given to the parent or guardian of the minor child or to any person who has filed written objections.

(d) In deciding on a petition to change the name of a minor child, the court shall be guided by the best interest of the child rule under IC 31-17-2-8. However, there is a presumption in favor of a parent of a minor child who:

(1) has been making support payments and fulfilling other duties in accordance with a decree issued under IC 31-15, IC 31-16, or IC 31-17 (or IC 31-1-11.5 before its repeal); and

(2) objects to the proposed name change of the child.

(e) In the case of a person required to give notice under section 3(c) of this chapter, the petitioner must certify to the court that the petitioner has complied with the notice requirements of that subsection.

As added by P.L.1-1998, SEC.24. Amended by P.L.61-2010, SEC.4.

IC 34-28-2-5

Court decree as evidence; copy sent to health department, clerk of circuit court, or board

Sec. 5. (a) A copy of the decree of the court changing the name of any natural person, certified under the seal of the court by the clerk of the court, is sufficient evidence of the name of the person, and of a change having been made, in any court of Indiana.

(b) In the case of a petition described in section 2(b) of this chapter, the court shall send a copy of the final decree to the state department of health and to the local health department of the county.

(c) In the case of a petition filed by a person at least seventeen (17) years of age, the court shall send a copy of the final decree to the clerk of the circuit court or board of registration of the county where the person resides.

As added by P.L.1-1998, SEC.24.

IC 34-28-3

Chapter 3. Partial Emancipation for Minors to Participate in Automobile and Motorcycle Racing

IC 34-28-3-1

Application of chapter

Sec. 1. This chapter applies to a person who wishes to participate in professional automobile or motorcycle racing events.

As added by P.L.1-1998, SEC.24.

IC 34-28-3-2

Petition to court; requirements; terms of emancipation

Sec. 2. (a) This section applies to:

(1) a circuit or superior court that has jurisdiction in the county in which the minor resides or is employed; or

(2) if the minor neither resides in nor is employed in Indiana, the circuit or superior court that has jurisdiction in the county in which any party to the contract or release has its principal office in Indiana.

(b) A circuit or superior court described in subsection (a) may partially emancipate a minor under this chapter if the court finds all of the following:

(1) The minor and the minor's parents, having petitioned the court, appear before the court and agree that the minor should be partially emancipated to be allowed to participate in professional automobile or motorcycle racing events.

(2) The minor possesses the maturity to understand the hazards and risks involved in participating in automotive or motorcycle racing events.

(3) The minor and the minor's parents understand what it means for the minor and the minor's parents to be bound by any contracts, releases, or indemnity agreements the minor signs once the minor is partially emancipated under this chapter.

(4) If the minor intends to drive in a professional automobile or motorcycle racing event, that the minor has five (5) years experience in go-kart, automobile, or motorcycle racing.

(c) Whenever the court partially emancipates a minor under this chapter, the court shall specify the terms of the emancipation, which are limited to any of the following:

(1) The ability to contract for the purposes of participating in professional automobile and motorcycle racing events.

(2) The ability to sign liability releases or indemnity agreements required by a sanctioning entity of professional automobile or motorcycle racing events.

As added by P.L.1-1998, SEC.24.

IC 34-28-3-3

Avoiding contract, liability release, or indemnity agreement entered into by partially emancipated minor prohibited

Sec. 3. A minor who has been partially emancipated under this

chapter (or IC 34-4-44.2 before its repeal) may not avoid a contract, a liability release, or an indemnity agreement referred to in a court order issued under this chapter (or IC 34-4-44.2 before its repeal) by alleging that the minor was under a legal disability by reason of the minor's age. No parent of a minor who has been partially emancipated under this chapter (or IC 34-4-44.2 before its repeal) may seek to have a contract, a liability release, or an indemnity agreement signed by the partially emancipated minor as allowed under this chapter set aside by reason of the minor's age at the time the minor entered into the contract, regardless of whether the parent participates in the partial emancipation proceeding or fits the definition of a parent under IC 34-6-2-93.
As added by P.L.1-1998, SEC.24.

IC 34-28-4

Chapter 4. Remedies for Improper Dismissal From Employment Because of Court Attendance

IC 34-28-4-1

Civil action for dismissal from employment

Sec. 1. A person who is dismissed from employment in violation of IC 35-44.1-2-11 may bring a civil action, within ninety (90) days of the dismissal, against the employer who dismissed the person:

(1) to recover the wages the person lost as a result of the dismissal; and

(2) to obtain an order requiring reinstatement by the employer.

If the person obtains a judgment against the employer, the court shall award a reasonable attorney's fee to the person's attorney.

As added by P.L.1-1998, SEC.24. Amended by P.L.126-2012, SEC.43.

IC 34-28-5

Chapter 5. Infraction and Ordinance Violation Enforcement Proceedings

IC 34-28-5-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-4-32-1 (before its repeal, now codified at section 1 of this chapter) by P.L.309-1985 do not apply to violations occurring before April 9, 1985.

As added by P.L.220-2011, SEC.562.

IC 34-28-5-1

Prosecution in name of state or municipality; rules; limitations; burden of proof; deferral programs; agreement for community restitution or service

Sec. 1. (a) As used in this section, "probationary license" refers to a license described in IC 9-24-11-3.3(b).

(b) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(c) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(d) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(e) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(f) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(g) Subsection (h) does not apply to an individual holding a probationary license who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:

IC 9-19
IC 9-21
IC 9-24
IC 9-25
IC 9-26
IC 9-30-5
IC 9-30-10

IC 9-30-15.

(h) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay a fee of seventy dollars ($70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);

(5) the agreement is filed in the court in which the action is brought; and

(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

(i) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-31.5-2-50) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the

court; and

(B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2000, SEC.12; P.L.98-2004, SEC.123; P.L.176-2005, SEC.24; P.L.200-2005, SEC.1; P.L.101-2009, SEC.17; P.L.114-2012, SEC.65; P.L.125-2012, SEC.412.

IC 34-28-5-2

Moving traffic violation; pleadings

Sec. 2. In an action for a moving traffic violation, the pleadings are as follows:

(1) A summons and complaint.

(2) Entry by a defendant of:

(A) an admission to the violation;

(B) a denial of the violation; or

(C) a declaration of nolo contendere in which the defendant consents to entry of judgment for the state without admitting to the violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-3

Detention; communications device information

Sec. 3. (a) Whenever a law enforcement officer believes in good faith that a person has committed an infraction or ordinance violation, the law enforcement officer may detain that person for a time sufficient to:

(1) inform the person of the allegation;

(2) obtain the person's:

(A) name, address, and date of birth; or

(B) driver's license, if in the person's possession; and

(3) allow the person to execute a notice to appear.

(b) If a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not, without the consent of the person, extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless:

(1) the law enforcement officer has probable cause to believe that the:

(A) cellular telephone; or

(B) other wireless or cellular communications device;

has been used in the commission of a crime;

(2) the information is extracted or otherwise downloaded under a valid search warrant; or

(3) otherwise authorized by law.

As added by P.L.1-1998, SEC.24. Amended by P.L.191-2014, SEC.2.

IC 34-28-5-3.5

Refusal to identify self

Sec. 3.5. A person who knowingly or intentionally refuses to provide either the person's:

(1) name, address, and date of birth; or

(2) driver's license, if in the person's possession;

to a law enforcement officer who has stopped the person for an infraction or ordinance violation commits a Class C misdemeanor.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-4

Costs; deposit of funds; findings required for judgment; special provisions for moving violations

Revisor's Note: P.L.106-2010, SEC.18, required this section to be printed as follows.

Sec. 4. (a) A judgment of up to ten thousand dollars ($10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars ($1,000) may be entered for a violation constituting a Class B infraction.

(c) Except as provided in subsection (f), a judgment of up to five hundred dollars ($500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars ($25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section 1(i) of this chapter, a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) Except as provided in subsections (g) and (h), a person who has admitted to a moving violation constituting a Class C infraction, pleaded nolo contendere to a moving violation constituting a Class C infraction, or has been found by a court to have committed a moving violation constituting a Class C infraction may not be required to pay more than the following amounts for the violation:

(1) If, before the appearance date specified in the summons and complaint, the person mails or delivers an admission of the moving violation or a plea of nolo contendere to the moving violation, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents ($35.50).

(2) If the person admits the moving violation or enters a plea of nolo contendere to the moving violation on the appearance date specified in the summons and complaint, the person may not be

required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents ($35.50).

(3) If the person contests the moving violation in court and is found to have committed the moving violation, the person may not be required to pay any amount, except:

(A) court costs and a judgment that does not exceed thirty-five dollars and fifty cents ($35.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was not found by a court in the county to have committed a moving violation;

(B) court costs and a judgment that does not exceed two hundred fifty dollars and fifty cents ($250.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed one (1) moving violation; and

(C) court costs and a judgment that does not exceed five hundred dollars ($500) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed two (2) or more moving violations.

In a proceeding under subdivision (3), the court may require the person to submit an affidavit or sworn testimony concerning whether, in the five (5) years before the appearance date specified in the summons and complaint, the person has been found by a court to have committed one (1) or more moving violations.

(g) The amounts described in subsection (f) are in addition to any amount that a person may be required to pay for attending a defensive driving school program.

(h) This subsection applies only to infraction judgments imposed in Marion County for traffic violations after December 31, 2010. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less than thirty-five dollars ($35) for an infraction judgment that is entered in Marion County. These funds shall be transferred to a dedicated fund in accordance with section 5 of this chapter.

As added by P.L.1-1998, SEC.24. Amended by P.L.200-2005, SEC.2; P.L.101-2009, SEC.18; P.L.71-2010, SEC.3; P.L.106-2010, SEC.7.

IC 34-28-5-5

Costs; deposit of funds; findings required for judgment

Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

(1) Class D infractions; or

(2) Class C infractions for unlawfully parking in a space

reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.

(b) If a judgment is entered:

(1) for a violation constituting:

(A) a Class D infraction; or

(B) a Class C infraction for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8; or

(2) in favor of the defendant in any case;

the defendant is not liable for costs.

(c) Except for costs, and except as provided in subsection (e) and IC 9-21-5-11(e), the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

(d) A judgment may be entered against a defendant under this section or section 4 of this chapter upon a finding by the court that the defendant:

(1) violated:

(A) a statute defining an infraction; or

(B) an ordinance; or

(2) consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation.

(e) The funds collected for an infraction judgment described in section 4(h) of this chapter shall be transferred to a dedicated county fund. The money in the dedicated county fund does not revert to the county general fund or state general fund and may be used, after appropriation by the county fiscal body, only for the following purposes:

(1) To pay compensation of commissioners appointed under IC 33-33-49.

(2) To pay costs of the county's guardian ad litem program.

As added by P.L.1-1998, SEC.24. Amended by P.L.40-2007, SEC.7; P.L.71-2010, SEC.4; P.L.106-2010, SEC.8.

IC 34-28-5-6

Suspension of driver's license

Sec. 6. If a defendant fails to satisfy a judgment entered against the defendant for the violation of a traffic ordinance or for a traffic infraction by a date fixed by the court, the court may suspend the defendant's drivers license. When a court suspends a person's drivers license under this section, the court shall forward notice of the suspension to the bureau of motor vehicles.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-7

Traffic violations bureau; clerk

Sec. 7. Any court may establish a traffic violations bureau and appoint a violations clerk who shall serve under the direction and control of the court.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-8
Duties of clerk

Sec. 8. The violations clerk or deputy violations clerk shall:

(1) accept:

(A) written appearances;

(B) waivers of trial;

(C) admissions of violation;

(D) declarations of nolo contendere for moving traffic violations;

(E) payments of judgments (including costs) in traffic violation cases;

(F) deferral agreements made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under IC 33-37-4-2(e); and

(G) community restitution or service agreements made under section 1(g) of this chapter;

(2) issue receipts and account for any judgments (including costs) collected; and

(3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2004, SEC.124; P.L.200-2005, SEC.3.

IC 34-28-5-9
Duties of court

Sec. 9. The court shall:

(1) designate the traffic violations within the authority of the violations clerk, but these violations may not include misdemeanors or felonies;

(2) establish schedules, within limits prescribed by law, of the judgments to be imposed for first violations, designating each violation specifically;

(3) order that the schedule of judgments be prominently posted in the place where the fines are paid;

(4) establish a procedure under which any violations clerk or deputy violations clerk shall accept, receipt, and account for all money tendered for designated traffic violations; and

(5) dismiss deferred actions if a dismissal request is made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal).

As added by P.L.1-1998, SEC.24.

IC 34-28-5-10
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 34-28-5-11
Admission of violation; nolo contendere plea; payment of judgment

Sec. 11. Any person charged with a traffic violation that is within the authority of the violations clerk may mail or deliver:

(1) the amount of the judgment (including costs) indicated on

the ticket; and
(2) a signed:
(A) admission of the violation; or
(B) pleading of nolo contendere, if the action is for a moving traffic violation.
As added by P.L.1-1998, SEC.24.

IC 34-28-5-12
Notice requirements for acceptance of admission or nolo contendere plea
Sec. 12. Before accepting a pleading admitting to a violation or entering a declaration of nolo contendere to a violation, the violations clerk or the officer writing the ticket shall inform the person that:
(1) the person's signature to:
(A) an admission of the violation; or
(B) a pleading of nolo contendere;
will have the same effect as a judgment of a court; and
(2) the record of judgment will be sent to the commissioner of motor vehicles of Indiana or the state where the person received a license to drive.
As added by P.L.1-1998, SEC.24.

IC 34-28-5-13
Payment by credit card
Sec. 13. A court may permit a person to use a credit card issued by a financial institution for the purpose of paying a court cost and judgment with respect to a traffic violation that is enforced under this chapter. The state board of accounts shall allow a county to pay any applicable credit card service charge on behalf of a court that permits the use of a credit card under this section. The county fiscal body must appropriate funds to cover the costs of applicable credit card service charges before a court may permit the use of a credit card under this section.
As added by P.L.1-1998, SEC.24.

IC 34-28-5-14
Written appearance instead of personal appearance before court
Sec. 14. If a person named as a defendant in a summons and complaint issued under IC 5-16-9-10, before the appearance date specified in the summons and complaint, mails or delivers the following to the court having jurisdiction over the action:
(1) an admission of the violation or a plea of nolo contendere to the violation; and
(2) a fifty dollar ($50) civil judgment;
the court shall enter a judgment against the defendant for the violation. An admission or plea of nolo contendere received by the court under this section (or IC 34-4-32-6 before its repeal) constitutes a written appearance and the defendant is not required to personally appear before the court.
As added by P.L.1-1998, SEC.24.

IC 34-28-5-15

Disclosure of information related to an infraction; restrictions; petition to restrict disclosure

Sec. 15. (a) This subsection does not apply to a person whose prosecution for an infraction is deferred under section 1 of this chapter. If a person alleged to have violated a statute defining an infraction:

(1) is not prosecuted or if the action against the person is dismissed;

(2) is adjudged not to have committed the infraction; or

(3) is adjudged to have committed the infraction and the adjudication is subsequently vacated;

the court in which the action was filed shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

(b) Not earlier than five (5) years after a person:

(1) whose prosecution for an infraction has been deferred; or

(2) who was found to have violated a statute defining an infraction;

has satisfied the conditions of the deferral program or the judgment imposed for the violation, the person may petition the court to prohibit disclosure of information related to the infraction to a noncriminal justice organization or an individual. The court shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual if the court finds that:

(1) the person satisfied the judgment or conditions of the deferral program; and

(2) at least five (5) years have passed since the date the person satisfied the judgment or conditions of the program.

(c) If a court fails to order the clerk and the operator of any state, regional, or local case management system to restrict disclosure of information related to the infraction under subsection (a), the person may petition the court to restrict disclosure of the records related to the infraction to a noncriminal justice organization or an individual.

(d) A petition under subsection (b) or (c) must be verified and filed in:

(1) the court in which the action was filed, for a person described in subsection (a)(1);

(2) the court in which the trial was held, for a person described in subsection (a)(2) or (a)(3); or

(3) the court finding or having jurisdiction over the violation, for a person described in subsection (b).

(e) A petition under subsection (b) or (c) must be filed not earlier than:

(1) if the person is adjudged not to have committed the infraction, thirty (30) days after the date of judgment;

(2) if the person's adjudication is vacated, three hundred

sixty-five (365) days after:

(A) the order vacating the adjudication is final, if there is no appeal or the appeal is terminated before entry of an opinion or memorandum decision; or

(B) the opinion or memorandum decision vacating the adjudication is certified;

(3) if the person is not prosecuted or the action is dismissed, thirty (30) days after the action is dismissed, if a new action is not filed; or

(4) if the person participated in a deferral program or is found to have violated the statute defining the infraction, not earlier than five (5) years after the date the judgment for the violation is satisfied or the conditions of the deferral program are met.

(f) A petition under subsection (b) or (c) must set forth:

(1) the date of the alleged violation;

(2) the violation or alleged violation;

(3) the date the action was dismissed, if applicable;

(4) the date of judgment, if applicable;

(5) the date the adjudication was vacated, if applicable;

(6) the basis on which the adjudication was vacated, if applicable;

(7) the date the judgment is satisfied or the conditions of the deferral program were met, if applicable;

(8) the law enforcement agency employing the officer who issued the complaint, if applicable;

(9) any other known identifying information, such as the name of the officer, case number, or court cause number;

(10) the date of the petitioner's birth; and

(11) at the option of the petitioner, the:

(A) petitioner's driver's license or state identification card number; or

(B) last four (4) digits of the petitioner's Social Security number.

(g) A copy of a petition filed under subsection (b) or (c) shall be served on the prosecuting attorney.

(h) If the prosecuting attorney wishes to oppose a petition filed under subsection (b) or (c), the prosecuting attorney shall, not later than thirty (30) days after the petition is filed, file a notice of opposition with the court setting forth reasons for opposing the petition. The prosecuting attorney shall attach to the notice of opposition a certified copy of any documentary evidence showing that the petitioner is not entitled to relief. A copy of the notice of opposition and copies of any documentary evidence shall be served on the petitioner in accordance with the Indiana Rules of Trial Procedure.

(i) The court may, with respect to a petition filed under subsection (b) or (c):

(1) summarily grant the petition;

(2) set the matter for hearing; or

(3) summarily deny the petition, if the court determines that:

(A) the petition is insufficient; or

(B) based on documentary evidence submitted to the court, the petitioner is not entitled to have access to the petitioner's records restricted.

(j) If a notice of opposition is filed under subsection (h) and the court does not summarily grant or summarily deny the petition, the court shall set the matter for a hearing.

(k) After a hearing is held under subsection (j), the court shall grant the petition filed under:

(1) subsection (b) if the person is entitled to relief under that subsection; or

(2) subsection (c) if the person is entitled to relief under subsection (a).

(l) If the court grants a petition filed under subsection (b) or (c), the court shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

As added by P.L.69-2012, SEC.2. Amended by P.L.13-2013, SEC.83; P.L.112-2013, SEC.7.

IC 34-28-5-16
Repealed

(Repealed by P.L.112-2013, SEC.8; P.L.205-2013, SEC.356.)

IC 34-28-6

Chapter 6. Security Deposit Posted by a Nonresident Alleged to Have Violated Certain Statutes

IC 34-28-6-1

Arrest of nonresidents; recreational vehicle or hunting and fishing violations; release upon deposit of security

Sec. 1. Whenever a person who is not a resident of Indiana:

(1) is arrested or stopped for a misdemeanor violation or infraction under:

(A) IC 9-31-3;

(B) IC 14-15-2 through IC 14-15-7;

(C) IC 14-16-1; or

(D) IC 14-22; and

(2) is not immediately taken to court;

the person may, at the discretion of the officer, be released upon the deposit of a security. The security shall be the amount of the fine or judgment and costs for the violation in the form of cash, money order, or a traveler's check made payable to the clerk of the court in which the person will appear.

As added by P.L.1-1998, SEC.24. Amended by P.L.1-2010, SEC.137.

IC 34-28-6-2

List of security deposits; agreement as receipt

Sec. 2. A court having jurisdiction shall provide a list of security deposits, which shall be equal to the fine or judgment and costs of the offense, and a security deposit agreement to serve as a receipt for the deposit. A nonresident person who does not choose to deposit a security shall be processed as directed by a court having jurisdiction.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-3

Requisites of agreement and notice to appear

Sec. 3. The agreement for security deposit and the written promise or notice to appear in court must contain a citation of the violation, the name and address of the nonresident person accused of committing the violation, and the time and place the person must appear in court.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-4

Time and place of appearing; informing defendant of consequences of guilty plea or agreed judgment

Sec. 4. The time specified for appearance must be at least five (5) days after the arrest or stop unless the person demands an earlier arraignment. The place specified for appearance must be in a court having jurisdiction within the county where the person was arrested or given notice to appear. The person shall be properly informed of the consequences of a guilty plea or agreed judgment.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-5
Agreement; consequences of failure to appear; return of security upon appearance

Sec. 5. The agreement for the security must also contain a provision whereby the nonresident person agrees that the court shall take permanent possession of the deposit, and if the person fails to appear in court or is not represented in court, a guilty finding or an adverse judgment will be entered on the court's record in behalf of the person. Upon proper appearance or representation, the security shall be returned to the person.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-6
Compliance with agreement

Sec. 6. A nonresident person must, by the date required on the security deposit agreement, appear in court, be represented in court, or deliver to the court by mail or courier the amount of the fine or judgment and costs prescribed for the violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-7
Procedure; requisites; failure to appear; forfeiture

Sec. 7. A nonresident person who requests to deposit a security in the amount of the fine or judgment and costs shall, in the presence of the officer, place the amount of the fine or judgment and costs and one (1) signed copy of the security deposit agreement into a stamped, addressed envelope, which the court having jurisdiction shall supply to the officer for the person. The person shall then be released and given a copy of the security deposit agreement. The officer shall mail or deliver the stamped, self-addressed envelope to the court having jurisdiction. If the person does not appear in court or is not represented in court at the time and date specified on the receipt, the court shall:

(1) enter a guilty finding or judgment against the person; and
(2) use the security deposit to satisfy the amount of the fine or judgment and costs prescribed for the violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-7

Chapter 7. Possession of Firearms and Ammunition in Locked Vehicles

IC 34-28-7-1

Application

Sec. 1. This chapter applies only to possession of a firearm or ammunition by an individual who may possess the firearm or ammunition legally. This chapter does not apply to the possession of a firearm, ammunition, or other device for which an individual must possess a valid federal firearms license issued under 18 U.S.C. 923 to possess the firearm, ammunition, or other device.

As added by P.L.90-2010, SEC.7.

IC 34-28-7-2

Regulation of employees' firearms and ammunition by employers

Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce an ordinance, a resolution, a policy, or a rule that:

(1) prohibits; or

(2) has the effect of prohibiting;

an employee of the person, including a contract employee, from possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of plain sight in the employee's locked vehicle.

(b) Subsection (a) does not prohibit the adoption or enforcement of an ordinance, a resolution, a policy, or a rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from possessing a firearm or ammunition:

(1) on the property of:

(A) a child caring institution;

(B) an emergency shelter care child caring institution;

(C) a private secure facility;

(D) a group home;

(E) an emergency shelter care group home; or

(F) a child care center;

in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, 465 IAC 2-13-77, or 470 IAC 3-4.7-19;

(2) on the property of a penal facility (as defined in IC 35-31.5-2-232);

(3) in violation of federal law;

(4) in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));

(5) on the property of a domestic violence shelter;

(6) at the employer's residence;

(7) on the property of a person that is:

(A) subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued

April 9, 2007; and

(B) licensed by the United States Nuclear Regulatory Commission under Title 10 of the Code of Federal Regulations;

(8) on property owned by:

(A) a public utility (as defined in IC 8-1-2-1) that generates and transmits electric power; or

(B) a department of public utilities created under IC 8-1-11.1; or

(9) in the employee's personal vehicle if the employee, including a contract employee, is a direct support professional who:

(A) works directly with individuals with developmental disabilities to assist the individuals to become integrated into the individuals' community or least restrictive environment; and

(B) uses the employee's personal vehicle while transporting an individual with developmental disabilities.

As added by P.L.90-2010, SEC.7. Amended by P.L.114-2012, SEC.66; P.L.157-2014, SEC.1.

IC 34-28-7-3
Civil actions

Sec. 3. (a) An individual who believes that the individual has been harmed by a violation of section 2 of this chapter may bring a civil action against the person who is alleged to have violated section 2 of this chapter, other than a person set forth in IC 34-6-2-103(j)(2).

(b) If a person is found by a court, in an action brought under subsection (a), to have violated section 2 of this chapter, the court may do the following:

(1) Award:

(A) actual damages; and

(B) court costs and attorney's fees;

to the prevailing individual.

(2) Enjoin further violations of this chapter.

As added by P.L.90-2010, SEC.7.

IC 34-28-7-4
Other rights and remedies

Sec. 4. This chapter does not limit a person's rights or remedies under any other state or federal law.

As added by P.L.90-2010, SEC.7.

IC 34-28-7-5
Jurisdiction over action against employer

Sec. 5. A court does not have jurisdiction over an action brought against an employer who is in compliance with section 2 of this chapter for any injury or damage resulting from the employer's compliance with section 2 of this chapter.

As added by P.L.90-2010, SEC.7.

IC 34-28-8

Chapter 8. Disclosure of Firearm or Ammunition Information as a Condition of Employment

IC 34-28-8-1

"Firearm"

Sec. 1. As used in this chapter, "firearm" has the meaning set forth in IC 35-47-1-5.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-2

"Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-3

"Private employer"

Sec. 3. As used in this chapter, "private employer" means:

(1) an individual;
(2) a partnership;
(3) a firm;
(4) an association;
(5) a corporation; or
(6) a nonprofit organization;

that employs or offers to employ one (1) or more individuals in Indiana.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-4

"Public employer"

Sec. 4. As used in this chapter, "public employer" means:

(1) the state; or
(2) a political subdivision;

including, but not limited to, a department, agency, board, commission, institution, authority, or instrumentality of the state or a political subdivision.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-5

"Public official"

Sec. 5. As used in this chapter, "public official" means an elected or appointed official in the executive, legislative, or judicial branch of the state or a political subdivision, as well as an individual acting on behalf of a public employer, whether temporarily or permanently, including but not limited to, members of boards, committees, commissions, authorities, and other instrumentalities of the state or a political subdivision.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-6
Disclosure of firearm or ammunition information to employer or potential employer

Sec. 6. A public or private employer doing business in Indiana may not:

(1) require an applicant for employment or an employee to disclose information about whether the applicant or employee owns, possesses, uses, or transports a firearm or ammunition, unless the disclosure concerns the possession, use, or transportation of a firearm or ammunition that is used in fulfilling the duties of the employment of the individual; or

(2) condition employment, or any rights, benefits, privileges, or opportunities offered by the employment, upon an agreement that the applicant for employment or the employee forego the:

(A) rights of the applicant or employee under this chapter; or

(B) otherwise lawful:

(i) ownership;

(ii) possession;

(iii) storage;

(iv) transportation; or

(v) use;

of a firearm or ammunition.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-7
Civil action by employee or potential employee authorized when required to divulge firearm or ammunition information

Sec. 7. (a) An individual aggrieved by what the individual believes is a violation of section 6 of this chapter may bring a civil action in a court with jurisdiction against a public or private employer or a public official that is alleged to have violated section 6 of this chapter.

(b) If a person is found by a court in an action brought under subsection (a) to have violated section 6 of this chapter, the court may do the following:

(1) Award:

(A) actual damages;

(B) court costs and attorney's fees; and

(C) in the case of a knowing and willful violation, exemplary or punitive damages;

to the prevailing plaintiff.

(2) Enjoin further violations of this chapter.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-8
Tort claim exception; when not allowed

Sec. 8. IC 34-13-3 does not apply whenever:

(1) a public employer or public official is sued for civil damages; and

(2) the civil action arises out of a violation of section 6 of this

chapter.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-9

Regulation or prohibition of firearm possession or carrying a firearm by employee; when authorized

Sec. 9. Notwithstanding section 6 of this chapter, this chapter does not prohibit a public or private employer from:

(1) regulating or prohibiting the possession or carrying of a firearm by an employee during and in the course of the duties of the employee on behalf of the employer or while on the property of the employer; or

(2) enforcing a regulation or prohibition adopted under subdivision (1).

However, a regulation or prohibition adopted under subdivision (1) may not apply to a firearm stored or transported in accordance with IC 34-28-7.

As added by P.L.17-2011, SEC.2.

IC 34-28-8.2

Chapter 8.2. Offenses Related to Consular Identification

IC 34-28-8.2-1

"Consular identification"

Sec. 1. As used in this chapter, "consular identification" means an identification, other than a passport, issued by the government of a foreign state for the purpose of providing consular services in the United States to a national of the foreign state.

As added by P.L.171-2011, SEC.18.

IC 34-28-8.2-2

Regulation of offering, accepting, or recording consular identification

Sec. 2. (a) This section does not apply to a law enforcement officer who is presented with a consular identification during the investigation of a crime.

(b) Except as otherwise provided under federal law, a person who knowingly or intentionally offers, accepts, or records a consular identification as a valid form of identification for any purpose commits a Class C infraction. However, the person commits:

(1) a Class B infraction for a second offense; and

(2) a Class A infraction for a third or subsequent offense.

As added by P.L.171-2011, SEC.18.

IC 34-28-9.2

Chapter 9.2. Assignment of Lottery Prizes

IC 34-28-9.2-1

Petitions to approve prize payments

Sec. 1. (a) As set forth in IC 4-30-11-2.5, a person who has won a prize from the state lottery commission created under IC 4-30-3 may file a verified petition with the Marion circuit court to approve the assignment of a prize payment or payments.

(b) A verified petition filed under this section must include:

(1) statements that the person understands:

(A) the assignment of the prize payment or payments is voluntary; and

(B) their right to solicit multiple bids for their prize payments;

(2) a statement explaining to whom the prize payment or payments would be assigned;

(3) a statement that the person is of sound mind, is in full command of the person's faculties, and is not acting under duress;

(4) a statement detailing that the person has had the opportunity to receive or has received legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize payment or payments;

(5) a statement that the person understands that the person will not receive the future payment or payments of the prize after a prize payment or prize payments are assigned;

(6) a statement that the person understands that, with regard to the assigned payments of the prize, the state lottery commission and its employees are not liable to make any future payments to the person that are subject to an assignment made under IC 4-30-11-2.5;

(7) a statement that the person understands that the person may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed;

(8) details of the proposed assignment, including:

(A) the amount of the prize payments assigned;

(B) the dates the prize payments are assigned;

(C) the purchase price of the prize payments assigned;

(D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and

(E) the amount, if any, of any origination or closing fees charged to the person;

(9) a statement detailing whether the person:

(A) owes child support;

(B) owes money as part of a judgment or garnishment;

(C) has not satisfied an order for criminal restitution; or

(D) owes any debt to an Indiana state agency that has provided written notice to the person regarding the debt;

(10) a sworn affirmation that the contents of the petition are true; and

(11) a statement that the person has had an adequate opportunity to receive multiple bids to assign their prize payment or payments.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-2

Petitioners with child support obligations

Sec. 2. If a petition filed under section 1 of this chapter indicates that the petitioner has one (1) or more current child support obligations and the Title IV-D agency has entered an appearance:

(1) the court shall consider ordering the petitioner to secure a bond under IC 31-16-3.5 for the purpose of insuring the future payment of child support obligations; and

(2) if the purchase price of the payments assigned under section (1)(b)(8) is insufficient to secure a child support bond, then the court shall consider denying the petition.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-3

Court orders approving prize payment assignments

Sec. 3. If a court finds that a prize payment or payments from the state lottery commission may be assigned based on a petition filed under section 1 of this chapter and IC 4-30-11-2.5, the court shall issue an order approving the prize payment assignment. The order must include a statement that the petitioner:

(1) has filed a verified petition under section 1 of this chapter;

(2) understands:

(A) the assignment of the prize payment or payments is voluntary;

(B) to whom the prize payment or payments will be assigned;

(C) the person will not receive future payments that are subject to an assignment made under IC 4-30-11-2.5;

(D) the state lottery commission and its employees are not liable to make any prize payments to the person that are assigned to another individual or entity under IC 4-30-11-2.5; and

(E) that the person may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed;

(3) is of sound mind, is in full command of the person's faculties, and is not acting under duress;

(4) has received or has had the opportunity to receive legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize payment or payments;

(5) has no debts to state agencies or has satisfied all past debts

to state agencies; and

(6) has received, prior to signing the contract assigning the prize payment or payments, a written disclosure statement, on a separate piece of paper, in bold type with a font at least fourteen (14) points, stating the details of the proposed assignment, including:

(A) the amount of the prize payment or payments assigned;

(B) the dates of the prize payment or payments assigned;

(C) the purchase price of the prize payment or payments assigned;

(D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and

(E) the amount, if any, of any origination or closing fees charged to the person.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-4
Service of petitions

Sec. 4. A person filing a petition under this chapter shall serve a copy of the petition on the state lottery commission's director and the child support bureau established by IC 31-25-3-1.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-5
Notification of hearings

Sec. 5. If a court schedules a hearing on a petition filed under this chapter, the court shall notify the state lottery commission's director, the child support bureau established by IC 31-25-3-1, and the petitioner at least twenty (20) days before the hearing date.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-6
Response to petitions

Sec. 6. (a) The state lottery commission and the child support bureau established by IC 31-25-3-1 are not required to respond to a petition filed under this chapter.

(b) The state lottery commission and the child support bureau established by IC 31-25-3-1 may file a response to a petition filed under this chapter and may participate in any hearings, if any, on petitions filed under this chapter.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-7
Copies of court orders approving a prize payment assignment

Sec. 7. If a court approves a prize payment assignment under this chapter, the court shall provide a copy of the order to the state lottery commission within twenty (20) days of the order being entered and at least thirty (30) days before the first assigned payment is to be made to the assignee.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-8
Required information for prize payments

Sec. 8. The person to whom a prize payment or payments from the state lottery commission is assigned must provide the information that the state lottery commission determines is necessary to make the assignment of the prize payment or payments, including the person's correct name, the person's appropriate address, and the necessary tax identification numbers and information.
As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-9
Declarations that the voluntary assignment of a prize affects federal income tax

Sec. 9. (a) If the Internal Revenue Service or a court issues a determination letter, revenue ruling, other public ruling of the Internal Revenue Service, or a published decision to the commission or any lottery winner, declaring that the voluntary assignment of prizes will affect the federal income tax treatment of a prize winner who does not assign the winner's prize payment or payments, the state lottery commission shall file a copy of the letter, ruling, or decision with the attorney general's office and the Indiana judicial center. A court may not issue an order authorizing a voluntary assignment of a prize after the date the ruling, letter, or published decision is filed.

(b) If a determination letter, revenue ruling, other public ruling, or published decision is issued under subsection (a), the Internal Revenue Service or the court that issued the document shall send a certified copy of the document to the director of the commission.
As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-10
Declarations that the voluntary assignment of a prize affects state income tax

Sec. 10. If the department of state revenue issues a determination, ruling, or finding to the commission or any lottery winner declaring that the voluntary assignment of a prize will reduce the state income tax due on the prize, the department of state revenue shall file the determination, ruling, or finding with the lottery commission, the attorney general's office, and the Indiana judicial center. A court may not issue an order authorizing a voluntary assignment of a prize after the date the determination, ruling, or finding is filed.
As added by P.L.198-2014, SEC.6.

IC 34-29

ARTICLE 29. IMMUNITY FROM CIVIL ARREST

IC 34-29-1

Chapter 1. Scope of Article

IC 34-29-1-1

Additional immunities

Sec. 1. This article is not intended to be an exhaustive compilation of all immunities from civil arrest in the Indiana Code. In addition to the immunities from civil arrest that appear in this article, other immunities from civil arrest may appear outside this article.

As added by P.L.1-1998, SEC.25.

IC 34-29-1-2

Other statutes providing immunity

Sec. 2. Statutes outside IC 34 providing immunity from civil arrest include the following:

(1) IC 10-16-7-8 (Members of the national guard not subject to arrest on civil process while on duty).

(2) IC 35-37-5 (Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings).

As added by P.L.1-1998, SEC.25. Amended by P.L.2-2003, SEC.82.

IC 34-29-2

Chapter 2. Persons Immune From Civil Arrest

IC 34-29-2-1

Privileged persons enumerated

Sec. 1. The following persons are privileged from arrest on civil process, and from obeying any subpoena to testify:

(1) All officers of the general assembly during their attendance, at the general assembly and during the time they are going to, and returning from the place of meeting, not to exceed one (1) day for every twenty-five (25) miles of the usually traveled route.

(2) All voters during attendance at, going to, and returning from elections.

(3) Members of the board of county commissioners, during the session of their board, and while going to and returning from the session of the board.

(4) Justices, while engaged in hearing or determining any trial.

(5) All persons while engaged in necessary attendance at a court and in going to and returning from the court.

(6) The governor, treasurer of state, secretary of state, auditor of state, and superintendent of public instruction.

(7) All persons while actually engaged in the discharge of military duty.

As added by P.L.1-1998, SEC.25.

IC 34-29-2-2

Place of worship

Sec. 2. A person shall not be arrested in any place of worship during service, except in cases of emergency.

As added by P.L.1-1998, SEC.25.

IC 34-29-2-3

Attachment for contempt considered civil process

Sec. 3. An attachment for contempt, for failure to obey the command of a subpoena to testify, is a civil process within the meaning of this article.

As added by P.L.1-1998, SEC.25.

IC 34-29-3

Chapter 3. Remedies If Arrested While Immune

IC 34-29-3-1

Motion for discharge; habeas corpus

Sec. 1. A person arrested contrary to this article shall be immediately discharged, on motion before the court issuing the process, or on habeas corpus.

As added by P.L.1-1998, SEC.25.

IC 34-29-3-2

Recovery of damages

Sec. 2. A person arrested contrary to this article may recover from the person arresting or causing the arrest:

(1) twenty dollars ($20) in damages; or

(2) a greater amount in the discretion of the jury.

As added by P.L.1-1998, SEC.25.

IC 34-30

ARTICLE 30. IMMUNITY FROM CIVIL LIABILITY

IC 34-30-1

Chapter 1. Scope of Article

IC 34-30-1-1

Additional immunities

Sec. 1. This article is not intended to be an exhaustive compilation of all sources of immunity from civil liability in the Indiana Code. In addition to the immunities from civil liability that are recognized in this article, other immunities from civil liability may be found in other provisions of the Indiana Code.

As added by P.L.1-1998, SEC.26.

IC 34-30-1-2

Legal research for other immunities

Sec. 2. As an aid to the reader, an effort has been made to list other locations in the Indiana Code where immunities from civil liability are recognized. This list provided in IC 34-30-2 does not take the place of traditional legal research.

As added by P.L.1-1998, SEC.26.

IC 34-30-2

Chapter 2. Statutes Outside IC 34 That Confer Immunity

IC 34-30-2-1

List of references; effect of listing and failure to list; exceptions

Sec. 1. (a) This chapter contains a list of references to other immunity from civil liability provisions outside IC 34.

(b) Listing in this chapter does not equate to the creation of an immunity from civil liability, and failure to be listed in this chapter does not negate an immunity from civil liability recognized elsewhere in the Indiana Code.

(c) Many of the statutes granting immunity from civil liability also contain exceptions to the immunity granted. Therefore, each statute must be consulted directly to determine the extent of the immunity provided.

As added by P.L.1-1998, SEC.26.

IC 34-30-2-2

Indiana finance authority

Sec. 2. IC 4-4-11-30 and IC 4-4-21-23 (Concerning members, officers, employees, and agents of the Indiana finance authority for acts authorized by law).

As added by P.L.1-1998, SEC.26. Amended by P.L.235-2005, SEC.205.

IC 34-30-2-3

Obligations of or violations by the Indiana finance authority

Sec. 3. IC 4-13.5-4-4(g) (Concerning the state for monetary damages for obligations of or violation by the Indiana finance authority).

As added by P.L.1-1998, SEC.26. Amended by P.L.235-2005, SEC.206.

IC 34-30-2-3.6

Mediators

Sec. 3.6. IC 4-21.5-3.5-4 (Concerning a mediator, co-mediator, or team mediator).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-3.8

Small business providing voluntary notice of violation of agency rule

Sec. 3.8. IC 4-22-2-28.2 (Concerning voluntary notice by a small business of an actual or a potential violation of an agency rule).

As added by P.L.239-2005, SEC.4.

IC 34-30-2-4

Medical examiners

Sec. 4. IC 4-23-6-6 (Concerning medical examiners performing certain examinations or autopsies).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-5
Safekeeping of escaped inmate's property

Sec. 5. IC 4-24-6-5 (Concerning the department of correction for the safekeeping of the property of escaped inmates).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-6
State lottery commission

Sec. 6. IC 4-30-15-2 (Concerning the state, the state lottery commission, and officers and employees of the state lottery commission if an annuity is assigned to a lottery prize winner).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-6.5
Riverboat gambling licensees; payment of winnings to obligors

Sec. 6.5. IC 4-33-8.5-4 (Concerning persons holding licenses regarding riverboat gambling that make payments of cash winnings to obligors in violation of IC 4-33-4-27 or that act in compliance with IC 4-33-4-27).
As added by P.L.80-2010, SEC.53.

IC 34-30-2-6.7
Gambling games at racetracks licensees; payment of winnings to obligors

Sec. 6.7. IC 4-35-6.5-12 (Concerning persons holding licenses regarding gambling games at racetracks who make payments of cash winnings to obligors in violation of IC 4-35-4-16 or who act in compliance with IC 4-35-4-16).
As added by P.L.80-2010, SEC.54.

IC 34-30-2-6.8
State museum and historic sites board

Sec. 6.8. IC 4-37-3-5 (Concerning actions of members of the board of trustees for the Indiana state museum and historic sites corporation).
As added by P.L.167-2011, SEC.29.

IC 34-30-2-7
Bonds or notes for hospital bonding authorities

Sec. 7. IC 5-1-4-13 (Concerning bonds or notes executed for hospital bonding authorities).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-8
Bonds for Indiana finance authority

Sec. 8. IC 5-1-16-28 (Concerning bonds issued by the Indiana finance authority under IC 5-1-16).
As added by P.L.1-1998, SEC.26. Amended by P.L.235-2005,

SEC.207; P.L.162-2007, SEC.40.

IC 34-30-2-8.5
Indiana stadium and convention building authority

Sec. 8.5. IC 5-1-17-9.5 (Concerning members, officers, employees, and the executive director of the Indiana stadium and convention building authority for acts authorized by law).
As added by P.L.120-2006, SEC.3.

IC 34-30-2-9
Local public improvement bond bank director or issuer of bonds or notes

Sec. 9. IC 5-1.4-2-8 (Concerning directors of and persons executing bonds or notes for a local public improvement bond bank).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-10
Indiana bond bank director or issuer of bonds or notes

Sec. 10. IC 5-1.5-2-8 (Concerning directors of and persons executing bonds or notes for the Indiana bond bank).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-10.5
Report of cause for revocation of law enforcement officer's diploma, certificate, or badge

Sec. 10.5. IC 5-2-1-12.5 (Concerning a good faith report of cause for revoking a law enforcement officer's diploma, certificate, badge, or other document showing compliance with training requirements).
As added by P.L.52-2005, SEC.13.

IC 34-30-2-11
Law enforcement academy building commission law

Sec. 11. IC 5-2-2-14(b) (Concerning the state for violations of the law enforcement academy building commission law).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-11.2
Employee breaks for nursing mothers

Sec. 11.2. IC 5-10-6-2 (Concerning employee breaks for nursing mothers).
As added by P.L.13-2008, SEC.5.

IC 34-30-2-11.3
Divestment by the Indiana state teachers' retirement fund and the public employees' retirement fund

Sec. 11.3. IC 5-10.2-9-33 (Concerning the state and certain public pension funds for divestment of fund assets authorized by law).
As added by P.L.149-2007, SEC.4.

IC 34-30-2-11.4

Divestment from a state sponsor of terror by the Indiana state teachers' retirement fund and the public employees' retirement fund

Sec. 11.4. IC 5-10.2-10-29 (Concerning the state and certain public pension funds for divestment of fund assets authorized by law).

As added by P.L.67-2009, SEC.2.

IC 34-30-2-11.5

Release of health care provider records to law enforcement agency

Sec. 11.5. IC 5-2-17-8 (Concerning health care providers for disclosure of dental records or skeletal x-rays to a law enforcement agency).

As added by P.L.92-2007, SEC.4.

IC 34-30-2-12

Disbursing officers

Sec. 12. IC 5-11-10-1 (Concerning certain disbursing officers for disbursements).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-13

Board for depositories

Sec. 13. IC 5-13-12-7 (Concerning members, officers, and employees of the board for depositories).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-14

Loss of public funds by public officers

Sec. 14. IC 5-13-14-2 (Concerning public officers for loss of certain public funds).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-14.1

Failure to provide notice of meeting

Sec. 14.1. IC 5-14-1.5-7.5 (Concerning a public employee who, acting on the orders of a superior or on the advice of the agency attorney or the attorney general, fails to provide proper notice of a public meeting or executive session).

As added by P.L.134-2012, SEC.34.

IC 34-30-2-14.2

Denial or interference with public records request

Sec. 14.2. IC 5-14-3-9.5 (Concerning a public employee who, acting on the orders of a superior or on the advice of the agency attorney or the attorney general, denies or interferes with a person's request for inspection or copying of a public record).

As added by P.L.134-2012, SEC.35.

IC 34-30-2-14.3

Disclosure of confidential or erroneous information by public employee or officer of contractor or subcontractor of public agency

Sec. 14.3. IC 5-14-3-10 (Concerning a public employee or officer of a contractor or subcontractor of a public agency for disclosure of certain confidential or erroneous information).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-14.6

Repealed

(Repealed by P.L.6-2012, SEC.222.)

IC 34-30-2-14.7

State officers, officials, and employees posting certain state agency information

Sec. 14.7. IC 5-14-3.5-5 (Concerning state and state officers, officials, and employees for posting certain confidential information).

As added by P.L.172-2011, SEC.136.

IC 34-30-2-14.9

State employees posting certain school or local government information

Sec. 14.9. IC 5-14-3.7-6 and IC 5-14-3.8-4 (Concerning state employees for posting certain confidential information).

As added by P.L.172-2011, SEC.137.

IC 34-30-2-15

Indiana housing and community development authority

Sec. 15. IC 5-20-1-19 (Concerning members and officers of the Indiana housing and community development authority).

As added by P.L.1-1998, SEC.26. Amended by P.L.1-2006, SEC.519 and P.L.181-2006, SEC.60.

IC 34-30-2-16

Repealed

(Repealed by P.L.177-2005, SEC.47.)

IC 34-30-2-16.5

Address confidentiality program

Sec. 16.5. IC 5-26.5-3-7 (Concerning actions taken under the address confidentiality program).

As added by P.L.133-2002, SEC.58.

IC 34-30-2-16.6

Property tax information provided by closing agents

Sec. 16.6. IC 6-1.1-12-43 (Concerning a closing agent's failure to provide a form concerning property tax benefits).

As added by P.L.64-2004, SEC.33.

IC 34-30-2-16.7

Department of state revenue for Internet publication of list of delinquent taxpayers

Sec. 16.7. IC 6-8.1-3-16(j) (Concerning the department of state revenue for publishing a list of delinquent taxpayers).

As added by P.L.81-2004, SEC.42.

IC 34-30-2-16.8

Department of state revenue; collection of tax judgments and levies

Sec. 16.8. IC 6-8.1-8-8.7 (Concerning actions taken to collect tax judgments and levies).

As added by P.L.138-2008, SEC.8.

IC 34-30-2-17

Alcohol and tobacco commission

Sec. 17. IC 7.1-2-3-30 (Concerning members, officers, and employees of the alcohol and tobacco commission).

As added by P.L.1-1998, SEC.26. Amended by P.L.204-2001, SEC.62.

IC 34-30-2-18

Collection of money under alcoholic beverage laws

Sec. 18. IC 7.1-2-8-2 (Concerning the alcohol and tobacco commission, its chairman and chairman pro tempore, and the state for claim arising from collection of money under alcoholic beverage laws).

As added by P.L.1-1998, SEC.26. Amended by P.L.204-2001, SEC.63.

IC 34-30-2-19

Beer wholesaler

Sec. 19. IC 7.1-3-3-14 (Concerning beer wholesalers for operating under suspended or ineffective order of denial).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-19.5

Wine purchased at estate sale and resold

Sec. 19.5. IC 7.1-3-13-3.5 (Concerning wine purchased at an estate sale and resold by a wine wholesaler).

As added by P.L.94-2008, SEC.60.

IC 34-30-2-20

Liquor license permittee

Sec. 20. IC 7.1-3-23-42 (Concerning liquor license permittees operating under stay of license suspension or revocation).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-21

Alcohol related injuries; postsecondary educational institutions

Sec. 21. IC 7.1-5-7-8 (Concerning postsecondary educational institutions for alcohol related injuries).

As added by P.L.1-1998, SEC.26. Amended by P.L.2-2007, SEC.374.

IC 34-30-2-22
Alcoholic beverage permittee

Sec. 22. IC 7.1-5-10-15 (Concerning alcoholic beverage permittee or permittee's agent refusing to serve alcoholic beverages to certain persons).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-23
Person furnishing alcoholic beverage; damages caused by impaired or intoxicated person

Sec. 23. IC 7.1-5-10-15.5 (Concerning persons who furnish an alcoholic beverage for damages caused by an impaired or intoxicated person).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-24
Municipalities and joint agencies operating electric utilities

Sec. 24. IC 8-1-2.2-28 (Concerning officers of, or persons acting on behalf of certain municipalities or joint agencies that operate electric utilities).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-24.2
211 service providers; developing and providing 211 services

Sec. 24.2. IC 8-1-19.5-10 (Concerning a recognized 211 service provider and its employees, directors, officers, and agents for injuries or loss to persons or property as a result of an act or omission in connection with developing and providing 211 services).
As added by P.L.60-2004, SEC.2.

IC 34-30-2-24.3
Enforcement of food transportation safety laws

Sec. 24.3. IC 8-2.1-27-8 (Concerning persons who enforce certain food transportation safety laws).
As added by P.L.108-2012, SEC.2.

IC 34-30-2-24.4
Railroad companies

Sec. 24.4. IC 8-6-4-1(g) (Concerning a railroad company and its employees for injury or property damage resulting from certain accidents).
As added by P.L.1-1998, SEC.26. Amended by P.L.182-2009(ss), SEC.509; P.L.69-2013, SEC.4.

IC 34-30-2-25
Indiana finance authority; payment of bonds or notes

Sec. 25. IC 8-14.5-6-11 (Concerning the state for violations of IC 8-14.5 or for payments of bonds or notes of the Indiana finance

authority).
As added by P.L.1-1998, SEC.26. Amended by P.L.235-2005, SEC.208.

IC 34-30-2-26
Guest statute for aircraft passengers
Sec. 26. IC 8-21-5-1 (Concerning guest statute for aircraft passengers).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-26.5
Contractors providing services to the Indiana department of transportation
Sec. 26.5. IC 8-23-2-12.5 (Concerning contractors providing services to the Indiana department of transportation).
As added by P.L.50-2008, SEC.3.

IC 34-30-2-27
Driver licensing medical advisory board
Sec. 27. IC 9-14-4-6 (Concerning members of the driver licensing medical advisory board).
As added by P.L.1-1998, SEC.26. Amended by P.L.208-2003, SEC.15.

IC 34-30-2-28
Bureau of motor vehicles and license branches; invalid odometer readings
Sec. 28. IC 9-17-2-6 (Concerning bureau of motor vehicles and license branches for invalid odometer readings on motor vehicle titles).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-29
Loss or damage to abandoned vehicles or parts
Sec. 29. IC 9-22-1-32 (Concerning loss of or damage to abandoned vehicles or parts).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-30
Auto theft; release or provision of evidence or information
Sec. 30. IC 9-22-3-25 (Concerning persons releasing or providing evidence or information concerning salvage motor vehicles).
As added by P.L.1-1998, SEC.26. Amended by P.L.42-2011, SEC.68.

IC 34-30-2-30.3
Driver education instructors
Sec. 30.3. IC 9-24-10-4(e) (Concerning driver education instructors who did not instruct an applicant for a license or permit who make reports concerning the fitness of the applicant to operate a motor vehicle).

As added by P.L.145-2011, SEC.28.

IC 34-30-2-30.5
Physician, optometrist, or advanced practice nurse; fitness of patient to operate motor vehicle

Sec. 30.5. IC 9-24-10-7.5 (Concerning physicians, optometrists, or advanced practice nurses making reports concerning driver impairment).
As added by P.L.210-2005, SEC.75.

IC 34-30-2-31
Bureau of motor vehicles; nondriver identification cards

Sec. 31. IC 9-24-16-11 (Concerning the commissioner, employees, and agents of the bureau of motor vehicles for the validity of the information contained on nondriver identification cards).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-32
Toxicology accident research participants

Sec. 32. IC 9-27-5-3 (Concerning individuals participating in toxicology accident research).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-32.5
Driver education advisory board

Sec. 32.5. (a) This section applies after December 31, 2011.

(b) IC 9-27-6-5(h) (Concerning members of the driver education advisory board).
As added by P.L.145-2011, SEC.29. Amended by P.L.125-2012, SEC.413.

IC 34-30-2-33
Testing of blood, urine, and other bodily samples

Sec. 33. IC 9-30-6-6 (Concerning physicians, hospitals, and their agents for matters related to obtaining, testing, and releasing samples and information regarding blood, urine, or other bodily substances).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-34
Motorboat dealers

Sec. 34. IC 9-31-3-6 (Concerning motorboat dealers who grant temporary boat registration permits).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-34.5
Duties related to dealer services

Sec. 34.5. IC 9-32-16-1(h) (Concerning the secretary of state and employees concerning duties related to dealer services).
As added by P.L.92-2013, SEC.83.

IC 34-30-2-35
Criminal justice data division; furnishing information to
Sec. 35. IC 10-13-2-6 (Concerning officials who furnish reports, information, or statistics to the criminal justice data division).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.83.

IC 34-30-2-35.5
Retailer education program
Sec. 35.5. IC 10-11-8-7 (Concerning a retailer who makes a good faith report relating to the sale of a methamphetamine chemical reagent or precursor).
As added by P.L.229-2003, SEC.2.

IC 34-30-2-35.7
Amber alert, silver alert, and blue alert program participants
Sec. 35.7. IC 10-13-5-8.5 and IC 10-13-8-12 (Concerning a broadcaster who broadcasts or an electronic billboard operator who displays an Amber alert notification, silver alert notification, or blue alert notification and a person who establishes or maintains an Amber alert web site, silver alert web site, or blue alert web site under an agreement with the state police department).
As added by P.L.131-2003, SEC.2. Amended by P.L.66-2007, SEC.8; P.L.43-2009, SEC.24; P.L.38-2013, SEC.2.

IC 34-30-2-35.8
Emergency responder providing mutual aid
Sec. 35.8. IC 10-14-6.5-6(b) (Concerning an emergency responder from another state who is providing mutual aid or engaged in training and exercises under a mutual aid agreement authorized by IC 10-14-6.5).
As added by P.L.94-2011, SEC.2.

IC 34-30-2-36
National guard members
Sec. 36. IC 10-16-7-7 (Concerning members of the national guard).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.84.

IC 34-30-2-37
State, political subdivisions, emergency management workers; claims for injury, death, or property damage
Sec. 37. IC 10-14-3-15 (Concerning the state, political subdivisions, and emergency management workers for injury, death, or property damage).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.85.

IC 34-30-2-37.2
Political subdivision employees rendering aid in other political subdivision or out of state
Sec. 37.2. IC 10-14-3-18 (Concerning employees of a political

subdivision rendering aid in another political subdivision or out of state).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.86.

IC 34-30-2-38
Sheltering persons during attack, emergency, disaster, or drill
Sec. 38. IC 10-14-3-25(e) (Concerning persons owning or controlling real estate or other premises used to shelter persons during an attack, emergency, disaster, or drill).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.87.

IC 34-30-2-38.3
Repealed
(Repealed by P.L.115-2003, SEC.20.)

IC 34-30-2-39
Indiana war memorials commission members
Sec. 39. IC 10-18-1-1 (Concerning members of the Indiana war memorials commission).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.89.

IC 34-30-2-39.3
Release of information to department of correction ombudsman
Sec. 39.3. IC 4-13-1.2-6 (Concerning a person who releases information to the department of correction ombudsman).
As added by P.L.292-2001, SEC.6.

IC 34-30-2-39.5
Department of correction ombudsman
Sec. 39.5. IC 4-13-1.2-9 (Concerning the department of correction ombudsman).
As added by P.L.292-2001, SEC.7.

IC 34-30-2-39.6
Release of information to department of child services ombudsman
Sec. 39.6. IC 4-13-19-6 (Concerning a person who releases information to the department of child services ombudsman).
As added by P.L.182-2009(ss), SEC.397.

IC 34-30-2-39.7
Department of child services ombudsman
Sec. 39.7. IC 4-13-19-9 (Concerning the department of child services ombudsman for the good faith performance of official duties).
As added by P.L.182-2009(ss), SEC.398.

IC 34-30-2-39.9
Interstate compact for juveniles
Sec. 39.9. IC 11-13-4.5-1.5 (Concerning the interstate compact for juveniles).

As added by P.L.137-2011, SEC.7.

IC 34-30-2-40
Endangered adult; report
Sec. 40. IC 12-10-3-11 (Concerning persons making or involved in a report concerning an endangered adult).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-41
Endangered adult; rendering care for
Sec. 41. IC 12-10-3-29 (Concerning an officer, agency, or employee of a division or adult protective services unit who renders care to an endangered adult).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-42
Long term care facility; home care service
Sec. 42. IC 12-10-13-16.7 (Concerning a long term care facility, a home care service, or their employees for release or disclosure of records to an ombudsman).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-43
Long term care ombudsman
Sec. 43. IC 12-10-13-18 (Concerning representatives of the long term care ombudsman's office).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-43.3
Broadcaster or newspaper; endangered adult report
Sec. 43.3. IC 12-10-18-6 (Concerning a broadcaster or newspaper that receives a report concerning an endangered adult medical alert).
As added by P.L.140-2005, SEC.5.

IC 34-30-2-43.5
Disclosure of records to statewide waiver ombudsman
Sec. 43.5. IC 12-11-13-8 (Concerning disclosure of records to the statewide waiver ombudsman by providers of waiver services and employees of providers).
As added by P.L.272-1999, SEC.64.

IC 34-30-2-43.7
Statewide waiver ombudsman
Sec. 43.7. IC 12-11-13-12 (Concerning the statewide waiver ombudsman).
As added by P.L.272-1999, SEC.65.

IC 34-30-2-43.8
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 34-30-2-43.9
Actions of personal services attendant

Sec. 43.9. IC 12-10-17.1-14(b) (Concerning actions of a personal services attendant).

As added by P.L.255-2001, SEC.19. Amended by P.L.141-2006, SEC.111.

IC 34-30-2-44
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 34-30-2-44.1
Repealed

(Repealed by P.L.145-2006, SEC.376.)

IC 34-30-2-45
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 34-30-2-45.2
Repealed

(Repealed by P.L.1-2010, SEC.156.)

IC 34-30-2-45.3
Repealed

(Repealed by P.L.283-2001, SEC.40.)

IC 34-30-2-45.5
Aiding patients applying for assistance under hospital care for the indigent program

Sec. 45.5. IC 12-16-4.5-6 (Concerning persons who aid a patient in completing an application for assistance under the hospital care for the indigent program).

As added by P.L.283-2001, SEC.35. Amended by P.L.120-2002, SEC.47; P.L.97-2004, SEC.116.

IC 34-30-2-45.7
Providers providing information verifying indigency of patient

Sec. 45.7. IC 12-16-5.5-2 (Concerning providers for providing information verifying indigency of patient).

As added by P.L.283-2001, SEC.36. Amended by P.L.120-2002, SEC.48; P.L.97-2004, SEC.117; P.L.212-2007, SEC.30; P.L.218-2007, SEC.51.

IC 34-30-2-45.8
Local domestic violence fatality review teams

Sec. 45.8. IC 12-18-8-8 (Concerning an entity or a person who in good faith provides information that is included in a fatality review performed by a local domestic violence fatality review team).

As added by P.L.181-2003, SEC.7. Amended by P.L.97-2004, SEC.118.

IC 34-30-2-45.9
Providing services under hospital care for the indigent program

Sec. 45.9. IC 12-16-13.5-1 (Concerning hospitals or persons providing services under the hospital care for the indigent program).
As added by P.L.283-2001, SEC.37. Amended by P.L.120-2002, SEC.49; P.L.97-2004, SEC.119.

IC 34-30-2-46
Division of family resources and county offices

Sec. 46. IC 12-19-2-2 (Concerning the officers and other employees of the division of family resources, including the county offices of the division of family resources).
As added by P.L.1-1998, SEC.26. Amended by P.L.146-2008, SEC.679; P.L.44-2009, SEC.35.

IC 34-30-2-47
Police officer; custody of intoxicated person for delivery for treatment or alcoholic rehabilitation

Sec. 47. IC 12-23-9-8 (Concerning a police officer who takes custody of an intoxicated person for the purpose of delivering the person to a certified treatment facility or alcoholic rehabilitation program).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-47.3
Division of mental health and addiction; voluntary addiction treatment of minor; notification or consent

Sec. 47.3. IC 12-23-12-2 (Concerning the division of mental health and addiction or its agents for exercise of discretion regarding notification or consent when a minor seeks voluntary addiction treatment).
As added by P.L.1-1998, SEC.26. Amended by P.L.215-2001, SEC.107.

IC 34-30-2-47.5
Alcohol and drug services program

Sec. 47.5. IC 12-23-14-19 (Concerning the director and members of the professional and administrative staff of a court alcohol and drug services program).
As added by P.L.168-2002, SEC.14.

IC 34-30-2-47.7
Repealed

(Repealed by P.L.108-2010, SEC.10.)

IC 34-30-2-48
Detention and treatment of mentally ill persons

Sec. 48. IC 12-26-2-6 (Concerning persons who participate or assist in proceedings, detention, care, or treatment of persons alleged to be mentally ill).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-49
Child's advocate
Sec. 49. IC 12-26-2-7 (Concerning a child's advocate for performing duties).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-50
County homes
Sec. 50. IC 12-30-3-25 (Concerning members of county home boards, superintendents, officers, and employees of county homes).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-51
Allen and St. Joseph county health centers
Sec. 51. IC 12-30-7-42 (Concerning members of the board, the administrator, and officers and employees of the Allen and St. Joseph county health centers).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-51.2
Persons who engage in certain surficial activities
Sec. 51.2. IC 13-19-6 (Concerning persons who engage in certain surficial activities).
As added by P.L.6-2011, SEC.2.

IC 34-30-2-51.4
Oil discharge response assistance
Sec. 51.4. IC 13-24-2-2 (Concerning persons for certain acts or omissions while providing oil discharge response assistance).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-51.6
Hazardous substances response action
Sec. 51.6. IC 13-25-4-27 (Concerning a person who implements or completes an approved hazardous substances response action).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-51.8
Person receiving certificate of completion for voluntary remediation
Sec. 51.8. IC 13-25-5-18 (Concerning a person who receives a certificate of completion for voluntary remediation after release or threatened release of a hazardous substance or petroleum, for certain claims arising under IC 13).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-52
Midwest Interstate Low-level Radioactive Waste Commission
Sec. 52. IC 13-29-1-3 (Concerning members of the Midwest Interstate Low-Level Radioactive Waste Commission and its employees).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-53
Illegal dumping of garbage or solid waste; reporting
Sec. 53. IC 13-30-3-13 (Concerning a landowner for reporting illegal dumping of garbage or solid waste to the commissioner of the department of environmental management).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-54
Landowners and tenants; operation of vehicles for recreational purposes
Sec. 54. IC 14-16-1-28 (Concerning landowners or tenants of property used by persons operating vehicles for recreational purposes).
As added by P.L.1-1998, SEC.26. Amended by P.L.97-2004, SEC.120.

IC 34-30-2-55
Repealed
(Repealed by P.L.97-2004, SEC.133.)

IC 34-30-2-55.8
Access to cemetery lands
Sec. 55.8. IC 14-21-5-4 (Concerning landowners, guides, and family members or invitees granted access to cemetery land under IC 14-21-5).
As added by P.L.68-2012, SEC.5.

IC 34-30-2-56
Owners of premises used by persons for certain recreational vehicles
Sec. 56. IC 14-22-10-2 (Concerning owners of premises used by persons for certain recreational activities).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-56.3
Department of natural resources; fighting forest fires
Sec. 56.3. IC 14-23-5-2 (Concerning officers and employees of the department of natural resources for fighting forest fires).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-56.5
Person acting under the Great Lakes—St. Lawrence River Basin Water Resources Compact

Sec. 56.5. IC 14-25-15-1 (Section 2.8 concerning a person acting under the Great Lakes—St. Lawrence River Basin Water Resources Compact).
As added by P.L.4-2008, SEC.6.

IC 34-30-2-57
Department of natural resources; plugging of oil and natural gas wells
Sec. 57. IC 14-37-8-13 (Concerning persons authorized by the department of natural resources to plug abandoned oil or natural gas wells).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-58
Removal of detrimental plants
Sec. 58. IC 15-16-8-4 (Concerning township trustees or persons hired by them for the removal of detrimental plants upon another person's real property).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2008, SEC.72.

IC 34-30-2-59
Certification of agricultural products
Sec. 59. IC 15-15-9-7 (Concerning administrator and state for certification of agricultural products).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2008, SEC.73.

IC 34-30-2-60
Corn marketing council debts and actions
Sec. 60. IC 15-15-12-31 (Concerning the state, political subdivisions, and the members, officers, employees, and agents of the corn marketing council for debts or actions of the council).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2008, SEC.74.

IC 34-30-2-60.2
Participation in postnatal donation initiative
Sec. 60.2. IC 16-21-11.2-5 (Concerning participation in the postnatal donation initiative).
As added by P.L.138-2014, SEC.10.

IC 34-30-2-61
Veterinarians and veterinary technicians; emergency treatment
Sec. 61. IC 25-38.1-4-7 (Concerning veterinarians or veterinary technicians who give emergency treatment to sick or injured animals).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2008, SEC.75.

IC 34-30-2-62
Abandoned animals; disposition by veterinarians
Sec. 62. IC 25-38.1-4-8 (Concerning veterinarians who dispose of, and persons who receive from veterinarians, abandoned animals).

As added by P.L.1-1998, SEC.26. Amended by P.L.2-2008, SEC.76.

IC 34-30-2-62.2
Veterinarians and veterinary technicians; reporting suspected animal cruelty

Sec. 62.2. IC 25-38.1-4-8.5 (Concerning veterinarians and registered veterinary technicians who report suspected incidents of animal cruelty).
As added by P.L.58-2008, SEC.50.

IC 34-30-2-63
Livestock certification program

Sec. 63. IC 15-19-5-7 (Concerning the state and the livestock certification administrator for acts taken under the livestock certification program).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2008, SEC.77.

IC 34-30-2-64
Indiana rural rehabilitation corporation; transfer of assets

Sec. 64. IC 15-12-2-6 (Concerning the United States and the United States Secretary of Agriculture for the transfer of assets to the director of the Indiana state department of agriculture on behalf of the Indiana rural rehabilitation corporation).
As added by P.L.1-1998, SEC.26. Amended by P.L.1-2006, SEC.520; P.L.2-2008, SEC.78; P.L.120-2008, SEC.92.

IC 34-30-2-65
Hospital disciplinary actions and investigations

Sec. 65. IC 16-21-2-6 (Concerning the governing board of a hospital, and its employees, agents, consultants, and attorneys for participation in disciplinary actions and investigations).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-66
Medical staff committee; retrospective review

Sec. 66. IC 16-21-2-8 (Concerning members of a medical staff committee for conduct related to a retrospective review).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-66.3
Providers conducting a forensic medical examination

Sec. 66.3. IC 16-21-8-1.1 (Concerning a provider conducting a forensic medical examination).
As added by P.L.161-2014, SEC.20.

IC 34-30-2-67
Denying or terminating employment of individual with criminal history; state department of health proceedings; nurse aide registry

Sec. 67. IC 16-28-13-9 (Concerning persons for denying or

terminating employment of an individual with a criminal history, or reporting to or participating in proceedings of the state department of health or the nurse aide registry).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-67.5
Denying or terminating employment of individual with criminal history; state department of health proceedings; registry of nurse aides

Sec. 67.5. IC 16-27-2-9 (Concerning persons for denying or terminating employment of an individual with a criminal history, or reporting to or participating in the proceedings of the state department of health or the registry of nurse aides).
As added by P.L.110-1999, SEC.5.

IC 34-30-2-68
Ambulance attendants; certified emergency medical technicians

Sec. 68. IC 16-31-6-1 (Concerning ambulance attendants and certified emergency medical technicians who render emergency ambulance services).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-69
Paramedics; emergency medical technicians

Sec. 69. IC 16-31-6-3 (Concerning paramedics and emergency medical technicians).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-69.5
Care in emergency response to terrorism

Sec. 69.5. IC 16-31-6-4 (Concerning care in emergency response to terrorism).
As added by P.L.156-2001, SEC.7.

IC 34-30-2-70
Food service establishments; aid to person with food lodged in throat

Sec. 70. IC 16-31-9-4 (Concerning persons rendering assistance and owners and operators of food service establishments for service rendered to a person suffering from food lodged in the throat).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-71
Health care provider; actions in reliance on authorized consent or refusal to consent

Sec. 71. IC 16-36-1-10 (Concerning a health care provider who acts or declines to act in reliance on the consent or refusal to consent of an individual who the provider believes is authorized to do so).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-71.5
Individual; unaware of or failure to comply with a psychiatric advance directive

Sec. 71.5. IC 16-36-1.7-4 (Concerning a person who is not aware of, and does not comply with, a psychiatric advance directive).
As added by P.L.16-2004, SEC.4.

IC 34-30-2-72
Facility superintendent; disclosure of confidential information or consent to medical procedure for patient unable to do so

Sec. 72. IC 16-36-3-9 (Concerning the superintendent of a facility for disclosing confidential information or consenting to a medical procedure on behalf of a patient who is unable to do so).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-73
Health care providers; failure to provide medical treatment to patient refusing consent

Sec. 73. IC 16-36-4-7 (Concerning health care providers who fail to provide medical treatment to patients who refuse medical treatment).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-74
Living will or life-prolonging procedures will declaration; failure to act upon

Sec. 74. IC 16-36-4-12 (Concerning certain persons who fail to act upon a revocation of a living will declaration or a life-prolonging procedures will declaration).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-75
Health care providers; withholding or withdrawal of life-prolonging procedures for patient with living will

Sec. 75. IC 16-36-4-13 (Concerning health care providers and their employees who participate in the withholding or withdrawal of life prolonging procedures for a patient who has executed a living will declaration).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-75.3
Use or misuse of POST form

Sec. 75.3. IC 16-36-6-9(d) (Concerning use or misuse of the POST form placed on the Internet web site of the state department of health).
As added by P.L.164-2013, SEC.10.

IC 34-30-2-75.5
Orders specified in POST form

Sec. 75.5. IC 16-36-6-16 (Concerning health care providers and

their employees who carry out the orders of a physician order for scope of treatment form).
As added by P.L.164-2013, SEC.11.

IC 34-30-2-76
Cancer registry system; reporting information
Sec. 76. IC 16-38-2-8 (Concerning persons who report information to the cancer registry system).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-77
Birth problems registry; reporting information
Sec. 77. IC 16-38-4-14 (Concerning persons who report information to the birth problems registry).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-77.2
Immunization data registry information
Sec. 77.2. IC 16-38-5-4 (Concerning persons who report information to or receive information from the immunization data registry).
As added by P.L.135-2003, SEC.5.

IC 34-30-2-77.4
Reporting information to chronic disease registry
Sec. 77.4. IC 16-38-6-8 (Concerning persons who report information to the chronic disease registry).
As added by P.L.212-2003, SEC.12.

IC 34-30-2-77.5
Release of mental health records
Sec. 77.5. IC 16-39-2-6 (Concerning a person who releases mental health records under certain circumstances).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-77.6
Receipt of mental health records
Sec. 77.6. IC 16-39-4-3 (Concerning school principals and school leaders who receive information and mental health records).
As added by P.L.41-2014, SEC.7.

IC 34-30-2-77.7
Provision of mental health records
Sec. 77.7. IC 16-39-4-2 (Concerning providers that disclose information and records to a school principal or school leader).
As added by P.L.41-2014, SEC.8.

IC 34-30-2-77.8
Maintenance of health records
Sec. 77.8. IC 16-39-7-1 (Concerning medical care providers for

maintenance of health records in connection with a disaster).
As added by P.L.177-2009, SEC.61.

IC 34-30-2-78
Medical care providers; maintenance of x-ray film
Sec. 78. IC 16-39-7-2 (Concerning medical care providers for maintenance of x-ray film).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-78.3
Maintenance of original mammogram films
Sec. 78.3. IC 16-39-7-3 (Concerning medical care providers for maintenance of original mammogram films and reports).
As added by P.L.86-2001, SEC.3.

IC 34-30-2-79
Medical care providers; patient health records
Sec. 79. IC 16-39-8-1 (Concerning medical care providers, their employees, agents, and representatives for entries or information made in a patient health record).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-80
Physicians, hospitals, and laboratories; reporting communicable or dangerous diseases
Sec. 80. IC 16-41-2-6 (Concerning physicians, hospitals, and laboratories for reporting communicable or dangerous diseases).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-81
Physician providing notification of dangerous communicable disease
Sec. 81. IC 16-41-7-3 (Concerning physician who provides notification of dangerous communicable disease).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-81.3
Disclosure of medical information
Sec. 81.3. IC 16-41-8-5(f) (Concerning a health care provider who discloses information in compliance with IC 16-41-8-5).
As added by P.L.125-2009, SEC.4. Amended by P.L.42-2011, SEC.69.

IC 34-30-2-81.5
Testing a patient for the presence of communicable diseases
Sec. 81.5. IC 16-41-10-3.5 (Concerning a provider who tests a patient for the presence of a dangerous communicable disease).
As added by P.L.212-2003, SEC.13.

IC 34-30-2-82

Emergency medical services provider's exposure to dangerous communicable disease; reporting

Sec. 82. IC 16-41-10-6 (Concerning a person reporting that an emergency medical services provider has been exposed to a dangerous communicable disease during the course of emergency duties).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-83

Expert review panels consulting or advising health care workers with communicable diseases

Sec. 83. IC 16-41-11-10 (Concerning expert review panels who consult and advise health care workers who have communicable diseases).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-83.2

Mobile home community operators; weather radio functionality

Sec. 83.2. IC 16-41-27-16.6 (Concerning an operator, an owner, or an employee of a mobile home community for the operator providing a reminder, assistance, or instructions concerning the function of a weather radio contained in a manufactured home).

As added by P.L.31-2007, SEC.3. Amended by P.L.3-2008, SEC.244.

IC 34-30-2-83.3

Concentration of lead in the blood of children

Sec. 83.3. IC 16-41-39.4-4 (Concerning sharing information involving the concentration of lead in the blood of children less than seven (7) years of age).

As added by P.L.99-2002, SEC.11.

IC 34-30-2-83.5

Members of the spinal cord and brain injury research board

Sec. 83.5. IC 16-41-42.2-5(k) (Concerning members of the spinal cord and brain injury research board).

As added by P.L.234-2007, SEC.70. Amended by P.L.3-2008, SEC.245.

IC 34-30-2-84

State egg board; dean of agriculture of Purdue University

Sec. 84. IC 16-42-11-15 (Concerning members and employees of the state egg board and the dean of agriculture of Purdue University).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-84.2

Hospitals, physicians, coroners, law enforcement officers, or mental health professionals; records

Sec. 84.2. IC 16-49-3-5 (Concerning hospitals, physicians, coroners, law enforcement officers, and mental health providers who provide certain records to local child fatality review teams).

As added by P.L.119-2013, SEC.15.

IC 34-30-2-84.3
Members of local child review teams or individuals attending a team meeting

Sec. 84.3. IC 16-49-3-9 (Concerning a member of a local child fatality review team or an individual who attends a meeting of a local child fatality review team as an invitee of the chairperson).
As added by P.L.119-2013, SEC.16.

IC 34-30-2-84.4
Hospitals, physicians, coroners, law enforcement officers, or mental health professionals; records

Sec. 84.4. IC 16-49-4-5 (Concerning hospitals, physicians, coroners, law enforcement officers, and mental health providers who provide certain records to the statewide child fatality review committee).
As added by P.L.119-2013, SEC.17.

IC 34-30-2-84.5
Repealed

(Repealed by P.L.1-2005, SEC.240.)

IC 34-30-2-84.6
Members of the statewide child fatality review committee or individuals attending a committee meeting

Sec. 84.6. IC 16-49-4-10 (Concerning a member of the statewide child fatality review committee or an individual who attends a meeting of the statewide child fatality review committee as an invitee of the chairperson).
As added by P.L.119-2013, SEC.18.

IC 34-30-2-84.7
School corporation personnel; school discipline; reasonable actions

Sec. 84.7. IC 20-33-8-8 (Concerning school corporation personnel who take reasonable actions concerning school discipline).
As added by P.L.121-2009, SEC.16.

IC 34-30-2-85
Alcoholic beverage or controlled substance laws on school property; reporting violations

Sec. 85. IC 20-33-9-8 (Concerning a person who reports or supervises a person who reports a violation of alcoholic beverage or controlled substance laws on school property).
As added by P.L.1-1998, SEC.26. Amended by P.L.1-2005, SEC.219.

IC 34-30-2-85.1
Report of threat against school employee

Sec. 85.1. IC 20-33-9-14 (Concerning a person who reports or causes a report to be made of a threat against, or intimidation of, a

school employee).
As added by P.L.241-2001, SEC.2. Amended by P.L.1-2005, SEC.220.

IC 34-30-2-85.2
Attendance officer or designee
Sec. 85.2. IC 20-33-2-47(d) (Concerning attendance officer or officer's designee for failure to contact a parent or guardian regarding a student's absences).
As added by P.L.1-1998, SEC.26. Amended by P.L.1-2005, SEC.221.

IC 34-30-2-85.5
Disclosure or reporting of educational records
Sec. 85.5. IC 20-33-7-3 (Concerning the disclosure or reporting of education records of a child).
As added by P.L.85-2004, SEC.52. Amended by P.L.1-2005, SEC.222.

IC 34-30-2-85.6
School personnel and health care providers in the administration of epinephrine
Sec. 85.6. IC 20-34-4.5-4 (Concerning school nurses, school personnel, and health care providers and the administration of auto-injectable epinephrine).
As added by P.L.92-2014, SEC.2.

IC 34-30-2-85.7
Volunteer health care provider evaluating student athlete head injury or concussion; immunity
Sec. 85.7. IC 20-34-7-5 (Concerning a licensed health care provider who provides voluntary evaluations of concussions and head injuries for student athletes).
As added by P.L.144-2011, SEC.2.

IC 34-30-2-85.8
Provision of student data
Sec. 85.8. IC 21-12-12-2 (Concerning the provision of student data).
As added by P.L.169-2011, SEC.22.

IC 34-30-2-85.9
Coaching services
Sec. 85.9. IC 20-34-7-6 (Concerning coaches).
As added by P.L.34-2014, SEC.4.

IC 34-30-2-86
Corporation serving as secondary market for education loans
Sec. 86. IC 21-16-5-15 (Concerning officers and directors of a corporation designated by the governor to serve as a secondary market for education loans).

As added by P.L.1-1998, SEC.26. Amended by P.L.2-2007, SEC.375.

IC 34-30-2-86.4
Licensed campus medical professionals, trained designees, and health care providers and administration of epinephrine

Sec. 86.4. IC 21-44.5-2-6 (Concerning licensed campus medical professionals, trained designees, and licensed health care providers and the administration of auto-injectable epinephrine).
As added by P.L.45-2014, SEC.2.

IC 34-30-2-86.7
Department of workforce development; collection of unemployment insurance assessments

Sec. 86.7. IC 22-4-29-14 (Concerning actions taken to collect unemployment insurance assessments).
As added by P.L.138-2008, SEC.9.

IC 34-30-2-87
Indiana finance authority bonds

Sec. 87. IC 5-1-16.5-41 (Concerning members of, and persons executing bonds for, the Indiana finance authority under IC 5-1-16.5).
As added by P.L.1-1998, SEC.26. Amended by P.L.235-2005, SEC.209; P.L.2-2007, SEC.376; P.L.162-2007, SEC.41.

IC 34-30-2-87.2
Expressing and storage of an employee's breast milk

Sec. 87.2. IC 22-2-14-2(c) (Concerning the expressing and storage of an employee's breast milk on an employer's premises).
As added by P.L.13-2008, SEC.6.

IC 34-30-2-87.5
Operators of underground mines

Sec. 87.5. IC 22-10-12-11(d) (Concerning the operator of an underground mine that is the subject of a rescue attempt that results in the injury to or death of a member of a mine rescue team).
As added by P.L.35-2007, SEC.25.

IC 34-30-2-88
Directors of business corporations

Sec. 88. IC 23-1-35-1 (Concerning directors of business corporations in certain circumstances).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-89
Secretary of state; securities division

Sec. 89. IC 23-2-2.5-46 and IC 23-2-3.1-9 (Concerning the secretary of state, commissioner and employees of the securities division of the office of the secretary of state).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-89.7
Crematory authority; reliance on cremation authorization form
Sec. 89.7. IC 23-14-31-28 (Concerning crematory authority for relying on a cremation authorization form).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-90
Crematory authority; cremation of human remains
Sec. 90. IC 23-14-31-47 (Concerning crematory authority for cremation of human remains).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-91
Cemetery owner reliance on certain authorizations
Sec. 91. IC 23-14-55-1 (Concerning owners of cemeteries for cremations and interments made upon authorization of next of kin).
As added by P.L.1-1998, SEC.26. Amended by P.L.34-2011, SEC.10.

IC 34-30-2-91.2
Funeral directors and cemetery owners; next of kin
Sec. 91.2. IC 23-14-57-1 (Concerning licensed funeral directors and cemetery owners for the removal of human remains performed upon authorization of next of kin).
As added by P.L.113-2007, SEC.10.

IC 34-30-2-91.3
Removal of human remains by cemetery owner if purchase price unpaid
Sec. 91.3. IC 23-14-57-3 (Concerning cemetery owners for the removal of human remains from a plot, building, or structure for which the purchase price is past due and unpaid).
As added by P.L.113-2007, SEC.11.

IC 34-30-2-91.4
Cemetery owners and reinterment, reintombment, or reinurnment
Sec. 91.4. IC 23-14-57-8 (Concerning cemetery owners for the removal or reinterment, reentombment, or reinurnment of human remains).
As added by P.L.113-2007, SEC.12.

IC 34-30-2-92
Amended certificates of limited partnership; filing or failure to file
Sec. 92. IC 23-16-3-3 and IC 23-16-3-8 (Concerning persons filing or failing to file amended certificates of limited partnership reporting the occurrence of certain events).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-93
Limited partner; limited partnership obligations
Sec. 93. IC 23-16-4-3 (Concerning limited partners for certain

obligations of a limited partnership).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-94
Assignee of limited partnership interest; limited partnership obligations
Sec. 94. IC 23-16-8-4 (Concerning assignees of a limited partnership interest for certain obligations of a limited partnership).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-95
Limited partner; failure to file certificate of limited partnership
Sec. 95. IC 23-16-12-2(h)(2) (Concerning limited partner for failure to file certificate of limited partnership).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-96
Nonprofit corporation directors
Sec. 96. IC 23-17-13-1 (Concerning directors of nonprofit corporations in certain circumstances).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-96.3
Automated external defibrillators in health clubs
Sec. 96.3. IC 24-4-15-6 (Concerning acts or omissions in gratuitously rendering emergency care involving the use of automated external defibrillators in health clubs).
As added by P.L.129-2007, SEC.3.

IC 34-30-2-96.4
Debt collection practices
Sec. 96.4. IC 24-5-0.5-4(l) (Concerning certain practices governed by the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.)).
As added by P.L.226-2011, SEC.23.

IC 34-30-2-96.5
Blocking electronic mail messages
Sec. 96.5. IC 24-5-22-9 (Concerning the action of an interactive computer service in blocking the receipt or transmission of certain electronic mail messages).
As added by P.L.36-2003, SEC.2.

IC 34-30-2-96.6
Voluntary disclosure of improperly influencing real estate appraisals
Sec. 96.6. IC 24-5-23.5-8(e) (Concerning the voluntary disclosure of suspected violations of the statute prohibiting improperly influencing a real estate appraisal through bribery, coercion, extortion, intimidation, collusion, or other means).

As added by P.L.1-2010, SEC.138.

IC 34-30-2-97
Occupational and professional regulatory board members; regulatory board officers and employees

Sec. 97. IC 25-1-3-2 (Concerning members of occupational and professional regulatory boards and officers and employees of regulatory boards).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-98
Regulatory board; investigatory, hearing, or review proceedings; persons making sworn or written statements to

Sec. 98. IC 25-1-3-3 (Concerning persons making sworn or written statements to a regulatory board, its directors, or staff for investigatory, hearing, or review proceedings).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-98.1
Maintenance of professions registry

Sec. 98.1. IC 25-1-5.5-4 (Concerning the registry maintained by the Indiana professional licensing agency concerning certain professions).
As added by P.L.177-2009, SEC.62.

IC 34-30-2-98.2
Physician writings to licensed acupuncturist

Sec. 98.2. IC 25-2.5-3-3 (Concerning a physician licensed under IC 25-22.5 who issues a written letter of referral or written diagnosis of a patient to a licensed acupuncturist).
As added by P.L.1-2002, SEC.145.

IC 34-30-2-98.3
Entity administering quality review

Sec. 98.3. IC 25-2.1-9-5 (Concerning immunity of an entity administering a quality review (before July 1, 2012) or peer review (after June 30, 2012) program and members of a quality review committee (before July 1, 2012) or peer review committee (after June 30, 2012)).
As added by P.L.197-2011, SEC.125.

IC 34-30-2-98.5
Funeral home reliance on certain authorizations

Sec. 98.5. IC 25-15-9-19 (Concerning a funeral home for actions taken in reliance on a signed authorization for cremation, interment, entombment, or inurnment).
As added by P.L.34-2011, SEC.11.

IC 34-30-2-98.7
Professional geologists; board of licensure

Sec. 98.7. IC 25-17.6-2-7 (Concerning actions of members of the Indiana board of licensure for professional geologists).
As added by P.L.1-1998, SEC.26. Amended by P.L.17-1999, SEC.34.

IC 34-30-2-98.8
Home inspectors
Sec. 98.8. IC 25-20.2-9-1 through IC 25-20.2-9-3 (Concerning actions of home inspectors).
As added by P.L.145-2003, SEC.14.

IC 34-30-2-99
Indiana professional licensing agency
Sec. 99. IC 25-22.5-6-3 (Concerning the executive director, employees, hearing officers, and board members of the Indiana professional licensing agency).
As added by P.L.1-1998, SEC.26. Amended by P.L.1-2006, SEC.521.

IC 34-30-2-99.4
Health practitioners; health records
Sec. 99.4. IC 25-23-1-19.8(i) (Concerning licensed practitioners who release health records and patient information to the Indiana professional licensing agency).
As added by P.L.158-2003, SEC.9. Amended by P.L.1-2006, SEC.522.

IC 34-30-2-99.5
Acts or omissions under interstate nurse licensure compact
Sec. 99.5. IC 25-23.3-9-1 (Concerning acts and omissions under the interstate nurse licensure compact).
As added by P.L.134-2008, SEC.51.

IC 34-30-2-99.6
Mobile home installers; weather radio functionality
Sec. 99.6. IC 25-23.7-8-6 (Concerning the functionality of weather radios supplied by manufactured home installers).
As added by P.L.31-2007, SEC.4.

IC 34-30-2-99.7
Hospital for a certified direct entry midwife's errors and omissions
Sec. 99.7. IC 25-23.4-8-1 (Concerning a hospital for the errors or omissions of a certified direct entry midwife).
As added by P.L.232-2013, SEC.25.

IC 34-30-2-100
Pharmacy; pharmacist; release of information
Sec. 100. IC 25-26-13-15 (Concerning pharmacy or pharmacist for release of certain information).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-101

Pharmacist; refusal to honor prescription

Sec. 101. IC 25-26-13-16 (Concerning pharmacist for refusal to honor a prescription for certain reasons).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-101.5

Donation to a regional drug repository program

Sec. 101.5. IC 25-26-20-6 (Concerning drugs donated to a regional drug repository program).

As added by P.L.75-2004, SEC.5.

IC 34-30-2-101.8

Entity participating in a program for returning unused medication

Sec. 101.8. IC 25-26-23-8 (Concerning an entity participating in a returning unused medication program).

As added by P.L.119-2011, SEC.5.

IC 34-30-2-102

Bailee for delivery or disposal of goods

Sec. 102. IC 26-1-7-404 (Concerning a bailee for delivery or disposal of goods under certain circumstances).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-103

Self-service storage facilities

Sec. 103. IC 26-3-8-13 (Concerning owners of self-service storage facilities who return personal property to renters upon redemption in satisfaction of liens against the property).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-104

Fraudulent insurance acts; reporting

Sec. 104. IC 27-1-3-22 (Concerning persons reporting fraudulent insurance acts).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-105

Insurance company directors

Sec. 105. IC 27-1-7-12.5 (Concerning directors of insurance companies in certain circumstances).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-106

Repealed

(Repealed by P.L.132-2001, SEC.26.)

IC 34-30-2-106.1

Information regarding termination for cause

Sec. 106.1. IC 27-1-15.6-15(d) (Concerning information provided by or to the commissioner of the department of insurance regarding

termination for cause).
As added by P.L.132-2001, SEC.24.

IC 34-30-2-106.3
Department of insurance; confidentiality of filings
Sec. 106.3. IC 27-1-22-4 (Concerning the department of insurance, and the department's commissioner and employees in the exercise of powers and performance of duties related to confidentiality of filings and supporting information).
As added by P.L.81-2012, SEC.42.

IC 34-30-2-106.5
Department of insurance; risk based capital requirements
Sec. 106.5. IC 27-1-36-53 (Concerning the department of insurance, its commissioner, employees, or agents for exercise of powers and performance of duties related to risk based capital requirements).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-106.7
Insurance producers
Sec. 106.7. IC 27-1-43-9 (Concerning an insurance producer in relation to electronic delivery or nondelivery of a notice or document).
As added by P.L.129-2014, SEC.11.

IC 34-30-2-107
Insurer; payment or contesting payment of fees or taxes
Sec. 107. IC 27-2-7-2 (Concerning officers, directors, or trustees of an insurer for paying or contesting payment of certain fees or taxes).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-108
Insurer or agency investigation
Sec. 108. IC 27-2-13-4 (Concerning an insurer or authorized agency for participation in arson investigations).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-109
Insurer or agency; vehicle theft investigation
Sec. 109. IC 27-2-14-4 (Concerning an insurer or authorized agency for participation in a vehicle theft investigation).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-110
Arson cases; set aside of insurance proceeds; insurer
Sec. 110. IC 27-2-15-7 (Concerning an insurer for compliance with the statute concerning the set aside of insurance proceeds in arson cases).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-111
Set aside of insurance proceeds; public employees and officials

Sec. 111. IC 27-2-15-9 (Concerning the department of insurance, the commissioners and employees of the department of insurance, the state fire marshal, a deputy fire marshal, an enforcement authority, or an officer of a municipality for compliance with the statute concerning the set aside of insurance proceeds in arson cases).
As added by P.L.1-1998, SEC.26. Amended by P.L.238-2013, SEC.12.

IC 34-30-2-111.5
Insurance fraud investigation

Sec. 111.5. IC 27-2-19-7 (Concerning an agency, an insurer, an agent, an employee, or a representative for receiving or providing information in good faith related to insurance fraud investigation).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-112
Insurance commissioner; department of insurance employees

Sec. 112. IC 27-4-1-15 (Concerning the commissioner and employees of the department of insurance).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-113
Property casualty insurance and guaranty association

Sec. 113. IC 27-6-8-16 (Concerning member insurers and the property casualty insurance and guaranty association, its agents and employees).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-114
Furnishing information concerning policy cancellations to an insurer

Sec. 114. IC 27-7-6-10 (Concerning the commissioner of insurance, insurer, their representatives, agents or employees, and any other person for furnishing information concerning policy cancellations to an insurer).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-114.5
Communications regarding termination of homeowner's insurance

Sec. 114.5. IC 27-7-12-9 (Concerning communications regarding termination of a homeowner's insurance policy).
As added by P.L.203-2001, SEC.33.

IC 34-30-2-115
Indiana life and health insurance guaranty association

Sec. 115. IC 27-8-8-14 (Concerning the Indiana life and health

insurance guaranty association, its agents or employees and members of the board, the commissioner of insurance, and member insurers and their employees and agents).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-116
Indiana comprehensive health insurance association participants
Sec. 116. IC 27-8-10-8 (Concerning persons for participation in the Indiana comprehensive health insurance association).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-116.5
Insurance and health plan coverage for victims of abuse
Sec. 116.5. IC 27-8-24.3-10 (Concerning insurers for damages caused by compliance with the laws on insurance and health plan coverage for victims of abuse).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-116.7
Independent review organizations
Sec. 116.7. IC 27-8-29-22 (Concerning independent review organizations).
As added by P.L.66-2001, SEC.4 and P.L.203-2001, SEC.34.

IC 34-30-2-116.8
Repealed
(Repealed by P.L.97-2004, SEC.133.)

IC 34-30-2-116.9
Interstate insurance product regulation commission
Sec. 116.9. IC 27-8-31-6(g) (Concerning the interstate insurance product regulation commission).
As added by P.L.138-2005, SEC.4.

IC 34-30-2-117
Insurer in receivership
Sec. 117. IC 27-9-3-12(a) (Concerning an insurer under an order appointing liquidator).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-118
Insurer during liquidation
Sec. 118. IC 27-9-4-8 (Concerning an insurer during pendency of liquidation).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-119
Fraternal benefit society
Sec. 119. IC 27-11-3-3 (Concerning officers and members of a fraternal benefit society).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-119.3
Data collected from health maintenance organization filings

Sec. 119.3. IC 27-13-8-3 (Concerning data and information collected from health maintenance organization filings).
As added by P.L.203-2001, SEC.35.

IC 34-30-2-119.5
Independent review organizations

Sec. 119.5. IC 27-13-10.1 (Concerning independent review organizations).
As added by P.L.133-1999, SEC.9.

IC 34-30-2-119.7
Professional employer organizations

Sec. 119.7. IC 27-16-3-2(2) (Concerning a dispute involving a professional employer organization).
As added by P.L.245-2005, SEC.10.

IC 34-30-2-119.8
Surplus lines insurance multistate compliance compact commission

Sec. 119.8. IC 27-18-6-1(a) (Concerning:

(1) the members, officers, executive director, employees, and representatives; and

(2) the members of the executive committee and of any other committee;

of the surplus lines insurance multistate compliance compact commission).
As added by P.L.111-2011, SEC.2.

IC 34-30-2-120
Financial institutions possessed by receiver or department of financial institutions

Sec. 120. IC 28-1-3.1-5 (Concerning financial institutions possessed by a receiver or the department of financial institutions).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-121
Savings banks; safekeeping of property

Sec. 121. IC 28-6.1-6-16 (Concerning savings banks for property left for safekeeping).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-122
Depository financial institution; restricting withdrawals from deposit accounts

Sec. 122. IC 28-9-5-1 (Concerning a depository financial institution for placing a hold on or otherwise restricting withdrawals from certain deposit accounts and for failure to notify the depositor

of the hold).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-122.5
Depositing will with circuit court clerk
Sec. 122.5. IC 29-1-7-3.1 (Concerning a person who deposits a will with a circuit court clerk).
As added by P.L.238-2005, SEC.57.

IC 34-30-2-122.7
Reliance on affidavit requesting information concerning a decedent's accounts, personal property, and intangible property
Sec. 122.7. IC 29-1-8-1.5 (Concerning a person who relies on an affidavit requesting information necessary to determine whether an estate can be summarily administered).
As added by P.L.95-2007, SEC.20.

IC 34-30-2-122.9
Financial institutions concerning access to safe deposit boxes
Sec. 122.9. IC 29-1-13-1.5 (Concerning a financial institution granting access to a safe deposit box upon the death of an individual).
As added by P.L.101-2008, SEC.12.

IC 34-30-2-123
Personal representatives of decedents
Sec. 123. IC 29-1-13-3 (Concerning personal representatives of decedents).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-123.5
Anatomical gifts; person acting under anatomical gift laws
Sec. 123.5. IC 29-2-16.1-17(a) (Concerning a person acting under anatomical gift laws).
As added by P.L.130-2001, SEC.5. Amended by P.L.147-2007, SEC.13.

IC 34-30-2-123.7
Anatomical gifts; person or estate making anatomical gifts
Sec. 123.7. IC 29-2-16.1-17(b) (Concerning a person or an estate in connection with the making of an anatomical gift).
As added by P.L.130-2001, SEC.6. Amended by P.L.147-2007, SEC.14.

IC 34-30-2-124
Anatomical gifts; health care provider immunity
Sec. 124. IC 29-2-16.1-17(d) (Concerning health care provider immunity and anatomical gifts).
As added by P.L.1-1998, SEC.26. Amended by P.L.147-2007, SEC.15.

IC 34-30-2-125
Anatomical gifts; hospital and recovery agency immunity
Sec. 125. IC 29-2-16.1-17(e) (Concerning hospital and recovery agency immunity and anatomical gifts).
As added by P.L.1-1998, SEC.26. Amended by P.L.147-2007, SEC.16.

IC 34-30-2-125.3
Anatomical gifts; taking a decedent's body or removing organs, tissues, or other parts
Sec. 125.3. IC 29-2-16.1-17(f) (Concerning a person for taking a decedent's body or removing organs, tissues, or other parts in reliance on a will, card, or other document of gift).
As added by P.L.53-2006, SEC.2. Amended by P.L.147-2007, SEC.17.

IC 34-30-2-125.4
Person who relies on a funeral planning declaration
Sec. 125.4. IC 29-2-19-11 (Concerning a person who relies on a funeral planning declaration).
As added by P.L.143-2009, SEC.45.

IC 34-30-2-125.5
Volunteer advocate for seniors or volunteer advocate for incapacitated adults
Sec. 125.5. IC 29-3-8.5-8 (Concerning a volunteer advocate for seniors or a volunteer advocate for incapacitated adults).
As added by P.L.41-2004, SEC.5. Amended by P.L.2-2005, SEC.114; P.L.11-2006, SEC.12.

IC 34-30-2-126
Guardian or person acting under protective order
Sec. 126. IC 29-3-11-2 (Concerning a person who is a guardian or acting under a protective order).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-126.5
Guardian
Sec. 126.5. IC 29-3-11-4 (Concerning a guardian appointed under IC 29-3-5).
As added by P.L.41-2004, SEC.6.

IC 34-30-2-127
Corporation or transfer agent; transfers and other transactions
Sec. 127. IC 30-2-5-6 (Concerning corporation or transfer agents in making transfers or other specified transactions).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-128
Fiduciary security transfers

Sec. 128. IC 30-2-5-7 (Concerning persons participating in acquisition, disposition, assignment, or transfer of a security by or to a fiduciary under certain circumstances).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-129
Transfers to minors
Sec. 129. IC 30-2-8.5-32 (Concerning custodian and minor for obligations relating to certain custodial property).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-129.2
Custodial trustee and beneficiary of custodial trust
Sec. 129.2. IC 30-2-8.6-32 (Concerning the custodial trustee and beneficiary of a custodial trust).
As added by P.L.97-2004, SEC.121.

IC 34-30-2-129.5
Trustee; adjusting between principal and income
Sec. 129.5. IC 30-2-14-15 (Concerning a trustee's power to adjust trust principal and income).
As added by P.L.84-2002, SEC.9.

IC 34-30-2-129.6
Trustee; proposed action
Sec. 129.6. IC 30-2-14-16 (Concerning a proposed action by a trustee of a trust).
As added by P.L.84-2002, SEC.10.

IC 34-30-2-129.8
Trustee's total return unitrust
Sec. 129.8. IC 30-2-15-26 (Concerning actions of a trustee of a total return unitrust).
As added by P.L.3-2003, SEC.3.

IC 34-30-2-130
Trustees; contracts and other nonnegotiable obligations with third persons
Sec. 130. IC 30-4-3-10 (Concerning trustees for contracts or other nonnegotiable obligations with third persons made in the administration of a trust).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-131
Trustees and beneficiaries
Sec. 131. (a) IC 30-4-3-1.5 (Concerning actions of a trustee who does not know that a trust has been revoked or amended).
(b) IC 30-4-3-6.5 (Concerning actions of a trustee who does not know of the happening of an event that affects the trust).
(c) IC 30-4-3-11 (Concerning trustees and beneficiaries of a trust

in certain circumstances).
As added by P.L.1-1998, SEC.26. Amended by P.L.238-2005, SEC.58.

IC 34-30-2-132
Third parties receiving interest in trust property
Sec. 132. IC 30-4-4-2 (Concerning third parties who receive interest in trust property).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-132.4
Persons relying on certification of trust
Sec. 132.4. IC 30-4-4-5 (Concerning a person who acts in reliance on a certification of trust).
As added by P.L.238-2005, SEC.59.

IC 34-30-2-132.6
Trustees; distribution of trust property
Sec. 132.6. IC 30-4-6-14 (Concerning distribution of trust property).
As added by P.L.238-2005, SEC.60.

IC 34-30-2-132.8
Persons relying on power of attorney or affidavit
Sec. 132.8. IC 30-5-8-7 (Concerning a person who relies on a power of attorney or an affidavit concerning a power of attorney).
As added by P.L.238-2005, SEC.61.

IC 34-30-2-133
Guardian ad litem; court appointed special advocate
Sec. 133. IC 31-15-6-8, IC 31-17-6-8, and IC 31-32-3-10 (Concerning a person acting as guardian ad litem or court appointed special advocate).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-133.1
Income payors withholding income
Sec. 133.1. IC 31-16-15-23.7 (Concerning an income payor for withholding income paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order).
As added by P.L.80-2010, SEC.55.

IC 34-30-2-133.2
Title IV-D agency; income withholding
Sec. 133.2. IC 31-16-15-30 (Concerning a Title IV-D agency or an agent of a Title IV-D agency for withholding income paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order).
As added by P.L.103-2007, SEC.50.

IC 34-30-2-133.4
Uniform Interstate Family Support Act; participating in proceedings

Sec. 133.4. IC 31-18-3-14 (Concerning civil actions against persons present in Indiana to participate in a proceeding under the Uniform Interstate Family Support Act).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-133.5
Employees, staff, and representative of the interstate commission on the placement of children

Sec. 133.5. IC 31-28-6 (Concerning employees, staff, and representatives of the interstate commission for the placement of children).
As added by P.L.143-2008, SEC.13.

IC 34-30-2-133.6
Department of child services

Sec. 133.6. IC 31-25-2-2.5 (Concerning the officers and other employees of the department of child services).
As added by P.L.146-2008, SEC.680.

IC 34-30-2-133.8
Agencies and entities providing information

Sec. 133.8. IC 31-25-3-4(e) (Concerning agencies and entities that provide information under requests or subpoenas from the child support bureau).
As added by P.L.80-2010, SEC.56.

IC 34-30-2-133.9
Preventative program for at-risk children; requests and information

Sec. 133.9. IC 31-32-3-11 (Concerning a person who makes a request for a child to participate in a preventative program for at-risk children, a person who provides information concerning a child to an early intervention advocate, the staff of a preventative program for at-risk children, or a person who participates in a plan for at-risk children).
As added by P.L.183-2011, SEC.9.

IC 34-30-2-134
Child abuse or neglect; reporting

Sec. 134. IC 31-33-6-1 (Concerning specified persons for making a report of child abuse or neglect).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-134.3
Repealed

(Repealed by P.L.119-2013, SEC.19.)

IC 34-30-2-134.6
Repealed
(Repealed by P.L.119-2013, SEC.20.)

IC 34-30-2-134.8
Person who relies on a transfer on death deed
Sec. 134.8. IC 32-17-14-26(c) (Concerning a person acting in good faith reliance on a transfer on death deed).
As added by P.L.143-2009, SEC.46.

IC 34-30-2-135
Breach of unwritten contracts
Sec. 135. IC 32-21-1-1 (Concerning persons for breach of certain unwritten contracts).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2002, SEC.92.

IC 34-30-2-136
Representations concerning persons
Sec. 136. IC 32-21-1-6 (Concerning persons making unwritten representations about another person).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2002, SEC.93.

IC 34-30-2-136.5
Personal representative of probate estate
Sec. 136.5. IC 32-17-13-7 (Concerning personal liability of a personal representative).
As added by P.L.165-2002, SEC.14.

IC 34-30-2-137
Mortgagor action on satisfied mortgage
Sec. 137. IC 32-29-1-7 (Concerning mortgagors for actions on mortgages for which a certificate of satisfaction has been acknowledged by the mortgagee).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2002, SEC.94.

IC 34-30-2-137.5
Landlords and tenants under residential rental agreements
Sec. 137.5. IC 32-31-9-10(d) and IC 32-31-9-12(d) (Concerning the liability of landlords and tenants under residential rental agreements in certain situations).
As added by P.L.22-2007, SEC.3.

IC 34-30-2-138
Hotels; safekeeping of guest's personal property
Sec. 138. IC 32-33-7-2 (Concerning proprietor or manager of a hotel, apartment hotel, or inn in certain circumstances involving the safekeeping of personal property of guests).
As added by P.L.1-1998, SEC.26. Amended by P.L.2-2002, SEC.95.

IC 34-30-2-139

Abandoned property; delivery to attorney general

Sec. 139. IC 32-34-1-29 (Concerning holders of abandoned property who deliver the property to the attorney general).

As added by P.L.1-1998, SEC.26. Amended by P.L.2-2002, SEC.96.

IC 34-30-2-140

Township trustee; contract to repair fence

Sec. 140. IC 32-26-9-5 (Concerning township trustee for contracts to repair fences).

As added by P.L.1-1998, SEC.26. Amended by P.L.2-2002, SEC.97.

IC 34-30-2-140.5

Repealed

(Repealed by P.L.108-2010, SEC.10.)

IC 34-30-2-140.7

Staff members of a problem solving court

Sec. 140.7. IC 33-23-16-27 (Concerning the coordinator and members of the professional and administrative staff of a problem solving court).

As added by P.L.108-2010, SEC.9.

IC 34-30-2-140.8

Clerk of the supreme court; personal liability for act or omission

Sec. 140.8. IC 33-24-4-9 (Concerning the personal liability of the clerk of the supreme court).

As added by P.L.60-2010, SEC.3.

IC 34-30-2-141

Person transmitting statement to supreme court disciplinary commission

Sec. 141. IC 33-24-10-5 (Concerning a person who transmits a sworn or written statement for an investigation, hearing, or other proceeding by the disciplinary commission of the supreme court).

As added by P.L.1-1998, SEC.26. Amended by P.L.98-2004, SEC.125.

IC 34-30-2-142

Supreme court disciplinary commission

Sec. 142. IC 33-24-10-6 (Concerning executive secretary, employees, hearing officers and commissioners of the disciplinary commission of the supreme court).

As added by P.L.1-1998, SEC.26. Amended by P.L.98-2004, SEC.126.

IC 34-30-2-143

Judicial nominating commission; evaluation of candidate

Sec. 143. IC 33-27-2-9 (Concerning the commissioners, employees, and staff of the judicial nominating commission for any act or statement relevant to the evaluation of a candidate).

As added by P.L.1-1998, SEC.26. Amended by P.L.98-2004, SEC.127.

IC 34-30-2-144
Judicial nominating commission; providing information to

Sec. 144. IC 33-27-2-10 (Concerning a person or organization for providing certain information, assistance, or testimony to the judicial nominating commission).
As added by P.L.1-1998, SEC.26. Amended by P.L.98-2004, SEC.128.

IC 34-30-2-144.2
Clerk of the circuit court; personal liability for act or omission

Sec. 144.2. IC 33-32-2-9.2 (Concerning the personal liability of circuit court clerks).
As added by P.L.60-2010, SEC.4.

IC 34-30-2-144.3
State central collection unit or court clerks; child support funds

Sec. 144.3. IC 33-32-4-5 (Concerning child support funds received and disbursed by the state central collection unit or a court clerk).
As added by P.L.148-2006, SEC.34.

IC 34-30-2-144.5
Circuit court clerks; personal liability for dishonored checks

Sec. 144.5. IC 33-32-4-8 (Concerning the personal liability of circuit court clerks for dishonored checks).
As added by P.L.98-2000, SEC.13. Amended by P.L.98-2004, SEC.129.

IC 34-30-2-145
Attorney trust accounts; deposits

Sec. 145. IC 33-44-5-8 (Concerning an attorney for depositing money in an interest-bearing attorney trust account).
As added by P.L.1-1998, SEC.26. Amended by P.L.98-2004, SEC.130.

IC 34-30-2-146
Attorney trust accounts; actions of depository financial institutions

Sec. 146. IC 33-44-6-10 (Concerning depository financial institutions for certain actions concerning attorney trust accounts).
As added by P.L.1-1998, SEC.26. Amended by P.L.98-2004, SEC.131.

IC 34-30-2-146.4
Electronic communications, remote computing, and geolocation information services and warrant laws

Sec. 146.4. IC 35-33-5-13 (Concerning electronic communications services, remote computing services, and geolocation information

services for compliance with warrant laws).
As added by P.L.170-2014, SEC.1.

IC 34-30-2-146.6
Defendant's failure to appear
Sec. 146.6. IC 35-33-8-4.5(b) (Concerning a defendant's failure to appear).
As added by P.L.171-2011, SEC.19.

IC 34-30-2-147
Criminal extradition; civil actions
Sec. 147. IC 35-33-10-3(26) (Concerning civil actions against persons extradited to Indiana on criminal charges).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-148
Wiretapping
Sec. 148. IC 35-33.5-5-6 (Concerning telephone and telegraph companies and other persons for compliance with the wiretap law).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-149
Victim counselor; disclosure of confidential information
Sec. 149. IC 35-37-6-11 (Concerning a victim counselor for testifying or producing records regarding confidential communications with a victim under certain circumstances).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-149.5
Error or omission in the transmission of fingerprints, case history data, or sentencing data
Sec. 149.5. IC 35-38-1-28(d) (Concerning a clerk, court, law enforcement officer, or prosecuting attorney for an error or omission in the transportation of fingerprints, case history data, or sentencing data).
As added by P.L.216-2007, SEC.36.

IC 34-30-2-150
Hazing; reporting or participating in judicial proceeding
Sec. 150. IC 35-42-2-2.5 (Concerning persons for reporting or participating in proceedings concerning hazing).
As added by P.L.1-1998, SEC.26. Amended by P.L.158-2013, SEC.350.

IC 34-30-2-151
Public utilities; refusing service under gambling statutes
Sec. 151. IC 35-45-5-4 (Concerning public utilities for refusing to provide service or equipment after notice by a law enforcement agency under the gambling statutes).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-151.2
Interactive computer services

Sec. 151.2. IC 35-45-5-4.6 (Concerning the action of an interactive computer service in blocking the receipt or transmission of a commercial electronic mail message it reasonably believes to be sent in violation of IC 35-45-5).

As added by P.L.70-2005, SEC.1. Amended by P.L.1-2006, SEC.523.

IC 34-30-2-152
Neglect, battery, or exploitation; reporting or participating in proceedings

Sec. 152. IC 35-46-1-14 (Concerning a person for reporting or participating in proceedings concerning neglect, battery, or exploitation).

As added by P.L.1-1998, SEC.26.

IC 34-30-2-152.1
State or law enforcement agency; retired law enforcement officer carrying firearms

Sec. 152.1. IC 35-47-15-6 (Concerning the state or a law enforcement agency for issuing evidence that a retired law enforcement officer meets the training and qualification standards for carrying certain firearms).

As added by P.L.1-2006, SEC.524.

IC 34-30-2-152.2
Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 34-30-2-152.3
Pharmacy or NPLEx retailer; sale of product containing ephedrine or pseudoephedrine

Sec. 152.3. IC 35-48-4-14.7 (Concerning a pharmacy or NPLEx retailer who discloses information concerning the sale of a product containing ephedrine or pseudoephedrine).

As added by P.L.1-2006, SEC.525. Amended by P.L.193-2013, SEC.1.

IC 34-30-2-152.4
County treasurers; personal liability

Sec. 152.4. IC 36-2-10-24. (Concerning the personal liability of county treasurers).

As added by P.L.98-2000, SEC.14.

IC 34-30-2-152.5
Providing information to or obtaining information from the INSPECT program

Sec. 152.5. (a) IC 35-48-7-11.1(m) (Concerning providing information to or obtaining information from the Indiana scheduled prescription electronic collection and tracking program).

(b) IC 35-48-7-11.1(n) (Concerning providing information to a law enforcement agency based on a report from the Indiana scheduled prescription electronic collection and tracking program).
As added by P.L.65-2006, SEC.2. Amended by P.L.84-2010, SEC.91.

IC 34-30-2-152.6
County recorders; personal liability for dishonored checks
Sec. 152.6. IC 36-2-11-7.5. (Concerning the personal liability of county recorders for dishonored checks).
As added by P.L.98-2000, SEC.15.

IC 34-30-2-152.7
Disclosure of restricted addresses
Sec. 152.7. IC 36-1-8.5-12 (Concerning a unit that restricts disclosure of certain addresses).
As added by P.L.106-2013, SEC.1.

IC 34-30-2-153
Medical examination or autopsy; ordering or performing
Sec. 153. IC 36-2-14-13 (Concerning a person for ordering or performing a medical examination or autopsy under statutory authority).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-153.3
Clerk treasurer of a third class city
Sec. 153.3. IC 36-4-10-4.5 (Concerning the personal liability of the clerk treasurer of a third class city).
As added by P.L.67-2002, SEC.1.

IC 34-30-2-153.4
Controller of a consolidated city
Sec. 153.4. IC 36-3-5-2.6 (Concerning the personal liability of the controller of a consolidated city).
As added by P.L.67-2002, SEC.2.

IC 34-30-2-153.5
City controller of a second class city
Sec. 153.5. IC 36-4-10-2 (Concerning the personal liability of the city controller of a second class city).
As added by P.L.67-2002, SEC.3.

IC 34-30-2-154
Meridian Street preservation law actions
Sec. 154. IC 36-7-11.2-63 (Concerning persons bringing actions to protect property under the Meridian Street Preservation law).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-155
Fire chiefs; destruction of building in event of fire

Sec. 155. IC 36-8-3-16 (Concerning fire chiefs and assistants for destruction of certain buildings in event of fire).
As added by P.L.1-1998, SEC.26.

IC 34-30-2-156
Loss, death, or injury related to 911 service
Sec. 156. IC 36-8-16.7-43 (Concerning the statewide 911 board, a PSAP, a political subdivision, a communications service provider, a member of the board, or the board chair for loss, death, or injury related to 911 service).
As added by P.L.1-1998, SEC.26. Amended by P.L.132-2012, SEC.7.

IC 34-30-2-156.2
Assistance to law enforcement by sellers of prepaid wireless telecommunication services
Sec. 156.2. IC 36-8-16.6-19 (Concerning sellers of prepaid wireless telecommunications service for provision of 911 or wireless 911 service and lawful assistance to law enforcement officers).
As added by P.L.113-2010, SEC.106.

IC 34-30-2-156.5
Community fast responders
Sec. 156.5. IC 36-8-23 (Concerning community fast responders).
As added by P.L.70-2012, SEC.1.

IC 34-30-2-157
Crops grown on drainage right-of-way
Sec. 157. IC 36-9-27-33(d) (Concerning a county surveyor, the drainage board, and their representatives for damage to crops grown on drainage right-of-way).
As added by P.L.1-1998, SEC.26.

IC 34-30-3

Chapter 3. Agriculture: Immunity From Civil Liability for Allowing the Gleaning of Agricultural Products

IC 34-30-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 2 of this chapter by P.L.17-2001 applies only to a cause of action that accrues after June 30, 2001. The enactment of section 2 of this chapter by P.L.17-2001 may not be considered in determining liability for a cause of action that accrues before July 1, 2001.

As added by P.L.220-2011, SEC.563.

IC 34-30-3-1

Liability to licensees

Sec. 1. An operator that allows the land or premises of the operator to be used by another person without compensation for the purpose of gleaning agricultural products is immune from civil liability to the person if the person is injured while on the land or premises of the operator, unless the person's injury is a direct result of the gross negligence or willful or wanton misconduct of the operator.

As added by P.L.1-1998, SEC.26.

IC 34-30-3-2

Immunity from civil liability

Sec. 2. (a) The definitions set forth in IC 22-11-20 apply to this section.

(b) Except as provided in subsection (c), the victim or an agent of the victim of a theft (IC 35-43-4-2(a)) or criminal conversion (IC 35-43-4-3) of:

(1) anhydrous ammonia (NH_3);

(2) an ammonia solution; or

(3) a container used to store or transport anhydrous ammonia or an ammonia solution;

is immune from civil liability for injury or damage resulting from the possession or use of the anhydrous ammonia, ammonia solution, or container by another person to commit a violation of IC 35-48-4.

(c) A victim or an agent described in subsection (b) is not immune from civil liability under subsection (b) if:

(1) the victim or agent committed a crime involving the anhydrous ammonia, ammonia solution, or container that is the subject of the theft or criminal conversion; or

(2) the victim's or agent's willful or intentional commission of a violation of an applicable law, rule, or regulation governing the:

(A) design;

(B) construction;

(C) location;

(D) installation; or

(E) operation;

of equipment for storage, handling, use, or transportation of anhydrous ammonia or ammonia solution proximately caused the theft or criminal conversion.

As added by P.L.17-2001, SEC.10.

IC 34-30-4

Chapter 4. Charities: Immunity of Certain Volunteer Directors

IC 34-30-4-1

Qualified director; immunity

Sec. 1. Notwithstanding any other law, a qualified director is immune from civil liability arising from the negligent performance of the director's duties.

As added by P.L.1-1998, SEC.26.

IC 34-30-4-2

Volunteer or volunteer director; immunity

Sec. 2. (a) This section does not apply to a health care provider (as defined in IC 34-18-2-14).

(b) An individual who:

(1) serves as a volunteer or volunteer director of:

(A) a nonprofit corporation operating under IC 12-29-3-6;

(B) an agency providing services under IC 12-12-3; or

(C) a nonprofit organization that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code; and

(2) exercises reasonable care in the performance of the individual's duties as a volunteer or a volunteer director of an entity described in subdivision (1);

is immune from civil liability arising out of the performance of those duties.

As added by P.L.1-1998, SEC.26. Amended by P.L.38-2005, SEC.1.

IC 34-30-4-3

Liability of organizations or entity

Sec. 3. This chapter does not affect the civil liability of the entity a qualified director serves.

As added by P.L.1-1998, SEC.26.

IC 34-30-5

Chapter 5. Charities: Immunity in Connection With the Gift of Food to Charitable Entities

IC 34-30-5-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-4-12.5-1 and IC 34-4-13.5-2 (before their repeal, now codified at section 1 of this chapter and at IC 34-6-2) by P.L.144-1991 apply only to a gift of a food item made after June 30, 1991.

As added by P.L.220-2011, SEC.564.

IC 34-30-5-1

Immunity from liability for person who makes gift; exceptions

Sec. 1. (a) Except as provided in subsection (b), a person who in good faith makes a gift of a food item, an agricultural product, or livestock to a charitable entity is not liable for civil damages arising from the use, condition, quality, or content of that food item, agricultural product, or livestock, unless the damages are the result of that person's intentional, knowing, or reckless misconduct (in accordance with the definitions of intentionally, knowingly, and recklessly set out in IC 35-41-2-2(a) through IC 35-41-2-2(c)).

(b) This section does not apply to a person who makes a gift of a food item to a charitable entity if the use, condition, or quality of the food item results in damages from the person's intentional, knowing, or reckless violation of a food safety law under IC 15-17-5, IC 15-18-1, or IC 16-42 (in accordance with the definitions of intentionally, knowingly, and recklessly set out in IC 35-41-2-2(a) through IC 35-41-2-2(c)).

As added by P.L.1-1998, SEC.26. Amended by P.L.42-2011, SEC.70; P.L.155-2013, SEC.3.

IC 34-30-5-2

Immunity from liability for entity that receives gift; exceptions

Sec. 2. A charitable entity that in good faith receives a gift of a food item, an agricultural product, or livestock is not liable for civil damages arising from the use, condition, quality, or content of that food item, agricultural product, or livestock, unless the damages are the result of that entity's intentional, knowing, or reckless misconduct (in accordance with the definitions of intentionally, knowingly, and recklessly set out in IC 35-41-2-2(a) through IC 35-41-2-2(c)).

As added by P.L.155-2013, SEC.4.

IC 34-30-6

Chapter 6. Environment: Immunity from Liability for Certain Hazardous Discharges

IC 34-30-6-1

Acts or omissions; immunity

Sec. 1. Except as provided in section 2 of this chapter, a person is not liable for any loss that results from an action taken or lack of an action by that person:

(1) during an emergency; and

(2) with intent to prevent or minimize harm from the emergency.

As added by P.L.1-1998, SEC.26.

IC 34-30-6-2

Acts or omissions; liability

Sec. 2. This chapter does not apply to a person:

(1) whose act or omission caused in whole or in part the emergency and who would otherwise be liable for the emergency;

(2) whose act or omission constituted gross negligence or willful or wanton misconduct; or

(3) who receives payment, or is an employee of a person who receives payment, for services rendered in connection with the emergency, from a person whose act or omission caused in whole or in part the emergency. Payment does not include reimbursement for expenses.

As added by P.L.1-1998, SEC.26.

IC 34-30-7

Chapter 7. Governmental Entities: Tort Claims Act; Immunity for Certain Acts of Governmental Entities and Employees

IC 34-30-7-1

Applicability of immunities under Tort Claims Act

Sec. 1. Immunity for certain acts of governmental entities and employees is governed by the Tort Claims Act (IC 34-13-3).

As added by P.L.1-1998, SEC.26.

IC 34-30-8

Chapter 8. Governmental Entities: Immunity of State and Other Persons Related to Use of an Armory

IC 34-30-8-1

Use of armory for function; immunity for damages from serving food or beverages

Sec. 1. If a person or entity, other than a person or entity listed in subdivisions (1) through (10), enters into a written agreement to use space in an armory for a function, the following persons and entities are not liable for civil damages for any property damage or bodily injury resulting from the serving of food or beverages at the function held at the armory:

(1) The state.

(2) The Indiana army national guard.

(3) The Indiana air national guard.

(4) The army national guard of the United States.

(5) The air national guard of the United States.

(6) The adjutant general appointed under IC 10-16-2-6.

(7) The assistant adjutants general appointed under IC 10-16-2-7.

(8) The officers and enlisted members of the Indiana army national guard and the Indiana air national guard.

(9) The state armory board appointed under IC 10-16-3-1 and the members of that board.

(10) The local armory board appointed under IC 10-16-4-1 for the armory and the members of that board.

As added by P.L.1-1998, SEC.26. Amended by P.L.2-2003, SEC.90; P.L.97-2004, SEC.122.

IC 34-30-9

Chapter 9. Governmental Entities: Immunity for Certain Activities on Property Leased by a State Agency

IC 34-30-9-0.2

Application of prior law

Sec. 0.2. (a) The addition of IC 34-4-16.9 (before its repeal, now codified in this chapter) by P.L.7-1993 is intended to be a restatement of IC 4-16-3 (before its repeal).

(b) It is intended that the substantive operation and effect of IC 4-16-3 continue uninterrupted.

(c) P.L.7-1993 does not affect any:

(1) rights or liabilities accrued;

(2) penalties incurred;

(3) violations committed; or

(4) proceedings begun;

before July 1, 1993. Those rights, liabilities, penalties, offenses, and proceedings continue and shall be imposed and enforced under IC 4-16-3 (before its repeal) as if P.L.7-1993 had not been enacted.

As added by P.L.220-2011, SEC.565.

IC 34-30-9-1

Assurances of safety unauthorized

Sec. 1. A person who goes on or through property leased to an agency for any purpose is not entitled to any assurance that the property is safe for the purpose.

As added by P.L.1-1998, SEC.26.

IC 34-30-9-2

Immunity of owner for property user's acts or omissions

Sec. 2. The owner of the property does not:

(1) assume responsibility for; or

(2) incur liability for;

any injury to person or property caused by an act or failure to act of persons using the property.

As added by P.L.1-1998, SEC.26.

IC 34-30-9-3

Duty of care or ground of liability for injuries not created by chapter

Sec. 3. This chapter does not create a duty of care or ground of liability for injury to person or property.

As added by P.L.1-1998, SEC.26.

IC 34-30-10

Chapter 10. Governmental Entities: Immunity of County Auditor for Issuance of Warrant Upon Treasurer

IC 34-30-10-1

Application of chapter; issuance of warrant

Sec. 1. This chapter applies to a county auditor who issues a warrant upon the county treasurer in good faith under the order or authority of the board of commissioners of the county, or because of a judgment or order of a court in the county in a case in which the county was a party and was duly served with process.

As added by P.L.1-1998, SEC.26.

IC 34-30-10-2

Immunity from liability; recovery from recipient

Sec. 2. (a) A civil suit may not be maintained against:

(1) the county auditor; or

(2) the county auditor's bondsmen;

for the issuance of the warrant, even if the warrant was drawn according to an order of the board of commissioners or judgment of the court that is either void or voidable.

(b) However, the validation of the act of the auditor does not prevent the recovery of any money from any person receiving it that might have been recovered if this chapter had not been enacted.

As added by P.L.1-1998, SEC.26.

IC 34-30-10.5

Chapter 10.5. Governmental Entities: Immunity for Donations of Equipment to Fire Departments

IC 34-30-10.5-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.95-2001 applies only to donations made after June 30, 2001.

As added by P.L.220-2011, SEC.567.

IC 34-30-10.5-1

Immunity from civil liability

Sec. 1. Subject to section 2 of this chapter, a person is immune from civil liability for personal injury, property damage, or death resulting from a defect in fire control or fire protection equipment donated in good faith by the person to a volunteer fire department (as defined in IC 36-8-12-2) or the fire department of a political subdivision, unless the person's act or omission that proximately caused injury, damage, or death constitutes gross negligence or willful, wanton, or intentional misconduct.

As added by P.L.95-2001, SEC.3.

IC 34-30-10.5-2

Immunity to person who donates breathing apparatus

Sec. 2. Section 1 of this chapter provides immunity to a person who donates a breathing apparatus only if:

(1) the breathing apparatus is recertified to manufacturer's specifications before it is donated; or

(2) the person notifies the donee, at the time of the donation, that the breathing apparatus has not been recertified to manufacturer's specifications.

As added by P.L.95-2001, SEC.3.

IC 34-30-11

Chapter 11. Guest Statute: Immunity of Owners or Operators of Motor Vehicle for Injury to Passengers

IC 34-30-11-1

Guest statute

Sec. 1. The owner, operator, or person responsible for the operation of a motor vehicle is not liable for loss or damage arising from injuries to or the death of:

(1) the person's parent;
(2) the person's spouse;
(3) the person's child or stepchild;
(4) the person's brother;
(5) the person's sister; or
(6) a hitchhiker;

resulting from the operation of the motor vehicle while the parent, spouse, child or stepchild, brother, sister, or hitchhiker was being transported without payment in or upon the motor vehicle unless the injuries or death are caused by the wanton or willful misconduct of the operator, owner, or person responsible for the operation of the motor vehicle.

As added by P.L.1-1998, SEC.26.

IC 34-30-11-2

Common carriers; demonstrator vehicles

Sec. 2. This chapter may not be construed to relieve a common carrier or an owner or operator of a motor vehicle while the motor vehicle is being demonstrated to a prospective purchaser of responsibility for injuries sustained by a passenger who is being transported by the common carrier or by the owner or operator.

As added by P.L.1-1998, SEC.26.

IC 34-30-12

Chapter 12. Health Care: Immunity of Persons Rendering Emergency First Aid

IC 34-30-12-1

Gratuitously rendered emergency care; immunity

Sec. 1. (a) This section does not apply to services rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in IC 27-8-10-1).

(b) Except as provided in subsection (c), a person who comes upon the scene of an emergency or accident, complies with IC 9-26-1-1.5, or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

(1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person;

except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5 applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

(e) A licensed physician who gives medical direction in the use of a defibrillator or a national or state approved defibrillator instructor of a person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from civil liability for any act or omission of the licensed physician or instructor if the act or omission of the licensed physician or instructor:

(1) involves the training for or use of an automatic external defibrillator; and

(2) does not amount to gross negligence or willful or wanton misconduct.

As added by P.L.1-1998, SEC.26. Amended by P.L.1-1999, SEC.73;

P.L.84-2003, SEC.1 and P.L.91-2003, SEC.1; P.L.74-2006, SEC.5; P.L.126-2008, SEC.11.

IC 34-30-12-2

Gratuitously rendered cardiopulmonary resuscitation; immunity

Sec. 2. (a) This section applies to a person who has successfully completed a course of training in cardiopulmonary resuscitation according to the standards recommended by the Division of Medical Sciences, National Academy of Sciences - National Research Council.

(b) This section does not apply to acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) An act or omission of the person while attempting to administer cardiopulmonary resuscitation, without pecuniary charge, to any person who is an apparent victim of acute cardiopulmonary insufficiency shall not impose any liability upon the person attempting the resuscitation.

As added by P.L.1-1998, SEC.26.

IC 34-30-12.5

Chapter 12.5. Health Care: Immunity of Hospitals and Certain Persons Providing Smallpox Immunizations

IC 34-30-12.5-1

Application of chapter

Sec. 1. This chapter applies if the federal government authorizes the state department of health to implement a program providing for the administration of inoculations or other medical countermeasures against an actual or a potential bioterrorist incident or another actual or potential public health emergency under:

(1) 42 U.S.C. 233(p)(2)(A); or

(2) any other federal authority.

As added by P.L.136-2003, SEC.2.

IC 34-30-12.5-2

"Health care provider"

Sec. 2. As used in this chapter, "health care provider" means the following:

(1) An individual, a partnership, a professional corporation, a facility, or an institution licensed or legally authorized by the state to provide health care or professional services as any of the following:

(A) A licensed physician.

(B) A psychiatric hospital.

(C) A hospital.

(D) A health facility.

(E) A nurse licensed under IC 25-23.

(F) A paramedic.

(G) An emergency technician.

(H) An advanced emergency technician.

(2) An employee of an individual or entity described in subdivision (1).

(3) A member of the medical staff of an individual or entity described in subdivision (1).

(4) An individual who has been authorized by the governing board of an individual or entity described in subdivision (1) to provide health care services on the individual's or entity's premises or on the individual's or entity's behalf.

(5) An individual who, under contract with an individual or entity described in subdivision (1), administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency under the circumstances described in section 1 of this chapter.

As added by P.L.136-2003, SEC.2.

IC 34-30-12.5-3

Immunity

Sec. 3. A health care provider who administers an inoculation or

another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency after January 23, 2003, under the circumstances described in section 1 of this chapter is immune from civil liability for any injury or damage that results from the administration of the inoculation or other countermeasure, except for an act or omission that amounts to gross negligence or willful or wanton misconduct. This section shall not affect the right of any individual to receive:

(1) benefits to which the individual would otherwise be entitled under:

(A) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or

(B) any pension law; or

(2) any benefits or compensation under any federal law.

As added by P.L.136-2003, SEC.2.

IC 34-30-13

Chapter 13. Health Care: Immunity of Persons Providing Voluntary Health Care

IC 34-30-13-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.116-2005 apply to a cause of action that arises after June 30, 2005.

As added by P.L.220-2011, SEC.566.

IC 34-30-13-1

Voluntary health care; immunity for providing

Sec. 1. Except as provided in section 2 of this chapter, a person who meets the following criteria is immune from civil liability resulting from any act or omission relating to the provision of health care services:

(1) Has licensure to provide health care services under Indiana law.

(2) Voluntarily provides without compensation health care services under IC 36-1-14.2 within the scope of the person's license to another person.

(3) Provides the health care services at any medical clinic or health care facility that provides health care services without charge and that:

(A) purchases professional liability insurance under IC 36-1-14.2; or

(B) is covered under 42 U.S.C. 233.

As added by P.L.1-1998, SEC.26. Amended by P.L.116-2005, SEC.3.

IC 34-30-13-1.5

Immunity for providing medical direction concerning emergency medical services

Sec. 1.5. Except as provided in section 2 of this chapter, a physician licensed under IC 25-22.5 is immune from civil liability resulting from an act or omission related to the provision of medical direction concerning emergency medical services (as defined in IC 16-18-2-110) within the scope of the physician's license, if the physician provides medical direction concerning emergency medical services:

(1) to a person who is certified under IC 16-31 to provide the emergency medical services; and

(2) without compensation.

As added by P.L.101-2006, SEC.37.

IC 34-30-13-2

Liability for gross negligence or willful misconduct

Sec. 2. A person described in section 1 of this chapter is not immune from civil liability if the damages resulting from the provision of the health care services resulted from the person's gross

negligence or willful misconduct.
As added by P.L.1-1998, SEC.26.

IC 34-30-13.5

Chapter 13.5. Health Care: Immunity for Persons Providing Services in a Disaster

IC 34-30-13.5-1

Immunity

Sec. 1. Except as provided in section 2 of this chapter, a person who meets the following criteria may not be held civilly liable for an act or omission relating to the provision of health care services in response to an event that is declared a disaster emergency under IC 10-14-3-12, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency:

(1) Has a license to provide health care services under Indiana law or the law of another state.

(2) Provides a health care service:

(A) within the scope of the person's license to another person; and

(B) at a location where health care services are provided during an event that is declared as a disaster.

As added by P.L.138-2006, SEC.13.

IC 34-30-13.5-2

Liability for gross negligence or willful misconduct

Sec. 2. A person described in this chapter is not immune from civil liability if the damages resulting from the act or omission relating to the provision of the health care services resulted from the person's gross negligence or willful misconduct.

As added by P.L.138-2006, SEC.13.

IC 34-30-13.5-3

Immunity of facility

Sec. 3. A facility or other location that is providing health care services in response to an event that is declared as a disaster emergency may not be held civilly liable for an act or omission relating to the provision of health care services in response to that event by a health professional licensed to provide the health care service under Indiana law or the law of another state if the person is acting during an event that is declared as a disaster emergency, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency.

As added by P.L.138-2006, SEC.13.

IC 34-30-14

Chapter 14. Health Care: Immunity of Certain Persons Who Administer Medications to Pupils at School

IC 34-30-14-1

Compelling certain school personnel to administer medication to pupils prohibited

Sec. 1. A school or school board may not:

(1) require a teacher or other school employee who is not employed as a school nurse or physician to administer:

(A) medication, drugs, or tests described in section 2 of this chapter; or

(B) health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes; or

(2) discipline a teacher or other school employee who is not employed as a school nurse or physician and who:

(A) refuses to administer medication, drugs, or tests without the written:

(i) authority of a pupil's parent or guardian; or

(ii) order of a practitioner;

required under section 2 of this chapter; or

(B) refuses to administer health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes.

As added by P.L.1-1998, SEC.26. Amended by P.L.166-2007, SEC.4; P.L.3-2008, SEC.246.

IC 34-30-14-2

Administering medication to pupils; immunity

Sec. 2. If compliance with sections 3 and 4 of this chapter has occurred, a school administrator, teacher, or other school employee designated by the school administrator, after consultation with the school nurse, who in good faith administers to a pupil:

(1) a nonprescription medication in compliance with the written permission of the pupil's parent or guardian, except in the case of a life threatening emergency;

(2) a legend drug (as defined in IC 16-18-2-199 and including injectable insulin) in compliance with the:

(A) written order of a practitioner; and

(B) written permission of the pupil's parent or guardian, except in the case of a life threatening emergency;

(3) a glucose test in compliance with the written order of a practitioner;

(4) health care services, basic life support, or other services that require the administrator, teacher, or employee to place the administrator's, teacher's, or employee's hands on the pupil for therapeutic or sanitary purposes; or

(5) any combination of subdivisions (1) through (4);

is not personally liable for civil damages for any act that is incident to or within the scope of the duties of the employee as a result of the administration except for an act or omission amounting to gross negligence or willful and wanton misconduct.

As added by P.L.1-1998, SEC.26. Amended by P.L.166-2007, SEC.5.

IC 34-30-14-3

Record keeping requirements

Sec. 3. The school shall keep on file the written permission of a pupil's parent or guardian and the written order of a practitioner.

As added by P.L.1-1998, SEC.26.

IC 34-30-14-4

Training requirements

Sec. 4. (a) This section applies if a school employee:

(1) is not a practitioner or an individual licensed under IC 25-23; and

(2) is responsible for administering injectable insulin or a glucose test by finger prick.

(b) The employee must obtain from a practitioner or a registered nurse licensed under IC 25-23 the training that the practitioner or registered nurse determines is appropriate for providing the service.

(c) Before the school employee provides the service, the school must have on file a written statement from the practitioner or registered nurse that indicates the school employee has received the training required under this section.

As added by P.L.1-1998, SEC.26.

IC 34-30-14-5

Chapter subject to IC 34-13-3

Sec. 5. This chapter is subject to IC 34-13-3.

As added by P.L.1-1998, SEC.26.

IC 34-30-14-6

Immunity in connection with self-administration of medication

Sec. 6. A school or school board is not liable for civil damages as a result of a student's self-administration of medication for an acute or chronic disease or medical condition as provided under IC 20-33-8-13 except for an act or omission amounting to gross negligence or willful and wanton misconduct.

As added by P.L.264-2001, SEC.5. Amended by P.L.1-2005, SEC.223.

IC 34-30-14-7

Teachers; immunity for providing cardiopulmonary resuscitation or the Heimlich maneuver or for using an automated external defibillator

Sec. 7. A teacher:

(1) who meets the requirement of IC 20-28-5-3(c); and

(2) who:
(A) performs cardiopulmonary resuscitation on;
(B) performs the Heimlich maneuver on;
(C) removes a foreign body that is obstructing an airway of; or
(D) uses an automated external defibrillator on;
another person, in the course of employment as a teacher;
is not liable in a civil action for damages resulting from an act or omission occurring during the provision of emergency assistance under this section, unless the act or omission constitutes gross negligence or willful and wanton misconduct.
As added by P.L.166-2007, SEC.6. Amended by P.L.146-2011, SEC.2.

IC 34-30-14-8
School nurses; immunity for certain acts
Sec. 8. A school nurse:
(1) who meets the requirement of IC 20-34-5-9; and
(2) who:
(A) performs cardiopulmonary resuscitation on;
(B) performs the Heimlich maneuver on;
(C) removes a foreign body that is obstructing an airway of; or
(D) uses an automated external defibrillator on;
another person in the course of employment as a school nurse;
is not liable in a civil action for damages resulting from an act or omission occurring during the provision of emergency assistance under this section, unless the act or omission constitutes gross negligence or willful and wanton misconduct.
As added by P.L.146-2011, SEC.3.

IC 34-30-14-9
Schools; immunity for employees performing certain acts
Sec. 9. A public or nonpublic school, charter school, school board, school corporation, or governing body of a school corporation is not liable for civil damages as a result of an act or omission of an employee providing emergency assistance by:
(1) performing cardiopulmonary resuscitation on;
(2) performing the Heimlich maneuver on;
(3) removing a foreign body that is obstructing an airway of; or
(4) using an automated external defibrillator on;
another person in the course of employment as an employee of the school or school corporation or as an agent of the school board, unless the act or omission constitutes gross negligence or willful and wanton misconduct.
As added by P.L.146-2011, SEC.4.

IC 34-30-14.5

Chapter 14.5. Health Care: Medical Malpractice

IC 34-30-14.5-1

Medical review panel; immunity

Sec. 1. Immunity for members of a medical review panel is governed by IC 34-18-10-24.

As added by P.L.1-1998, SEC.26.

IC 34-30-14.5-2

Health care providers; immunity in breach of contract cases

Sec. 2. Immunity for health care providers in certain breach of contract cases is governed by IC 34-18-12-1.

As added by P.L.1-1998, SEC.26.

IC 34-30-15

Chapter 15. Health Care: Privileged Communications of Health Care Provider Peer Review Committees

IC 34-30-15-1

Confidentiality; peer review committee proceedings

Sec. 1. (a) All proceedings of a peer review committee are confidential.

(b) All communications to a peer review committee shall be privileged communications.

(c) Neither the personnel of a peer review committee nor any participant in a committee proceeding shall reveal any content of:

(1) communications to;

(2) the records of; or

(3) the determination of;

a peer review committee outside of the peer review committee.

(d) However, the governing board of:

(1) a hospital;

(2) a professional health care organization;

(3) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11); or

(4) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4);

may disclose the final action taken with regard to a professional health care provider without violating the provisions of this section.

(e) Upon approval by the health care facility's governing body, the peer review committee of a health care facility (as defined in IC 16-40-5-2, expired) may submit or disclose to the agency (as defined in IC 16-40-5-1, expired) the following for purposes of patient safety or quality of health care matters under IC 16-40-5 (expired):

(1) Communications to the peer review committee.

(2) Peer review committee proceedings.

(3) Peer review committee records.

(4) Determinations by the peer review committee.

Information and materials submitted or disclosed to the agency under this subsection are confidential and privileged from use as evidence in an administrative or judicial proceeding, and notwithstanding IC 16-40-5 (expired) the agency may not release the information or material outside the agency. However, the agency may issue a report that is based upon information or materials submitted or disclosed to the agency by a peer review committee if the report or any other information issued does not disclose the identity of the health care facility, health care provider, or patient. Information and materials may be submitted or disclosed to the agency under this subsection without violating this section or waiving the confidentiality and privilege attached to the communications, proceedings, records, determinations, or deliberations of the peer review committee.

(f) Upon its determination, the governing body of a hospital may report, as part of the hospital's quality assessment and improvement program, a determination of a peer review committee of the hospital regarding an adverse event concerning patient care to the state department of health or another state agency without:

(1) violating this section; or

(2) waiving the confidentiality and privilege attached to the communications, proceedings, records, determinations, or deliberations of the peer review committee.

As added by P.L.1-1998, SEC.26. Amended by P.L.101-2007, SEC.4; P.L.42-2011, SEC.71.

IC 34-30-15-2

Confidentiality; peer review committee proceedings; persons attending

Sec. 2. Except as otherwise provided in this chapter, a person who attends a peer review committee proceeding shall not be permitted or required to disclose:

(1) any information acquired in connection with or in the course of a proceeding;

(2) any opinion, recommendation, or evaluation of the committee; or

(3) any opinion, recommendation, or evaluation of any committee member.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-3

Confidentiality; otherwise discoverable information

Sec. 3. (a) Information that is otherwise discoverable or admissible from original sources is not immune from discovery or use in any proceeding merely because it was presented during proceedings before a peer review committee.

(b) A member, an employee, an agent of a committee or other person appearing before the committee may not be prevented from testifying:

(1) as to matters within the person's knowledge; and

(2) in accordance with the other provisions of this chapter.

(c) However, the witness cannot be questioned about this testimony or other proceedings before the committee or about opinions formed by the witness as a result of committee hearings.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-4

Health care providers under investigation; access to records

Sec. 4. (a) A professional health care provider under investigation shall be permitted at any time to see any records accumulated by a peer review committee pertaining to the provider's personal practice.

(b) The provider shall be offered the opportunity to appear before the peer review committee with adequate representation to hear all charges and findings concerning the provider's practice and to offer

rebuttal information.

(c) The rebuttal information shall be a part of the record before any disclosure of the charges and findings under this chapter is made.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-5
Health care providers under investigation; hearings

Sec. 5. (a) As used in this section, "conflicted medical staff member" means a professional health care provider who is a member of a hospital's medical staff and who is determined by the hospital to be:

(1) in direct economic competition with the professional health care provider against whom the charges have been brought; or
(2) reasonably unavailable to serve on a peer review committee of the medical staff.

(b) Except as provided in section 6(b) of this chapter, if charges are brought against a professional health care provider in a hospital that, if sustained by the governing board of the hospital, could result in an action against a physician required to be reported to the medical licensing board under IC 16-21-2-6 or a similar disciplinary action against any other health care provider, the professional health care provider is entitled to:

(1) one (1) evidentiary hearing before a peer review committee of the medical staff; and
(2) one (1) appeal before the governing board of the hospital or a committee appointed by the governing board.

(c) If a hospital determines that a peer review committee of the medical staff may not be formed without appointing a conflicted medical staff member, the hospital:

(1) may not appoint the conflicted medical staff member to the peer review committee; and
(2) shall appoint a professional health care provider who:
    (A) holds the same professional license as the provider against whom the charges have been brought; and
    (B) is not a member of the hospital's medical staff;

to serve on the peer review committee.

(d) The professional health care provider appointed under subsection (c)(2) may not be in direct economic competition with the professional health care provider against whom the charges have been brought.
As added by P.L.1-1998, SEC.26. Amended by P.L.127-1999, SEC.1.

IC 34-30-15-6
Health care providers under investigation; appeals

Sec. 6. (a) Any appeal granted to a professional health care provider under section 5 of this chapter may be held before a committee of the board of trustees or the full board of trustees of the hospital in which the care under investigation was provided.

(b) The right to a hearing and appeal under this chapter in regard to cases involving care provided for hospitals, health care facilities,

and health care organizations is confined to professional health care providers who are granted or who have applied for privileges as independent practitioners. That right is not applicable to any professional health care provider who works in the hospital or health care facility solely as an employee or as the employee of another independent professional health care provider.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-7
Health care providers under investigation; health maintenance organizations

Sec. 7. (a) This section applies to:

(1) a health maintenance organization (as defined in IC 27-13-1-19); or

(2) a limited service health maintenance organization (as defined in IC 27-13-34-4).

(b) Before:

(1) taking corrective action against a professional health care provider who is under contract with but not employed by the health maintenance organization or limited service health maintenance organization; or

(2) taking action to terminate a contract with a professional health care provider who is not employed by the health maintenance organization or limited service health maintenance organization;

based upon an evaluation of patient care rendered by the professional health care provider, the organization shall grant the health care provider affected by the action one (1) evidentiary hearing before a peer review committee of the organization and, at the health provider's request, an appeal of the peer review committee's decision.

(c) Unless otherwise agreed to by the organization and the health care provider, the appeal must be limited to a review of the record of the hearing before the peer review committee and a review of all or part of the peer review committee's decision.

(d) The appeal must be held before the governing board of the organization or, at the governing board's discretion, before a committee of the governing board.

(e) The health care provider is entitled to submit written materials in support of the appeal and, at the discretion of the governing board or committee of the board conducting the appeal, the health care provider may be allowed to present oral argument in support of the appeal.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-8
Confidentiality; persons information may be disclosed to

Sec. 8. (a) Communications to, the records of, and determinations of a peer review committee may only be disclosed to:

(1) the peer review committee of:

(A) a hospital;

(B) a nonprofit health care organization (described in IC 34-6-2-117(23));
(C) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);
(D) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4); or
(E) another health facility;

(2) the disciplinary authority of the professional organization of which the professional health care provider under question is a member; or
(3) the appropriate state board of registration and licensure that the committee considers necessary for recommended disciplinary action;

and shall otherwise be kept confidential for use only within the scope of the committee's work, unless the professional health care provider has filed a prior written waiver of confidentiality with the peer review committee.

(b) However, if a conflict exists between this section and IC 27-13-31, the provisions of IC 27-13-31 control.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-9
Waiver of privilege

Sec. 9. Except in cases of required disclosure to the professional health care provider under investigation, no records or determinations of or communications to a peer review committee shall be:

(1) subject to subpoena or discovery; or
(2) admissible in evidence;

in any judicial or administrative proceeding, including a proceeding under IC 34-18-11 (or IC 27-12-11 before its repeal), without a prior waiver executed by the committee.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-10
Invoking privilege

Sec. 10. Except in cases as authorized in this chapter, the evidentiary privileges created by this chapter shall be invoked by all witnesses and organizations in all judicial and administrative proceedings unless the witness or organization first has a waiver of the privilege executed in writing, on behalf of the peer review committee holding the privilege, by its chairman, vice chairman, or secretary.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-11
Limited waiver of privilege for attorney general investigation

Sec. 11. If a waiver of the privilege is executed on behalf of the peer review committee in favor of the attorney general for the

purpose of conducting an investigation under IC 25-1-7, the records of, determinations of, or communications to a peer review committee are confidential and privileged under this section, except for the attorney general's use in an investigation to identify information otherwise discoverable or admissible from original sources under section 3 of this chapter.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-12
Subpoena powers of attorney general

Sec. 12. This chapter does not prevent the attorney general from obtaining by subpoena as part of an investigation under IC 25-1-7 for a violation under IC 25-1-9:

(1) the application for privileges or employment completed by the professional staff member under investigation regardless of whether the member is the subject of peer review committee proceedings;

(2) except for reports prepared as part of a peer review investigation, incident reports prepared contemporaneously to document the circumstances of an accident or unusual occurrence involving a professional staff member regardless of whether the member is the subject of peer review committee proceedings; or

(3) information otherwise discoverable from original sources, that is not the communications to, records of, or determinations of a peer review committee;

from a professional health care provider.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-13
Subpoena powers of attorney general; requirements

Sec. 13. A subpoena issued by the attorney general to obtain the records necessary to an investigation shall identify with reasonable particularity the documents sought and the specific professional health care provider under investigation.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-14
Immunities inapplicable to persons violating confidentiality requirements

Sec. 14. The immunities granted by sections 15 through 20 of this chapter shall not extend to any person who violates the confidentiality requirements of sections 1 through 13 of this chapter.
As added by P.L.1-1998, SEC.26. Amended by P.L.1-1999, SEC.74; P.L.97-2004, SEC.123.

IC 34-30-15-15
Immunity; peer review committee proceedings

Sec. 15. There is no liability on the part of, and no action of any nature shall arise against, the personnel of a peer review committee

for any act, statement made in the confines of the committee, or proceeding of the committee made in good faith in regard to evaluation of patient care as that term is defined and limited in IC 34-6-2-44.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-16
Immunity; disclosure of information to peer review committee

Sec. 16. Notwithstanding any other law, a peer review committee, an organization, or any other person who, in good faith and as a witness or in some other capacity, furnishes records, information, or assistance to a peer review committee that is engaged in:

(1) the evaluation of the qualifications, competence, or professional conduct of a professional health care provider; or
(2) the evaluation of patient care;

is immune from any civil action arising from the furnishing of the records, information, or assistance, unless the person knowingly furnishes false records or information.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-17
Immunity; good faith determinations regarding evaluation of patient care

Sec. 17. The personnel of a peer review committee shall be immune from any civil action arising from any determination made in good faith in regard to evaluation of patient care as that term is defined and limited in IC 34-6-2-44.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-18
Injunctive relief unavailable

Sec. 18. No restraining order or injunction shall be issued against a peer review committee or any of the personnel thereof to interfere with the proper functions of the committee acting in good faith in regard to evaluation of patient care as that term is defined and limited in IC 34-6-2-44.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-19
Immunity; compliance with federal Health Care Quality Improvement Act

Sec. 19. If the action of the peer review committee meets the standards specified by this chapter and the federal Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101 et seq., the following persons are not liable for damages under any federal, state, or local law with respect to the action:

(1) The peer review committee.
(2) Any person acting as a member or staff to the peer review committee.
(3) Any person under a contract or other formal agreement with

the peer review committee.

(4) Any person who participates with or assists the peer review committee with respect to the action.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-20

Immunity; inapplicable to civil rights laws

Sec. 20. Section 19 of this chapter does not apply to damages under any federal or state law relating to the civil rights of a person including:

(1) the federal Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq.; and

(2) the federal Civil Rights Act, 42 U.S.C. 1981, et seq.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-21

Use of information for internal business purposes

Sec. 21. (a) Notwithstanding sections 1 through 14 of this chapter:

(1) a professional health care provider;

(2) a peer review committee; and

(3) the governing board of:

(A) a hospital;

(B) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);

(C) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4); or

(D) a professional health care organization;

may use information obtained by peer review committees for legitimate internal business purposes.

(b) Legitimate internal business uses of information obtained by a peer review committee include the following:

(1) Quality review and assessment.

(2) Utilization review and management.

(3) Risk management and incident reporting.

(4) Safety, prevention, and correction.

(5) Reduction of morbidity and mortality.

(6) Scientific, statistical, and educational purposes.

(7) Legal defense.

As added by P.L.1-1998, SEC.26.

IC 34-30-15-22

Discovery of financial incentives offered provider

Sec. 22. Evidence of any financial incentive offered to or withheld from:

(1) a private psychiatric hospital licensed under IC 12-25; or

(2) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);

is subject to discovery under Indiana Rules of Trial Procedure unless specifically protected by statute.
As added by P.L.1-1998, SEC.26.

IC 34-30-15-23
Good faith presumed; malice must be proven

Sec. 23. In all actions to which this chapter applies, good faith shall be presumed, and malice shall be required to be proven by the person aggrieved.
As added by P.L.1-1998, SEC.26.

IC 34-30-16

Chapter 16. Health Care: Privileged Communications of Mental Health Service Providers

IC 34-30-16-1

Immunity from civil liability; violent behavior of patient

Sec. 1. A mental health service provider is immune from civil liability to persons other than the patient for failing to:

(1) predict; or

(2) warn or take precautions to protect from;

a patient's violent behavior unless the patient has communicated to the provider of mental health services an actual threat of physical violence or other means of harm against a reasonably identifiable victim or victims, or evidences conduct or makes statements indicating an imminent danger that the patient will use physical violence or use other means to cause serious personal injury or death to others.

As added by P.L.1-1998, SEC.26.

IC 34-30-16-2

Duty to warn or to take reasonable precautions; discharge

Sec. 2. The duty to warn of or to take reasonable precautions to provide protection from violent behavior or other serious harm arises only under the limited circumstances specified in section 1 of this chapter. The duty is discharged by a mental health service provider who takes one (1) or more of the following actions:

(1) Makes reasonable attempts to communicate the threat to the victim or victims.

(2) Makes reasonable efforts to notify a police department or other law enforcement agency having jurisdiction in the patient's or victim's place of residence.

(3) Seeks civil commitment of the patient under IC 12-26.

(4) Takes steps reasonably available to the provider to prevent the patient from using physical violence or other means of harm to others until the appropriate law enforcement agency can be summoned and takes custody of the patient.

(5) Reports the threat of physical violence or other means of harm, within a reasonable period of time after receiving knowledge of the threat, to a physician or psychologist who is designated by the employer of a mental health service provider as an individual who has the responsibility to warn under this chapter.

As added by P.L.1-1998, SEC.26.

IC 34-30-16-3

Patient privacy and confidentiality; immunity from liability

Sec. 3. A mental health service provider who discloses information that must be disclosed to comply with sections 1 through 2 of this chapter is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

As added by P.L.1-1998, SEC.26.

IC 34-30-17

Chapter 17. Insurance: Immunity for Acts or Omissions in Making Insurance Inspections

IC 34-30-17-1

Applicability of chapter

Sec. 1. This chapter applies to all insurers, including farm mutual insurance companies operating under IC 27-5.1.

As added by P.L.1-1998, SEC.26. Amended by P.L.129-2003, SEC.14.

IC 34-30-17-2

Exemption from civil liability

Sec. 2. Except as provided in section 3 of this chapter, an act or omission in the making of an inspection in connection with the issuance or renewal of a policy of casualty or fire and marine insurance does not subject an insurer or its:

(1) agents;

(2) employees; or

(3) service contractors;

to civil liability for any injury, death, or loss.

As added by P.L.1-1998, SEC.26.

IC 34-30-17-3

Exemption from civil liability; exceptions

Sec. 3. The exemption from civil liability in section 2 of this chapter does not apply to:

(1) any injury, loss, or death that:

(A) occurs during an inspection; and

(B) is proximately caused by the negligence of the insurer or its agent, employee, or service contractor;

(2) an inspection that is required under a written service contract; or

(3) any injury, loss, or death proximately caused by an act or omission that constitutes:

(A) a criminal offense;

(B) gross negligence; or

(C) willful or wanton misconduct.

As added by P.L.1-1998, SEC.26.

IC 34-30-18

Chapter 18. Sports: Immunity of Persons Involved in the Special Olympics

IC 34-30-18-1

Negligent operation of motor vehicle; vicarious civil liability

Sec. 1. (a) This chapter does not grant immunity from civil damages that are proximately caused by the negligent operation of a motor vehicle.

(b) This chapter does not affect the vicarious civil liability of the entity that the individual serves.

As added by P.L.1-1998, SEC.26.

IC 34-30-18-2

Liability of volunteers

Sec. 2. An individual who, without compensation, contributes personal time to the Special Olympics is not liable for civil damages as a result of a negligent act or omission of the individual arising from that contribution.

As added by P.L.1-1998, SEC.26.

IC 34-30-18-3

Liability of contributors

Sec. 3. A person who contributes only money to the Special Olympics is not liable for civil damages as a consequence of a negligent act or omission of an individual described in section 2 of this chapter solely because of that contribution.

As added by P.L.1-1998, SEC.26.

IC 34-30-19

Chapter 19. Sports: Immunity of Certain Persons Involved in Sports or Leisure Activities

IC 34-30-19-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-11.8 (before its repeal, now codified in this chapter) by P.L.310-1987 does not apply to causes of action accruing before June 1, 1987.

As added by P.L.220-2011, SEC.568.

IC 34-30-19-1

Intentional, wanton, or reckless behavior

Sec. 1. This chapter does not grant immunity from civil liability to a person who engaged in intentional, willful, wanton, or reckless behavior.

As added by P.L.1-1998, SEC.26.

IC 34-30-19-2

Negligent operation of motor vehicle; licensed individuals; vicarious civil liability

Sec. 2. (a) This chapter does not grant immunity from civil damages that are proximately caused by the negligent operation of a motor vehicle.

(b) This chapter does not apply to an individual who is registered, certified, or licensed under IC 25.

(c) This chapter does not affect the vicarious civil liability of the entity the individual serves.

As added by P.L.1-1998, SEC.26.

IC 34-30-19-3

Liability of volunteers

Sec. 3. A volunteer is not liable for civil damages that are proximately caused by a negligent act or omission in the personal services provided by:

(1) the volunteer; or

(2) another person selected, trained, supervised, or otherwise under the control of the volunteer;

in the course of a sports or leisure activity.

As added by P.L.1-1998, SEC.26.

IC 34-30-19-4

Liability of governmental entities, employees, and agents

Sec. 4. A governmental entity and the employees and agents of a governmental entity are not liable for civil damages that are proximately caused by:

(1) the negligent selection, training, or supervision of a volunteer providing personal services in the course of a sports or leisure activity; or

(2) a negligent act or omission in the personal services provided

by:

(A) the volunteer; or

(B) another person selected, trained, supervised, or otherwise under the control of the volunteer;

in the course of a sports or leisure activity.

As added by P.L.1-1998, SEC.26.

IC 34-30-20

Chapter 20. Immunity for Use of a Firearm or Ammunition by a Person Other Than the Owner

IC 34-30-20-1

Owner immunity for misuse of a firearm by a person who acquires the firearm by criminal act

Sec. 1. A person is immune from civil liability based on an act or omission related to the use of a firearm or ammunition for a firearm by another person if the other person directly or indirectly obtained the firearm or ammunition for a firearm through the commission of the following:

(1) Burglary (IC 35-43-2-1).
(2) Robbery (IC 35-42-5-1).
(3) Theft (IC 35-43-4-2).
(4) Receiving stolen property (IC 35-43-4-2).
(5) Criminal conversion (IC 35-43-4-3).

As added by P.L.80-2004, SEC.5.

IC 34-30-20-2

Severability

Sec. 2. The provisions of this chapter are severable. If this chapter or any part of this chapter is found to violate the United States Constitution or the Constitution of the State of Indiana, or is held invalid for any other reason, the validity of the remainder of this chapter shall not be affected.

As added by P.L.80-2004, SEC.5.

IC 34-30-21

Chapter 21. Military Bases: Immunity for Noise Pollution and Telecommunications Interference

IC 34-30-21-1

Application

Sec. 1. This chapter does not grant immunity from civil liability to a person who commits an act that:

(1) amounts to gross negligence or willful and wanton misconduct; or

(2) does not comply with an applicable federal law.

As added by P.L.5-2005, SEC.6.

IC 34-30-21-2

Noise pollution immunity

Sec. 2. A military base, a person employed by a military base, or a person otherwise authorized by a military base to conduct operations on or use the military base is not liable for civil damages relating to noise or noise pollution that:

(1) results from the normal operation or use of the military base, including the destruction of ordnance; and

(2) may be heard within two (2) miles of the perimeter of the military base.

As added by P.L.5-2005, SEC.6.

IC 34-30-21-3

Telecommunications interference immunity

Sec. 3. A military base, a person employed by a military base, or a person otherwise authorized by a military base to conduct operations on or use the military base is not liable for civil damages relating to interference with telecommunications that:

(1) results from the normal operation or use of the military base; and

(2) occurs within five (5) miles of the perimeter of the military base.

As added by P.L.5-2005, SEC.6.

IC 34-30-22

Chapter 22. Events: Immunity of Advertiser or Sponsor

IC 34-30-22-1

Application

Sec. 1. This chapter does not grant immunity from civil liability to the following:

(1) A person who engages in intentional, willful, wanton, or reckless behavior.

(2) A person who contractually assumes civil liability in connection with an event.

(3) A person who fails to exercise reasonable care in connection with the direction or control of an event.

(4) A person who provides defective materials or products or fails to exercise reasonable care in providing materials or products.

As added by P.L.116-2005, SEC.4.

IC 34-30-22-2

Immunity of advertiser or sponsor

Sec. 2. An advertiser or sponsor of an event is immune from civil liability for the acts or omissions of:

(1) the advertiser or sponsor; and

(2) any other person;

in connection with the event.

As added by P.L.116-2005, SEC.4.

IC 34-30-22-3

Advertiser or sponsor not vicariously liable for acts of nonadvertiser or nonsponsor

Sec. 3. An advertiser or sponsor of an event may not be considered to be:

(1) part of a joint venture;

(2) the principal of an agent; or

(3) the employer of an employee;

with regard to a person participating in the event in a capacity other than that of an advertiser or sponsor.

As added by P.L.116-2005, SEC.4.

IC 34-30-23

Chapter 23. Liability Connected With Consumption of Food and Beverages

IC 34-30-23-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.77-2006 does not apply to a cause of action that accrues before July 1, 2006.

As added by P.L.220-2011, SEC.569.

IC 34-30-23-1

Exemption from civil liability

Sec. 1. This chapter does not grant immunity from civil liability with respect to a claim alleging that:

(1) an adulteration or misbranding of food or a beverage proximately caused the claimed injury, if the adulteration or misbranding relates to a labeling or purity requirement under state or federal law; or

(2) a knowing and willful violation of federal or state law applicable to the manufacturing, marketing, distribution, labeling, or sale of food or a beverage proximately caused the claimed injury, unless the alleged injury is unrelated to a pregnancy and arises from:

(A) weight gain;

(B) obesity;

(C) a health condition associated with weight gain or obesity; or

(D) a generally known condition allegedly:

(i) caused by; or

(ii) likely to result from;

the long term consumption of food or beverages.

As added by P.L.77-2006, SEC.1.

IC 34-30-23-2

Applicability

Sec. 2. Section 3 of this chapter applies to the following:

(1) A food or beverage manufacturer.

(2) A food or beverage distributor.

(3) A food or beverage carrier.

(4) A person who stores food or beverages.

(5) A food or beverage seller.

(6) A food or beverage marketer.

(7) A food or beverage advertiser or the advertising medium.

(8) A person who prepares food or beverages.

(9) A group or association containing more than one (1) of the persons referred to in subdivisions (1) through (8).

As added by P.L.77-2006, SEC.1.

IC 34-30-23-3

Immunity from civil liability arising from a claim concerning the

long term consumption of food or beverages

Sec. 3. This section does not apply to weight gain associated with pregnancy. A person or group or association of persons referred to in section 2 of this chapter is immune from civil liability arising from a claim concerning:

(1) weight gain;

(2) obesity;

(3) a health condition associated with weight gain or obesity; or

(4) a generally known condition:

(A) allegedly caused by; or

(B) allegedly likely to result from;

the long term consumption of food or beverages.

As added by P.L.77-2006, SEC.1.

IC 34-30-24

Chapter 24. Immunity for Misuse of E85 Motor Fuel

IC 34-30-24-1

Definitions

Sec. 1. (a) As used in this chapter, "E85" has the meaning set forth in IC 6-6-1.1-103.

(b) As used in this chapter, "flexible fuel vehicle" means any vehicle that is equipped to operate when fueled entirely by E85.

(c) As used in this chapter, "qualified person or entity" means any person or entity that sells, supplies, distributes, manufactures, or refines E85.

As added by P.L.122-2006, SEC.24.

IC 34-30-24-2

Civil immunity

Sec. 2. (a) Except as provided in subsection (b), a qualified person or entity is immune from civil liability for personal injury or property damage resulting from a person fueling any vehicle with E85 that is not a flexible fuel vehicle.

(b) This section does not apply:

(1) to a qualified person or entity that fails to display all E85 warning signs required by federal or state law; or

(2) if a person's injury or property damage is a direct result of the gross negligence or willful or wanton misconduct of the qualified person or entity.

As added by P.L.122-2006, SEC.24.

IC 34-30-25

Chapter 25. Immunity for Youth Shelters

IC 34-30-25-1

"Necessary services" defined

Sec. 1. As used in this chapter, "necessary services" means the following:

(1) Engaging in outreach services to locate and assist runaway or homeless youths.

(2) Providing food and access to overnight shelter to a runaway or homeless youth.

(3) Counseling a runaway or homeless youth to address immediate psychological or emotional problems.

(4) Screening a runaway or homeless youth for basic health needs and referring a runaway or homeless youth to public and private agencies for health care.

(5) Providing long term planning, placement, and follow-up services to a runaway or homeless youth.

(6) Referring a runaway or homeless youth to any other assistance or services offered by public and private agencies.

As added by P.L.72-2009, SEC.2.

IC 34-30-25-2

"Runaway or homeless youth" defined

Sec. 2. As used in this chapter, "runaway or homeless youth" means an individual who:

(1) is:

(A) at least twelve (12) years of age; and

(B) less than eighteen (18) years of age;

(2) is unemancipated;

(3) is mentally competent; and

(4) lives in a situation described in:

(A) 42 U.S.C. 11434a(2)(B)(ii); or

(B) 42 U.S.C. 11434a(2)(B)(iii);

with or without the consent or knowledge of the individual's parent, guardian, or custodian.

As added by P.L.72-2009, SEC.2.

IC 34-30-25-3

"Youth shelter" defined

Sec. 3. As used in this chapter, "youth shelter" means an entity that:

(1) is not operated for profit; and

(2) provides, at a minimum, necessary services to runaway or homeless youths.

As added by P.L.72-2009, SEC.2.

IC 34-30-25-4

Immunity from civil liability for youth shelter personnel

Sec. 4. Except as provided in section 5 of this chapter, a youth

shelter and the director, employees, agents, and volunteers of a youth shelter are immune from civil liability resulting from any act or omission related to:

(1) admitting a runaway or homeless youth to;

(2) caring for a runaway or homeless youth at; or

(3) releasing a runaway or homeless youth from;

the youth shelter.

As added by P.L.72-2009, SEC.2.

IC 34-30-25-5

Civil liability for gross negligence or willful and wanton misconduct

Sec. 5. This chapter does not grant immunity from civil liability to a person who commits an act that amounts to gross negligence or willful and wanton misconduct.

As added by P.L.72-2009, SEC.2.

IC 34-30-26

Chapter 26. Real Property Suspected to Be Vacant or Abandoned

IC 34-30-26-1

"Creditor"

Sec. 1. (a) As used in this chapter, "creditor" means a person:

(1) that regularly engages in Indiana in the extension of mortgages that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(2) to whom the obligation arising from a mortgage is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

(b) The term includes the following:

(1) A mortgage servicer.

(2) An agent of a creditor.

As added by P.L.170-2011, SEC.15.

IC 34-30-26-2

"Enforcement authority"

Sec. 2. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

As added by P.L.170-2011, SEC.15.

IC 34-30-26-3

"Owner"

Sec. 3. As used in this chapter, "owner", with respect to real property, has the meaning set forth in IC 36-7-36-4.

As added by P.L.170-2011, SEC.15.

IC 34-30-26-4

"Vacant or abandoned" real property

Sec. 4. For purposes of this chapter, real property is "vacant or abandoned" if it qualifies, or would potentially qualify, as either:

(1) a vacant structure under IC 36-7-36-6; or

(2) an abandoned structure under IC 36-7-36-1.

As added by P.L.170-2011, SEC.15.

IC 34-30-26-5

Limited authorization to enter suspected vacant or abandoned real property; limited immunity

Sec. 5. (a) Except as provided in subsection (d), a person who is not the owner of real property or who is a creditor, and who suspects that the property may be vacant or abandoned, may enter upon the premises of the real property to do the following:

(1) Without entering any structure located on the real property, visually inspect the real property to determine whether the real property may be vacant or abandoned.

(2) Perform any of the following actions:

(A) Secure the real property.

(B) Remove trash or debris from the grounds of the real property.

(C) Landscape, maintain, or mow the grounds of the real property.

(D) Remove or paint over graffiti on the real property.

(b) A person who:

(1) enters upon the premises of real property to visually inspect the property, as permitted under subsection (a)(1); and

(2) after inspecting the real property, determines that the real property may be vacant or abandoned;

may notify the appropriate enforcement authority of the suspected vacant or abandoned status of the property and request that the enforcement authority inspect the property to determine whether the property is in fact vacant or abandoned.

(c) A person that enters upon the premises of real property as permitted under this section:

(1) is immune from civil liability for an act or omission related to the entry or to any action described in subsection (a)(2), unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct; and

(2) shall be held harmless from and against all claims of civil or criminal trespass.

(d) In the case of real property that is subject to a mortgage, the creditor in the mortgage transaction may not enter upon the premises of the real property under subsection (a) if entry is barred by an automatic stay issued by a bankruptcy court.

As added by P.L.170-2011, SEC.15. Amended by P.L.203-2013, SEC.24.

IC 34-30-26-6

Tax sale certificate holders and applicants for tax deeds not considered owners

Sec. 6. For purposes of this chapter, a tax sale certificate holder or an applicant for a tax deed who performs an act described in section 5 of this chapter with respect to the real property for which the person holds the tax sale certificate or has applied for the tax deed, is not considered to be the owner of that real property if:

(1) the only connection the person has to the property is the tax sale certificate or the fact that the person has applied for a tax deed; and

(2) the only consideration the person receives for the act is the possibility of receiving a tax deed to the property in the future.

As added by P.L.170-2011, SEC.15.

IC 34-30-26-7

Visual inspection by potential purchaser or lender; immunity

Sec. 7. (a) This section applies to real property for which a city, town, or county has obtained a judgment under IC 32-30-10.6 that the

real property is:

(1) vacant; or

(2) abandoned;

due to a request for a determination by an enforcement authority.

(b) A city, town, or county may provide a potential purchaser or a potential lender to a person who may want to purchase the real property an opportunity to visually inspect the real property, if accompanied by the appropriate enforcement authority. The appropriate enforcement authority may accompany the person in inspecting the real property and may enter upon the real property, including any structure located on the real property, to visually inspect the real property to determine whether the real property may be desirable. For purposes of a visual inspection under this section, a potential purchaser or a potential lender may not:

(1) request a utility provider or the city, town, or county to connect or turn on utilities to the real property; or

(2) physically disturb or alter the real property.

(c) An enforcement authority or a person that enters upon the premises of real property as permitted under this section:

(1) is immune from civil liability for an act or omission related to the entry, unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct; and

(2) shall be held harmless from and against all claims of civil or criminal trespass.

As added by P.L.66-2014, SEC.24.

IC 34-30-27

Chapter 27. Volunteer Professional Services of a Registered Architect, Land Surveyor, or Professional Engineer Related to a Declared Emergency

IC 34-30-27-1

Immunity, emergency volunteer professional services

Sec. 1. An architect registered under IC 25-4-1, a professional surveyor registered under IC 25-21.5, or a professional engineer registered under IC 25-31-1 who, after May 31, 2013, voluntarily, without compensation (other than expense reimbursement), provides architectural, structural, electrical, mechanical, or professional services:

(1) related to a declared national, state, or local emergency caused by an earthquake, hurricane, tornado, fire, explosion, gale, severe storm, flood, or collapse; and

(2) at the request of or with the approval of a federal or state official with executive responsibility in the jurisdiction to coordinate:

(A) law enforcement;

(B) public safety; or

(C) building inspection;

believed by the registered architect, professional surveyor, or professional engineer to be acting in an official capacity;

is not liable for any personal injury, wrongful death, property damage, or other loss of any nature related to the registered architect's, professional surveyor's, or professional engineer's acts, errors, or omissions in the performance of the services.

As added by P.L.96-2013, SEC.1. Amended by P.L.2-2014, SEC.117.

IC 34-30-27-2

Immunity, time limitation

Sec. 2. The immunity provided in this chapter applies only to voluntary architectural, surveying, or engineering services provided during the emergency, or not more than thirty (30) days after the end of the period for the emergency, described in section 1 of this chapter, unless extended by an executive order issued by the governor under the governor's emergency executive powers.

As added by P.L.96-2013, SEC.1.

IC 34-30-27-3

Immunity, intentional misconduct precluded

Sec. 3. This chapter does not provide immunity for wanton, willful, or intentional misconduct.

As added by P.L.96-2013, SEC.1.

IC 34-30-28

Chapter 28. Immunity for Schools, School Employees, and School Boards Concerning Student Health

IC 34-30-28-1

Immunity for nondisclosed student mental health issue

Sec. 1. A school, school employee, or school board is not liable for civil damages as a result of:

(1) an injury to a child or family members of the child if the injury is a result of a student's mental health issue that has not been disclosed to the school by the parents or guardian; or

(2) any referrals the school made or services the school offered concerning evaluations or treatment of the student's health, including mental health.

As added by P.L.41-2014, SEC.9.

IC 34-31

ARTICLE 31. LIMITED LIABILITY

IC 34-31-1

Chapter 1. Scope of Article

IC 34-31-1-1

Intent of article

Sec. 1. This article is not intended to be an exhaustive compilation of all limits on civil liability in the Indiana Code. In addition to the limits on liability that are recognized in this article, other limits on civil liability may be recognized in other provisions of the Indiana Code.

As added by P.L.1-1998, SEC.27.

IC 34-31-1-2

Compilation of statutes limiting civil liability

Sec. 2. As an aid to the reader, an effort has been made to list other locations in the Indiana Code where limits on civil liability are recognized. This list provided in IC 34-31-2 does not take the place of traditional legal research.

As added by P.L.1-1998, SEC.27.

IC 34-31-2

Chapter 2. Statutes Outside IC 34 That Confer Limited Liability

IC 34-31-2-1

Content of chapter; listing not to create new limit or negate existing limit

Sec. 1. (a) This chapter contains a list of references to other limited liability provisions outside IC 34.

(b) Listing in this chapter does not equate to the creation of a limit on civil liability, and failure to be listed in this chapter does not negate a limit on civil liability recognized elsewhere in the Indiana Code.

(c) Statutes that limit civil liability may also contain exceptions to the limitation, therefore each statute must be consulted directly to determine the applicability of the limitation on liability provided.

As added by P.L.1-1998, SEC.27.

IC 34-31-2-2

Participants in surface coal mine reclamation bond pool

Sec. 2. IC 14-34-8-10 (Concerning participants in the surface coal mine reclamation bond pool fund for reclamation of areas disturbed by others).

As added by P.L.1-1998, SEC.27.

IC 34-31-2-2.5

Persons who administer overdose intervention drugs

Sec. 2.5. IC 16-31-6-2.5 (Concerning certain persons who administer an overdose intervention drug).

As added by P.L.156-2014, SEC.10.

IC 34-31-2-3

Bed and breakfast establishments and loss of personal property

Sec. 3. IC 16-41-31-7 (Concerning bed and breakfast establishments for loss of personal property).

As added by P.L.1-1998, SEC.27.

IC 34-31-2-4

Employers and death of persons covered by worker's compensation

Sec. 4. IC 22-3-9-6 (Concerning employers for the death of a person covered by worker's compensation).

As added by P.L.1-1998, SEC.27.

IC 34-31-2-5

Mine operators and employers for death or injury of mine rescuer during rescue attempt

Sec. 5. IC 22-10-12-11 (Concerning mine operators and employers for death or injury of mine rescuer during rescue attempt).

As added by P.L.1-1998, SEC.27.

IC 34-31-2-6
Creditors for errors made under Uniform Commercial Code
Sec. 6. IC 24-4.5-5-203 (Concerning creditors for errors made under the Uniform Consumer Credit code).
As added by P.L.1-1998, SEC.27.

IC 34-31-2-7
Sellers under business opportunity transaction law
Sec. 7. IC 24-5-8-17 (Concerning sellers under the business opportunity transaction law).
As added by P.L.1-1998, SEC.27.

IC 34-31-2-8
Indiana life and health guaranty association
Sec. 8. IC 27-8-8-5 (Concerning the Indiana life and health insurance guaranty association).
As added by P.L.1-1998, SEC.27.

IC 34-31-2-9
Proprietors or managers of hotels, apartment hotels, or inns regarding keeping of guest's valuables in safe
Sec. 9. IC 32-33-7-2 (Concerning proprietor or manager of a hotel, apartment hotel, or inn for guest's valuables kept in a safe).
As added by P.L.1-1998, SEC.27. Amended by P.L.2-2002, SEC.98.

IC 34-31-2-10
Health care providers in cases of medical malpractice
Sec. 10. IC 34-18-14-3 (Concerning health care providers for medical malpractice).
As added by P.L.1-1998, SEC.27.

IC 34-31-2-11
Volunteer firefighters and emergency medical services personnel
Sec. 11. IC 36-8-12-8 (Concerning volunteer firefighters and emergency medical services personnel).
As added by P.L.1-1998, SEC.27. Amended by P.L.174-2009, SEC.1.

IC 34-31-3

Chapter 3. Limited Liability of Governmental Entities and Public Employees Under Tort Claims Act

IC 34-31-3-1

Tort Claims Act cap on governmental liability

Sec. 1. The Tort Claims Act provides a cap on liability of governmental entities and public employees in certain circumstances (IC 34-13-3).

As added by P.L.1-1998, SEC.27.

IC 34-31-4

Chapter 4. Limited Liability of Parents for Damages Caused by Child

IC 34-31-4-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-4-31-1 (before its repeal, now codified in this chapter) by P.L.208-1997 apply to a cause of action that accrues after June 30, 1997.

As added by P.L.220-2011, SEC.570.

IC 34-31-4-1

Maximum limit of liability

Sec. 1. Except as provided in section 2 of this chapter, a parent is liable for not more than five thousand dollars ($5,000) in actual damages arising from harm to a person or damage to property knowingly, intentionally, or recklessly caused by the parent's child if:

(1) the parent has custody of the child; and

(2) the child is living with the parent.

As added by P.L.1-1998, SEC.27.

IC 34-31-4-2

Child participant in criminal gang activity

Sec. 2. A parent of a child who is a member of a criminal gang (as defined in IC 35-45-9-1), who actively encourages or knowingly benefits from the child's involvement in the criminal gang, is liable for actual damages arising from harm to a person or property intentionally caused by the child while participating in a criminal gang activity if:

(1) the parent has custody of the child;

(2) the child is living with the parent or guardian; and

(3) the parent failed to use reasonable efforts to prevent the child's involvement in the criminal gang.

As added by P.L.1-1998, SEC.27.

IC 34-31-5

Chapter 5. Limited Liability Arising From Equine Activities

IC 34-31-5-1

Immunity from civil liability

Sec. 1. (a) Subject to section 2 of this chapter, an equine activity sponsor or equine professional is not liable for:

(1) an injury to a participant; or

(2) the death of a participant;

resulting from an inherent risk of equine activities.

(b) Subject to section 2 of this chapter, a participant or participant's representative may not:

(1) make a claim against;

(2) maintain an action against; or

(3) recover from;

an equine activity sponsor or equine professional for injury, loss, damage, or death of the participant resulting from an inherent risk of equine activities.

As added by P.L.1-1998, SEC.27.

IC 34-31-5-2

Exceptions to immunity for certain acts or omissions

Sec. 2. (a) This section does not apply to the horse racing industry.

(b) Section 1 of this chapter does not prevent or limit the liability of an equine activity sponsor or an equine professional:

(1) who:

(A) provided equipment or tack that was faulty and that caused the injury; and

(B) knew or should have known that the equipment or tack was faulty;

(2) who provided the equine and failed to make reasonable and prudent efforts based on the participant's representations of the participant's ability to:

(A) determine the ability of the participant to engage safely in the equine activity; and

(B) determine the ability of the participant to safely manage the particular equine;

(3) who:

(A) was in lawful possession and control of the land or facilities on which the participant sustained injuries; and

(B) knew or should have known of the dangerous latent condition that caused the injuries;

if warning signs concerning the dangerous latent condition were not conspicuously posted on the land or in the facilities;

(4) who committed an act or omission that:

(A) constitutes reckless disregard for the safety of the participant; and

(B) caused the injury; or

(5) who intentionally injured the participant.

(c) Section 1 of this chapter does not prevent or limit the liability

of an equine activity sponsor or an equine professional under the product liability laws.
As added by P.L.1-1998, SEC.27.

IC 34-31-5-3
Posting and maintenance of warning notice sign

Sec. 3. (a) This chapter does not apply unless an equine activity sponsor or an equine professional posts and maintains in at least one (1) location on the grounds or in the building that is the site of an equine activity a sign on which is printed the warning notice set forth in section 5 of this chapter.

(b) A sign referred to in subsection (a) must be placed in a clearly visible location in proximity to the equine activity.

(c) The warning notice on a sign referred to in subsection (a) must be printed in black letters, and each letter must be at least one (1) inch in height.
As added by P.L.1-1998, SEC.27.

IC 34-31-5-4
Warning notice required in written contracts

Sec. 4. (a) If there is a written contract, this chapter does not apply unless the written contract entered into by an equine professional for:

(1) the providing of professional services;
(2) the providing of instruction; or
(3) the rental of:
  (A) equipment or tack; or
  (B) an equine;

to a participant contains in clearly readable print the warning notice set forth in section 5 of this chapter.

(b) The warning notice required by subsection (a) must be included in a written contract described in subsection (a) whether or not the contract involves equine activities on or off the location or site of the equine professional's business.
As added by P.L.1-1998, SEC.27.

IC 34-31-5-5
Contents of warning notice

Sec. 5. The warning notice that must be printed on a sign under section 3 of this chapter and included in a written contract under section 4 of this chapter is as follows:

WARNING

Under Indiana law, an equine professional is not liable for an injury to, or the death of, a participant in equine activities resulting from the inherent risks of equine activities.

As added by P.L.1-1998, SEC.27.

IC 34-31-6

Chapter 6. Limited Liability for Operators of Roller Skating Rinks

IC 34-31-6-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-43 (before its repeal, now codified in this chapter) by P.L.241-1993 applies only to a cause of action that accrues after April 30, 1993.

As added by P.L.220-2011, SEC.571.

IC 34-31-6-1

Duties of operators

Sec. 1. An operator shall do all of the following with respect to a roller skating rink:

(1) Post the:

(A) duties of roller skaters; and

(B) duties, obligations, and liabilities of the operator;

as prescribed in this chapter in at least three (3) conspicuous locations in the roller skating rink.

(2) Maintain the stability and legibility of all signs, symbols, and posted notices required by this chapter.

(3) When the roller skating rink is open for a session, have at least one (1) floor supervisor on duty for every one hundred seventy-five (175) roller skaters who:

(A) has received appropriate training to carry out the floor supervisor's duties; and

(B) uses reasonable care in carrying out the floor supervisor's duties.

(4) Maintain the skating surface in proper and reasonably safe condition.

(5) Clean and inspect the skating surface before each skating session.

(6) Maintain in good and safe condition the railings, kickboards, risers, floors, areas open to roller skaters, and walls surrounding the skating surface.

(7) Maintain rental skates in good mechanical condition.

(8) Comply with all applicable state and local fire safety codes, building codes, and other safety codes applicable to a roller skating rink.

(9) Use reasonable care in supervising roller skaters to comply with the requirements of section 2 of this chapter.

As added by P.L.1-1998, SEC.27.

IC 34-31-6-2

Duties of roller skaters

Sec. 2. A roller skater must do all of the following:

(1) Maintain reasonable control of the roller skater's speed and course at all times.

(2) Heed all posted signs and warnings.

(3) Maintain a proper view to avoid other roller skaters and objects.

(4) Accept the responsibility for the following:

(A) Knowing the range of the roller skater's ability to negotiate the intended direction of travel while on roller skates.

(B) Skating within the limits of the roller skater's ability.

(5) Refrain from acting in a manner that may cause or contribute to the injury of the roller skater or any other person.

As added by P.L.1-1998, SEC.27.

IC 34-31-6-3

Knowledge and assumption of risks presumed; risks included

Sec. 3. (a) Roller skaters are considered to:

(1) have knowledge of; and

(2) assume;

the risks of roller skating.

(b) For purposes of this chapter, risks of roller skating include the following:

(1) Injuries that result from collisions or incidental contact with other roller skaters or other individuals who are properly on the skating surface.

(2) Injuries that result from falls caused by loss of balance.

(3) Injuries that involve objects or artificial structures that:

(A) are properly within the intended path of travel of the roller skater; and

(B) are not otherwise attributable to an operator's breach of the operator's duties under section 1 of this chapter.

As added by P.L.1-1998, SEC.27.

IC 34-31-6-4

Assumption of risk as complete defense; exception

Sec. 4. (a) Except as provided in subsection (b) and notwithstanding IC 34-51-2-6 concerning comparative fault, the assumption of risk under section 3 of this chapter is a complete defense to an action against an operator by a roller skater for injuries and property damage resulting from the assumed risks.

(b) The following applies if an operator has violated any one (1) of the operator's duties or responsibilities under section 1 of this chapter:

(1) The complete defense against an action against an operator under subsection (a) does not apply.

(2) The provisions of IC 34-51-2-6 apply.

As added by P.L.1-1998, SEC.27.

IC 34-31-6.5

Chapter 6.5. Limited Liability for Ice Skating Rinks

IC 34-31-6.5-1

Application

Sec. 1. This chapter applies only to an ice skating rink that is operated by a postsecondary educational institution.

As added by P.L.77-2013, SEC.4.

IC 34-31-6.5-2

Duties of an operator

Sec. 2. An operator shall do all of the following with respect to an ice skating rink:

(1) Post the:

(A) duties of ice skaters; and

(B) duties, obligations, and liabilities of the operator;

as prescribed in this chapter in at least three (3) conspicuous locations in the ice skating rink.

(2) Maintain the stability and legibility of all signs, symbols, and posted notices required by this chapter.

(3) When the ice skating rink is open for a session, have at least one (1) floor supervisor on duty for every one hundred seventy-five (175) ice skaters. A floor supervisor:

(A) must have received appropriate training to carry out the floor supervisor's duties; and

(B) must use reasonable care in carrying out the floor supervisor's duties.

(4) Maintain the ice skating surface in proper and reasonably safe condition.

(5) Clean and inspect the ice skating surface before each skating session.

(6) Resurface the ice at appropriate intervals.

(7) Maintain in good and safe condition the railings, kickboards, risers, floors, areas open to ice skaters, and walls surrounding the ice skating surface.

(8) Maintain rental skates in good mechanical condition.

(9) Comply with all applicable state and local fire safety codes, building codes, and other safety codes applicable to an ice skating rink.

(10) Use reasonable care in supervising ice skaters to comply with the requirements of section 3 of this chapter.

As added by P.L.77-2013, SEC.4.

IC 34-31-6.5-3

Duties of an ice skater; risks of ice skating

Sec. 3. An ice skater must do all of the following:

(1) Maintain reasonable control of the ice skater's speed and course at all times.

(2) Heed all posted signs and warnings.

(3) Maintain a proper view to avoid other ice skaters and

objects.

(4) Accept the responsibility for the following:

(A) Knowing the range of the ice skater's ability to negotiate the intended direction of travel while on ice skates.

(B) Skating within the limits of the ice skater's ability.

(5) Refrain from acting in a manner that may cause or contribute to the injury of the ice skater or any other person.

As added by P.L.77-2013, SEC.4.

IC 34-31-6.5-4

Ice skaters presumed to know risks of ice skating

Sec. 4. (a) Ice skaters are considered to:

(1) have knowledge of; and

(2) assume;

the risks of ice skating.

(b) For purposes of this chapter, risks of ice skating include the following:

(1) Injuries that result from collisions or incidental contact with other ice skaters or other individuals who are properly on the skating surface.

(2) Injuries that result from falls caused by loss of balance.

(3) Injuries that involve objects or artificial structures that:

(A) are properly within the intended path of travel of the ice skater; and

(B) are not otherwise attributable to an operator's breach of the operator's duties or responsibilities under section 2 of this chapter.

As added by P.L.77-2013, SEC.4.

IC 34-31-6.5-5

Assumption of risk is complete defense; exceptions

Sec. 5. (a) Except as provided in subsection (b) and notwithstanding IC 34-51-2-6 concerning comparative fault, the assumption of risk under section 4 of this chapter is a complete defense to an action against an operator by an ice skater for injuries and property damage resulting from the assumed risks.

(b) The following applies if an operator has violated any one (1) of the operator's duties or responsibilities under section 2 of this chapter:

(1) The complete defense against an action against an operator under subsection (a) does not apply.

(2) The provisions of IC 34-51-2-6 apply.

As added by P.L.77-2013, SEC.4.

IC 34-31-7

Chapter 7. Premises Liability of Religious Organizations

IC 34-31-7-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.149-2005 applies only to a cause of action that accrues after June 30, 2005.

As added by P.L.220-2011, SEC.572.

IC 34-31-7-1

Chapter application

Sec. 1. This chapter applies to premises liability only.

As added by P.L.149-2005, SEC.2.

IC 34-31-7-2

Duties of nonprofit religious organizations

Sec. 2. Except as provided in section 3 of this chapter, a nonprofit religious organization has only the following duties concerning persons who enter premises owned, operated, or controlled by the nonprofit religious organization and used primarily for worship services:

(1) If a person enters the premises with the actual or implied permission of the nonprofit religious organization, the nonprofit religious organization has a duty to:

(A) warn the person of a hidden danger on the premises if a representative of the nonprofit religious organization has actual knowledge of the hidden danger; and

(B) refrain from intentionally harming the person.

(2) If a person enters the premises without the actual or implied permission of the nonprofit religious organization, the nonprofit religious organization has the duty to refrain from intentionally harming the person.

As added by P.L.149-2005, SEC.2.

IC 34-31-7-3

Duties concerning childcare services at nonprofit religious organizations

Sec. 3. (a) As used in this section, "premises" means a part of a building that is:

(1) used primarily for worship services;

(2) owned, operated, or controlled by a nonprofit religious organization; and

(3) used for purposes of providing childcare services for which a fee is charged.

(b) If a customer who purchases childcare services or the customer's child enters the premises for the purpose of receiving fee based childcare services, with the actual or implied consent of the childcare provider or nonprofit religious organization, the childcare provider and nonprofit religious institution have the duty to:

(1) warn the customer or the customer's child of a hidden danger

on the premises if a representative of the childcare provider or the nonprofit religious institution has actual knowledge of the hidden danger;

(2) refrain from intentionally harming the customer or the customer's child; and

(3) inspect the premises for dangerous hazards and defects, and correct any dangerous hazard or defect within a reasonable period of time after becoming aware of the existence of the dangerous hazard or defect.

As added by P.L.149-2005, SEC.2.

IC 34-31-8

Chapter 8. Limited Liability Concerning Asbestos Related Claims

IC 34-31-8-1

"Asbestos claim"

Sec. 1. As used in this chapter, "asbestos claim" means any claim for damages, losses, indemnification, contribution, or other relief concerning asbestos, including:

(1) a claim relating to the health effects of exposure to asbestos, including:

(A) personal injury;

(B) death;

(C) mental injury;

(D) emotional injury;

(E) risk of disease or other injury; or

(F) the costs of medical monitoring or surveillance;

(2) a claim made by or on behalf of any person exposed to asbestos, including a claim of a:

(A) representative;

(B) spouse;

(C) parent;

(D) child; or

(E) other relative;

of a person exposed to asbestos; and

(3) a claim for damage or loss caused by the:

(A) installation;

(B) presence; or

(C) removal of asbestos.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-2

"Corporation"

Sec. 2. As used in this chapter, "corporation" means a corporation for profit, including a domestic corporation organized under Indiana law or a foreign corporation organized under the law of a jurisdiction other than Indiana.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-3

"Innocent successor corporation"

Sec. 3. (a) As used in this chapter, "innocent successor corporation" means a corporation that:

(1) assumes;

(2) incurs;

(3) has assumed; or

(4) has incurred;

successor asbestos related liability and became a successor corporation due to a merger or consolidation with another corporation before January 1, 1972.

(b) The term includes a corporation into which an innocent successor corporation is at any time subsequently merged or consolidated.

(c) The term does not include a corporation that, after a merger, a consolidation, or the exercise of control or the ownership of stock of the corporation before the merger or consolidation, continues in the business of:

(1) mining asbestos;

(2) selling or distributing asbestos fibers; or

(3) manufacturing, distributing, removing, or installing asbestos containing products that are the same, or substantially the same, as those products previously manufactured, distributed, removed, or installed by the transferor corporation.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-4
"Successor asbestos related liability"

Sec. 4. As used in this chapter, "successor asbestos related liability" means any liability that is related to an asbestos claim that was assumed or incurred by a corporation as a result of:

(1) a merger or consolidation with another corporation;

(2) the plan of merger or consolidation related to the merger or consolidation; or

(3) the exercise of control or the ownership of stock of the corporation before the merger or consolidation.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-5
"Transferor corporation"

Sec. 5. As used in this chapter, "transferor corporation" means a corporation from which a successor asbestos related liability was assumed or incurred.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-6
Liberal construction of chapter

Sec. 6. This chapter shall be construed liberally regarding innocent successor corporations.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-7
Chapter application

Sec. 7. This chapter applies to a civil action asserting an asbestos claim that is filed against an innocent successor corporation:

(1) after June 30, 2009; or

(2) before July 1, 2009, if trial has not commenced as of July 1, 2009.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-8

Limited cumulative successor asbestos related liabilities

Sec. 8. (a) Subject to subsections (c) and (d) and sections 10 and 12 of this chapter, the cumulative successor asbestos related liabilities of an innocent successor corporation are limited to the fair market value of the total gross assets of the transferor corporation, determined as of the time of the merger or consolidation through which the innocent successor corporation assumed or incurred successor asbestos related liability.

(b) An innocent successor corporation is not responsible for successor asbestos related liability in excess of the limitation set forth in subsection (a).

(c) For purposes of this section, if a transferor corporation assumed or incurred successor asbestos related liability in connection with a merger or consolidation with a prior transferor corporation, the fair market value of the total gross assets of the prior transferor corporation determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection (a) to determine the limitation of liability of the innocent successor corporation.

(d) Cumulative successor asbestos related liabilities include liabilities that exist after the merger or consolidation of the innocent successor corporation and the transferor corporation and that are paid or discharged by or on behalf of the:

(1) innocent successor corporation; or

(2) transferor corporation;

as part of a settlement or judgment in Indiana or another jurisdiction.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-9

Limitations application

Sec. 9. The limitations set forth in section 8 of this chapter apply to the successor asbestos related liability of an innocent successor corporation and do not apply to:

(1) worker's compensation benefits paid by or on behalf of an employer to an employee under IC 22-3 or a comparable worker's compensation law in another jurisdiction;

(2) a claim against a corporation that is not a successor asbestos related liability;

(3) any obligation under the federal National Labor Relations Act (29 U.S.C. 151 et seq.); or

(4) a collective bargaining agreement.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-10

Establishment of fair market value of total gross assets of transferor corporation

Sec. 10. An innocent successor corporation may establish the fair market value of the total gross assets, including intangible assets, of a transferor corporation to determine limitations under section 8 of this chapter by any reasonable method, including:

(1) by reference to the going concern value of the assets;
(2) by reference to the purchase price attributable to or paid for assets in an arms length transaction; or
(3) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-11
Liability insurance

Sec. 11. (a) If the total gross assets of a transferor corporation include liability insurance issued to the transferor corporation, this chapter does not affect the applicability, terms, conditions, or limits of the liability insurance.

(b) This chapter does not affect the rights and obligations of an insurer, transferor, or successor under an insurance contract or any related agreements, including:

(1) preenactment settlements resolving coverage related disputes; or
(2) contracts regarding the rights of an insurer to seek payment for applicable deductibles, retrospective premiums, self-insured periods, or periods as to which insurance is uncollectible or unavailable.

(c) A settlement of a dispute concerning liability insurance coverage entered into by a:

(1) transferor corporation; or
(2) successor corporation;

with the insurers of a transferor corporation before July 1, 2009, is determinative of the total coverage of liability insurance to be included in the calculation of a transferor corporation's total gross assets under this chapter.

As added by P.L.134-2009, SEC.6.

IC 34-31-8-12
Adjustment of fair market value of the total gross assets of a transferor corporation

Sec. 12. (a) Except as provided in subsections (b) through (d), the sum determined as the fair market value of the total gross assets of a transferor corporation as of the time of a merger or consolidation for purposes of determining the limit on the cumulative successor asbestos related liabilities of an innocent successor corporation under this chapter shall be adjusted annually at a rate equal to the sum of the following:

(1) The prime rate listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation. If the prime rate is not published in the first edition of the Wall Street Journal, then a reasonable determination of the prime rate on the first day of the year may be used.
(2) One percent (1%).

(b) The rate described in subsection (a) may not be compounded.

(c) The adjustment of the fair market value of the total gross assets of the transferor corporation as of the time of the merger or consolidation shall continue as described in subsection (a) until the date as of which the adjusted value is first exceeded by the cumulative amounts of successor asbestos related liabilities paid or committed to be paid by or on behalf of:

(1) the innocent successor corporation;

(2) any predecessor corporation; and

(3) the transferor corporation;

after the time of the merger or consolidation.

(d) No adjustment of the fair market value of total gross assets of a transferor corporation under this section shall be applied to any liability insurance.

As added by P.L.134-2009, SEC.6.

IC 34-31-9

Chapter 9. Limited Liability Arising From Agritourism Activities

IC 34-31-9-1

Chapter application

Sec. 1. (a) This chapter does not apply to activities if the participant is paid to participate in the activity.

(b) This chapter does not apply to an agritourism provider who does not comply with the requirements concerning signs and warning notices required by this chapter.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-2

"Agritourism activity"

Sec. 2. As used in this chapter, "agritourism activity" means:

(1) an activity at an agricultural, horticultural, or agribusiness operation where the general public is allowed or invited to participate in, view, or enjoy the activities for recreational, entertainment, or educational purposes, including farming, ranching, historic and cultural agricultural activities, self-pick farms, or farmers' markets;

(2) an activity involving an animal exhibition at an agricultural fair; or

(3) natural resource based activities and attractions, including hunting, fishing, hiking, and trail riding.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-3

"Agritourism provider"

Sec. 3. As used in this chapter, "agritourism provider" means a person who provides the opportunity for agritourism activities whether or not the participant pays to participate in the activity. The term includes employees or authorized agents who offer or conduct agritourism activities on behalf of an agritourism provider.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-4

"Inherent risks of agritourism activities"

Sec. 4. As used in this chapter, "inherent risks of agritourism activities" means those conditions, dangers, or hazards that are an integral part of an agritourism activity, including the following:

(1) Surface and subsurface conditions and natural conditions of land, vegetation, and waters.

(2) The behavior of wild or domestic animals.

(3) The ordinary dangers of structures or equipment when the structures or equipment are being:

(A) used; or

(B) stored;

by an agritourism provider in a manner and for a purpose for

which a reasonable person should know that structures or equipment is intended.

(4) The negligent acts of a participant that may contribute to injury to the participant or others, including failing to follow instructions given by an agritourism provider, failing to exercise reasonable caution while engaging in the agritourism activity, or failing to obey written warnings or postings on the premises of the agritourism operation.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-5
"Land"

Sec. 5. As used in this chapter, "land" means all real property, land, and water including all structures, fixtures, equipment, and machinery located on the property.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-6
"Monetary consideration"

Sec. 6. As used in this chapter, "monetary consideration" means a fee or other charge for permission to go upon a tract of land. The term does not include:

(1) the gratuitous sharing of game, fish, or other products of the recreational use of the land;

(2) services rendered for the purpose of wildlife management; or

(3) contributions in kind made for the purpose of wildlife management.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-7
"Participant"

Sec. 7. As used in this chapter, "participant" means any person, other than the agritourism provider, who engages in an agritourism activity.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-8
"Person"

Sec. 8. As used in this chapter, "person" means an individual, governmental entity, corporation, limited liability company, partnership, unincorporated association, or other legal or commercial entity.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-9
Effect of receiving compensation

Sec. 9. An activity may be an agritourism activity whether or not a participant provides monetary or other valuable compensation to participate in the activity.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-10
Immunity from liability

Sec. 10. (a) Subject to section 11 of this chapter, an agritourism provider is not liable for:

(1) an injury to a participant; or
(2) the death of a participant;

resulting from an inherent risk of agritourism activities.

(b) Subject to section 11 of this chapter, a participant or participant's representative may not:

(1) make a claim against;
(2) maintain an action against; or
(3) recover from;

an agritourism provider for injury, loss, damage, or death of the participant resulting from an inherent risk of agritourism activities.
As added by P.L.3-2011, SEC.1.

IC 34-31-9-11
Exceptions to immunity for certain acts and omissions

Sec. 11. Section 10 of this chapter does not prevent or limit the liability of an agritourism provider:

(1) who has actual knowledge or reasonably should have known of:
    (A) a dangerous condition on the land, facilities, or equipment used in the agritourism activity; or
    (B) the dangerous propensity of a particular animal used in the agritourism activity;

and does not make the danger known to the participant and the danger proximately causes injury, damage, or death to the participant;

(2) who fails to properly train, or improperly or inadequately trains, employees who are actively involved in agritourism activities and an act or omission of the employee proximately causes injury, damage, or death to the participant;
(3) who commits an act or omission that:
    (A) constitutes willful or wanton disregard for the safety of the participant; and
    (B) caused the injury or death of the participant; or
(4) who intentionally injures the participant.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-12
Requirements for providers who receive monetary consideration; signs; release; warning notice

Sec. 12. (a) This chapter does not apply to an agritourism provider who receives monetary consideration from an individual other than a government agency unless an agritourism provider:

(1) posts and maintains a sign on which is printed the warning notice set forth in section 14 of this chapter; or

(2) has a signed release from the participant indicating that the participant has received written notice of the warning set forth in section 13 of this chapter.

(b) A sign referred to in subsection (a) must be placed in a clearly visible location at the main point of entrance to the agritourism activity.

(c) The warning notice on a sign referred to in subsection (a) must be printed in black letters, and each letter must be at least one (1) inch in height.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-13

Written contract warning notice

Sec. 13. If there is a written contract between an agritourism provider and a participant for the providing of access, services, instruction, or the rental of equipment to a participant for purposes of engaging in or participating in an agritourism activity, the contract must contain in clearly readable print the warning notice specified in section 14 of this chapter.

As added by P.L.3-2011, SEC.1.

IC 34-31-9-14

Contents of warning notice

Sec. 14. The warning notice that must be printed on a sign under section 12 of this chapter and included in a written contract under section 13 of this chapter is as follows:

WARNING

Under Indiana law, an agritourism provider is not liable for an injury to, or the death of, a participant in agritourism activities at this location if the death or injury results from the inherent risks of agritourism activity.

Inherent risks of agritourism activities include risks of injury inherent to land, equipment, and animals as well as the potential for you to act in a negligent manner that may contribute to your injury or death, or for other participants to act in a manner that may cause you injury or cause your death.

You are assuming the risk of participating in this agritourism activity.

As added by P.L.3-2011, SEC.1.

IC 34-31-10

Chapter 10. Limited Liability Arising From the Public Use of School Facilities for Physical Fitness Activities

IC 34-31-10-1

Limited liability in addition to any immunity or limited liability provided by the tort claims act

Sec. 1. The limited liability provided in this chapter is in addition to any immunity or limited liability provided by the Indiana tort claims act (IC 34-13-3).

As added by P.L.220-2013, SEC.3.

IC 34-31-10-2

Activities excluded if a participant is paid to participate

Sec. 2. This chapter does not apply to an activity if the participant is paid by the school to participate in the activity.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-3

"Community use physical fitness activity"

Sec. 3. As used in this chapter, "community use physical fitness activity" means an activity in which the general public is invited to use:

(1) school property;
(2) school equipment; or
(3) a school facility;

to participate in a physical fitness activity that is approved as described in section 12 of this chapter.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-4

"Inherent risk of a physical fitness activity"

Sec. 4. (a) As used in this chapter, "inherent risk of a physical fitness activity" means a condition, danger, or hazard that is an integral part of:

(1) a physical fitness activity;
(2) the use of exercise equipment; or
(3) the use of a facility provided by a school;

as determined by a reasonable person considering the nature of the activity, equipment, or facility.

(b) The term includes the negligent acts of a participant that may contribute to injury to the participant or others, including:

(1) failing to follow instructions;
(2) failing to exercise reasonable caution while engaging in an activity; or
(3) failing to obey written warnings or postings.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-5

"Participant"

Sec. 5. (a) As used in this chapter, "participant" means a person who is engaging in a community use physical fitness activity.

(b) The term does not include the following individuals if the individual is using the school's facilities in the course of school employment or is participating in an activity as part of an official school function:

(1) A school employee.

(2) A person providing, directing, or supervising a physical fitness activity.

(3) A student who attends the school or another school in the school corporation of the school.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-6
"School"

Sec. 6. As used in this chapter, "school" means:

(1) a public school (as defined in IC 20-18-2-15); or

(2) an accredited nonpublic school (as defined in IC 20-18-2-12).

As added by P.L.220-2013, SEC.3.

IC 34-31-10-7
School not liable for loss from inherent risk of physical fitness activities

Sec. 7. Except as provided in sections 8 through 10 of this chapter, a school is not liable for the death or injury of a participant that results from an inherent risk of a physical fitness activity. A participant or the representative of a participant may not:

(1) make a claim against;

(2) bring or maintain an action against; or

(3) recover damages from;

a school for injury, loss, damage, or death of a participant that results from the inherent risk of a physical fitness activity.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-8
School may be liable for failure to train or for known dangerous conditions

Sec. 8. Section 7 of this chapter does not prevent or limit the liability of a school:

(1) that has actual knowledge of, or that knows or reasonably should have known of, a dangerous condition on the property, facilities, or equipment used in the community use physical fitness activity;

(2) that fails to properly train a school employee or other person providing, directing, or supervising the community use physical fitness activity, if the school provides an employee or other person to provide, direct, or supervise the activity and the act or omission of the school employee or other person proximately causes the injury, loss, damage, or death; or

(3) for an act or omission that is the result of willful, wanton, or intentional misconduct.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-9

School may be liable if it receives monetary consideration for fitness activities; exceptions; waivers and warning signs

Sec. 9. Section 7 of this chapter does not prevent or limit the liability of a school that receives monetary consideration for a community use physical fitness activity from any person other than a government agency unless the school:

(1) posts and maintains a sign on which is printed the warning notice set forth in section 11 of this chapter; or

(2) has received a signed release from the participant indicating that the participant has received written notice of the warning set forth in section 11 of this chapter.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-10

Warning notice in contract for community use physical fitness activities

Sec. 10. If there is a written contract between a school and a participant for the provision of a community use physical fitness activity, section 7 of this chapter does not prevent or limit the liability of a school unless the contract contains the warning notice set forth in section 11 of this chapter.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-11

Contents of warning notice

Sec. 11. (a) The warning notice described in sections 9 through 10 of this chapter must state the following:

WARNING

Under Indiana law, a school is not liable for an injury to, or the death of, a participant in physical fitness activities at this location if the death or injury results from the inherent risks of the physical fitness activity.

Inherent risks of physical fitness activities include risks of injury inherent in exercise, the nature of a sport, the use of exercise equipment, or the use of a facility provided by a school. Inherent risks also include the potential that you may act in a negligent manner that may contribute to your injury or death, or that other participants may act in a manner that may result in injury or death to you.

You are assuming the risk of participating in this physical fitness activity.

(b) If the warning notice set forth in subsection (a) is posted on a sign as described in section 9(1) of this chapter, the warning must be posted on the sign in letters at least one (1) inch in height and the sign must be placed in a location where participants will likely be present

during the school physical fitness activity.

(c) If the warning notice set forth in subsection (a) is included in a written contract as described section 10 of this chapter, the notice must be in at least 14 point boldface type.

As added by P.L.220-2013, SEC.3.

IC 34-31-10-12

School board or trustees must approve community use physical fitness activity

Sec. 12. A board of school trustees, a board of school commissioners, a school board of an incorporated town and city, or township school trustees must approve the types of activities that may occur at a school as a community use physical fitness activity under section 3 of this chapter.

As added by P.L.220-2013, SEC.3.

IC 34-31-10.2

Chapter 10.2. Indemnification: School Resource Officers

IC 34-31-10.2-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Public school" means:

(A) a public school (as defined in IC 20-18-2-15); or

(B) a charter school.

(2) "School resource officer" has the meaning set forth in IC 20-26-18.2-1.

As added by P.L.172-2013, SEC.9.

IC 34-31-10.2-2

State to indemnify public school for loss resulting from the use of a weapon by a school resource officer

Sec. 2. The state shall indemnify a public school against a loss resulting from any injury to a person caused by a school resource officer if the loss was the result of misfeasance, malfeasance, or nonfeasance in connection with the use of the officer's weapon.

As added by P.L.172-2013, SEC.9.

IC 34-32

ARTICLE 32. COMMENCEMENT OF ACTION: NOTICE AND PUBLICATION

IC 34-32-1

Chapter 1. Notice and Publication

IC 34-32-1-1

Notice and service

Sec. 1. If notice is required by this article, the notice must be in writing, and may be served by the proper officer or any other person.

As added by P.L.1-1998, SEC.28.

IC 34-32-1-2

Publications; English language

Sec. 2. Publications of legal and other official matters printed in the English language are lawful, if published in a newspaper of general circulation published in the county.

As added by P.L.1-1998, SEC.28.

IC 34-32-1-3

Notice; publication

Sec. 3. (a) This section applies when notice concerning:

(1) an action;

(2) a proceeding;

(3) a sale under execution; or

(4) any other matter;

is required by law to be given by publication in a newspaper.

(b) To establish compliance, the person whose duty it was to cause the publication to be made may file an affidavit in the clerk's office.

(c) The affidavit described in subsection (b) must:

(1) be attached to a copy of the notice taken from the newspaper in which the notice was published;

(2) be the affidavit of:

(A) the printer; or

(B) a person who:

(i) is employed by the printer as a clerk or printer; and

(ii) is of competent age; and

(3) specify the county, the time, and the newspaper in which the notice was published.

As added by P.L.1-1998, SEC.28.

IC 34-33

ARTICLE 33. COMMENCEMENT OF ACTION: SERVICE OF PROCESS

IC 34-33-1

Chapter 1. Service of Process on Agent of a Nonresident Corporation

IC 34-33-1-1

Service of process upon agent authorized

Sec. 1. (a) This section applies to a civil action brought in any court of this state against:

(1) a firm;
(2) a copartnership;
(3) a limited liability company;
(4) an association;
(5) a railroad; or
(6) an other corporation;

that is in the hands of a receiver who is not domiciled within Indiana.

(b) Process may be served upon an agent of the receiver or other person in charge of and authorized to transact business for and on behalf of the receiver, in Indiana, in the same manner as process is served on domestic or foreign corporations.

As added by P.L.1-1998, SEC.29.

IC 34-33-2

Chapter 2. Service of Process on Agent Representing Nonresident Directors of Corporations

IC 34-33-2-1

Service upon resident agent authorized

Sec. 1. (a) In an action commenced in a court of general jurisdiction in Indiana by or against any corporation incorporated under the laws of Indiana, in which one (1) or more of the directors of the corporation is:

(1) a necessary or proper party; and

(2) a nonresident of Indiana;

service of summons upon a director for the purpose of obtaining jurisdiction of the person of the director in the action is obtained by serving the summons on the resident agent of the corporation.

(b) If service of process is made upon the resident agent of a corporation, the resident agent shall forward a copy of the process by registered mail to the director at the director's last known address. Service made under this chapter is returnable in not less than thirty (30) days.

As added by P.L.1-1998, SEC.29.

IC 34-33-2-2

Appointment of agent for process; automatic appointment predicated on acceptance of position of director

Sec. 2. (a) This section applies to a person who:

(1) is a nonresident of Indiana; and

(2) accepts an election or appointment as a director or serves as a director in a corporation organized under the laws of Indiana.

(b) By and as a condition of:

(1) accepting an election or appointment as a director; or

(2) serving as a director;

a person described in subsection (a) automatically appoints the resident agent of the corporation as the person's agent upon whom process may be served in an action commenced by or against the corporation and in which the person is a proper or necessary party.

As added by P.L.1-1998, SEC.29.

IC 34-33-3

Chapter 3. Service of Process on Nonresident Motor Vehicle Operators

IC 34-33-3-1

Operation of vehicle as appointment of secretary of state as attorney for service of process

Sec. 1. (a) This chapter applies to:

(1) a nonresident;

(2) a resident of Indiana who becomes a nonresident; or

(3) the authorized agent of a person described in subdivision (1) or (2);

who operates a motor vehicle upon a public street or highway or any other place in Indiana.

(b) The operation of a motor vehicle by a person described in subsection (a) is considered to be an appointment by the person of the secretary of state to be the person's attorney upon whom process may be served in any action or proceeding against the person arising from an accident or collision in which the person may be involved while operating or permitting to be operated a motor vehicle on a street or highway or any other place in Indiana.

(c) The operation is an agreement that process against the person has the same legal force and validity as if served upon the person personally.

(d) The appointment of the secretary of state is irrevocable and binding upon the executor or administrator of the person.

As added by P.L.1-1998, SEC.29.

IC 34-33-3-2

Venue

Sec. 2. An action may be filed in the county:

(1) where the plaintiff resides; or

(2) where the accident or collision occurred;

at the election of the plaintiff. Service of process shall be made by leaving a copy of the action and a fee of five dollars ($5) with the secretary of state for the defendant to be served. The service is sufficient service upon the person if notice of service and a copy of the process are immediately sent by registered mail to the defendant and the defendant's return receipt is appended to the original process and filed in the court.

As added by P.L.1-1998, SEC.29.

IC 34-33-3-3

Refusal of defendant to claim registered mail; affidavit; fee

Sec. 3. If a defendant refuses to accept or claim registered mail, the secretary of state shall return the registered mail to the plaintiff or to the plaintiff's attorney. The mail shall be appended to the original process, together with an affidavit of the plaintiff or of the attorney or agent that the summons was delivered to the secretary of state, together with a fee of five dollars ($5), and was returned unclaimed

by the United States Postal Service. The affidavit, together with the returned envelope including the summons, is considered sufficient service upon the defendant.
As added by P.L.1-1998, SEC.29.

IC 34-33-3-4
Death of nonresident before commencement of action

Sec. 4. If a nonresident dies before the commencement of an action brought under this chapter (or IC 34-2-2.5 before its repeal), service of process shall be made on the executor or administrator of the nonresident in the same manner and with the same notice as is provided for the nonresident.
As added by P.L.1-1998, SEC.29.

IC 34-33-3-5
Death of nonresident after commencement of action

Sec. 5. If a nonresident dies after an action has been commenced under this chapter (or IC 34-2-2.5 before its repeal) by service of process upon the nonresident, the court shall allow the action to be continued against the executor or administrator upon motion with notice that the court considers proper.
As added by P.L.1-1998, SEC.29.

IC 34-33-3-6
Continuances

Sec. 6. The court in which an action is brought may order continuances that are reasonable to afford the defendant opportunity to defend the action.
As added by P.L.1-1998, SEC.29.

IC 34-33.1

ARTICLE 33.1. AUTHORITY OF THE ATTORNEY GENERAL

IC 34-33.1-1

Chapter 1. Authority of the Attorney General to Intervene in Cases Challenging the Constitutionality of a Statute, Ordinance, or Franchise

IC 34-33.1-1-1

Authority of the attorney general to intervene to defend the constitutionality of a state statute; duty of the court to notify the attorney general

Sec. 1. (a) If the constitutionality of a state statute, ordinance, or franchise affecting the public interest is called into question in an action, suit, or proceeding in any court to which any agency, officer, or employee of the state is not a party, the court shall certify this fact to the attorney general and shall permit the attorney general to intervene on behalf of the state and present:

(1) evidence that relates to the question of constitutionality, if the evidence is otherwise admissible; and

(2) arguments on the question of constitutionality.

(b) If a party to an action bases its claim or defense on:

(1) a statute or executive order administered by a state officer or agency; or

(2) a rule, order, requirement, or agreement issued or made under the statute or executive order;

the attorney general shall be permitted to intervene in the action.

As added by P.L.40-2010, SEC.2.

IC 34-33.1-1-2

Authority of the attorney general to file an amicus brief

Sec. 2. The state, by the attorney general, may file an amicus curiae brief in any matter pending in any state court without the consent of the parties or leave of the court. The attorney general shall file the amicus curiae brief within the time allowed for the party with whom the state is substantively aligned to file the party's brief or petition. However, for good cause shown, a court may permit the attorney general to file a belated amicus curiae brief. If the court permits the filing of a belated amicus curiae brief, the court shall set a deadline for an opposing party to file a reply brief.

As added by P.L.40-2010, SEC.2.

IC 34-34

ARTICLE 34. REPEALED

(Repealed by P.L.2-2002, SEC.128.)

IC 34-35

ARTICLE 35. CHANGE OF VENUE

IC 34-35-1

Chapter 1. Change of Venue Generally

IC 34-35-1-1

Application; causes

Sec. 1. The court or the judge shall change the venue of any civil action upon the application of either party, made upon affidavit showing one (1) or more of the following causes:

(1) The judge has been engaged as counsel in the cause before the judge's election or appointment as judge or is otherwise interested in the cause.

(2) The judge is of kin to either party.

(3) The opposite party has an undue influence over the citizens of the county, or an odium attaches to the applicant or to the applicant's cause of action or defense, on account of local prejudice.

(4) The county is a party to the suit.

(5) Showing to the satisfaction of the court that the convenience of witnesses and the ends of justice would be promoted by the change.

(6) The judge of the court in which the action is pending is a material witness for the party applying for the change.

(7) Either party makes and files an affidavit of the bias, prejudice, or interest of the judge before whom the cause is pending.

As added by P.L.1-1998, SEC.31.

IC 34-35-1-2

Designation of county; trial; costs

Sec. 2. (a) This section applies when a change of venue is directed for any of the causes mentioned in section 1(3), 1(4) and 1(5) of this chapter.

(b) The court or judge shall:

(1) designate the county to which the venue shall be changed, which may be in the same or in an adjoining circuit, as is considered best for the furtherance of justice; and

(2) prescribe the time within which the applicant shall pay the costs of the change.

(c) The clerk of the court in which the suit is pending, as soon as the costs of the change are paid, shall immediately transmit:

(1) all the papers; and

(2) a transcript of all the proceedings;

to the clerk of the court of the county to which the venue is changed.

(d) The clerk of the proper court shall:

(1) receive the papers and transcript;

(2) give a receipt for items received under subdivision (1); and

(3) docket the action in its order among the other causes of the

court.

(e) The action shall stand for trial and shall be tried or otherwise disposed of in the same manner as if the cause had originated in that court.

(f) If the party fails to pay the costs of the change within the time prescribed by the court, the party:

(1) shall be taxed with all the costs made in the case up to the time of the failure to pay costs; and

(2) is not entitled to a change of venue from the county.

(g) Only one (1) change of venue shall be granted to the same party from the county, and only one (1) from the judge.

As added by P.L.1-1998, SEC.31.

IC 34-35-1-3

Presiding judge; attorney appointed as judge

Sec. 3. (a) This section applies when the change of venue is granted for any of the causes mentioned in section 1(1), 1(2), 1(6), or 1(7) of this chapter.

(b) Except as provided in subsection (c), the court or judge shall call a judge of any circuit, superior, or other court of general jurisdiction, or any justice of the supreme court, to preside in and try the case.

(c) If it is difficult, in the opinion of the court, for any cause, to procure the attendance of a judge described in subsection (b), the court, in order to prevent delay, may appoint any competent and disinterested attorney of Indiana, in good standing, to act as judge in the cause. If the attorney appointed under this subsection consents to serve:

(1) the attorney shall be qualified as other judges;

(2) the attorney's appointment and oath shall be filed with the clerk and entered on the order book; and

(3) the attorney has authority to:

(A) hear and determine the cause until it is finally disposed of; or

(B) change the venue of the cause in proper cases.

As added by P.L.1-1998, SEC.31.

IC 34-35-1-4

Compensation for judge pro tempore and special judges

Sec. 4. (a) When a practicing attorney is called upon to preside in the place of the regular judge as a judge pro tempore, the attorney shall be allowed the following:

(1) The sum of twenty dollars ($20) per day for each day or part of a day actually served.

(2) For each mile necessarily traveled each day in going to and returning from the place where the court is being held, a sum for mileage equal to that sum per mile paid to state officers and employees. The rate per mile shall change each time the state government changes its rate per mile.

(b) If such judge pro tempore is a resident of another county, the

judge pro tempore shall be paid an additional sum of twenty dollars ($20) for each day or part of a day actually served, making a total of forty dollars ($40).

(c) The judge pro tempore shall be paid on the presentation of:

(1) an order made by the court for the allowance, specifying the days of service and mileage, if any, supported by the affidavit of the judge pro tempore that the judge pro tempore actually served the days, and the miles traveled were necessary; and

(2) an affidavit of the regular judge stating the reason for the service of the judge pro tempore.

(d) The payment under subsection (c) shall be paid out of the county treasury for the time being, for which the county shall have credit on settlement with the treasurer of state.

(e) In change of venue from one (1) court to another court of the same county, or from one (1) judge to another judge of the same county, the compensation provided for in this section does not apply, unless the other court or judge to which the change is taken is situated in another city in the same county.

(f) A full-time judge of a circuit or superior court may not be paid compensation for serving as a special judge, except reasonable expenses for meals, lodging, travel, and other incidental expenses approved by the state court administrator.

As added by P.L.1-1998, SEC.31. Amended by P.L.201-2011, SEC.109.

IC 34-35-1-5

Absence or loss of judge; selection of attorney to serve as temporary judge

Sec. 5. (a) This section applies if a judge is prevented from presiding during any session of court by reason of:

(1) death, sickness, or other casualty; or

(2) the judge's failure to attend or appear for any period of three

(3) days;

so that the court will lapse.

(b) The sheriff may adjourn the court from day to day.

(c) If the judge fails to appear under subsection (a)(2):

(1) the clerk, the sheriff, and the auditor; or

(2) in case of the absence of the clerk, the sheriff, or the auditor, the two (2) who are present, together with the recorder of the county;

may elect any competent and reputable attorney to act as judge.

(d) If the attorney elected under subsection (c) accepts, the attorney shall qualify as other judges, and the attorney's appointment, with the reason for the appointment and the attorney's oath, shall be entered on the order book.

(e) A judge selected under this section (or IC 34-1-13-5 before its repeal) may preside until:

(1) the return of the regular judge;

(2) in case of death, until the judge's successor is named; or

(3) in case of vacancy or if the judge is required to be absent,

until a successor is named by the proper authority.

As added by P.L.1-1998, SEC.31.

IC 34-35-2

Chapter 2. Change of Venue From County in Civil Actions

IC 34-35-2-1

Counties with two or more adjoining counties

Sec. 1. (a) This section applies when a change of venue is taken from the county in any civil action pending in any circuit, superior, or probate court of Indiana from any county having two (2) or more adjoining counties.

(b) If the parties to the action agree in open court within three (3) days from the filing of the affidavit or motion for the change of venue upon the county to which the change of venue of the action shall be changed, it is the duty of the court to send, transfer, and venue the action to the agreed upon county.

(c) In the absence of an agreement described in subsection (b), within two (2) days the court shall submit to the parties a written list of all the counties adjoining the county from which the venue is changed. Within two (2) days of receiving the list, the parties shall alternately strike off the names of the counties except one (1). The moving party for the change of venue is the first to strike, and the action shall be sent to the county not stricken off under this procedure.

As added by P.L.1-1998, SEC.31.

IC 34-35-2-2

Counties with populations of at least 100,000

Sec. 2. (a) This section applies to a county with a population of at least one hundred thousand (100,000) that is adjoined by three (3) or fewer other counties.

(b) In addition to listing the adjoining counties, the court shall also list the two (2) nonadjoining counties, the county seats of which are nearest measured along the most direct improved and main traveled highways to the county seat of the county from which the change of venue is sought. The additional two (2) nonadjoining counties shall, together with the adjoining counties, comprise the original list from which the parties shall strike on all initial changes of venue taken from the county in which the cause is first filed.

As added by P.L.1-1998, SEC.31.

IC 34-35-2-3

Nonadjoining counties; prior change of venue

Sec. 3. (a) If the venue of the action has already been changed from an adjoining county, the name of the adjoining county shall not be included in the written list submitted by the court.

(b) If excluding the county from which venue was first changed results in fewer than three (3) adjoining counties, the list submitted by the court shall include the following:

(1) The adjoining county or counties.

(2) Not more than three (3) nonadjoining counties, the county seats of which are nearest to the county seat of the county from

which the change of venue is sought when measured along improved and main traveled highways.

As added by P.L.1-1998, SEC.31.

IC 34-35-2-4

Counties stricken from list by parties

Sec. 4. Each party may strike off one (1) of the three (3) counties submitted within two (2) days after the list is submitted, and the action shall be sent to the county remaining. If either of the parties refuses or fails to strike off the names of the counties within the time limit, the clerk of the court shall strike off the names for the party.

As added by P.L.1-1998, SEC.31.

IC 34-35-2-5

Counties with populations of more than 400,000 but less than 700,000

Sec. 5. (a) This section applies in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Whenever a change of venue is taken from the county in any civil action pending in any circuit, superior, or probate court of Indiana, if the parties to the action agree in open court within three (3) days from the date of the filing of the affidavit or motion for change of venue from the county to which county the change of venue of the action shall be changed, it is the duty of the court to send, transfer, and venue the action to the agreed upon county.

(c) In the absence of an agreement described in subsection (b), the nonmoving party shall, within two (2) days after receipt of notice of the filing of change of venue from the county, submit to the moving parties the names of two (2) counties which must be selected from the adjoining counties or the five (5) nonadjoining counties, the county seats of which are nearest measured along the most direct improved and main traveled highways to the county seat of the county from which the change of venue is sought.

(d) If the venue of the action has already been changed from an adjoining county, the name of the adjoining county shall not be included in the written list to be submitted by the nonmoving party under subsection (c).

(e) The moving party shall strike one (1) of the two (2) counties submitted within two (2) days after receipt of the names of the counties, and the action shall be sent to the county remaining.

(f) If the nonmoving party fails or refuses to name the counties as provided in this section, the court shall, not later than two (2) days after the deadline has expired, name the counties. If the moving party fails or refuses to strike off the name of one (1) of the named counties within the time limit provided in this section, the clerk of the court shall strike off the names for the party within two (2) days.

As added by P.L.1-1998, SEC.31.

IC 34-35-3
Chapter 3. Change of Venue in Specific Circumstances

IC 34-35-3-1
Multiple plaintiffs or defendants

Sec. 1. (a) This section applies if there are multiple plaintiffs or multiple defendants in a civil action.

(b) There shall be allowed only one (1) change of venue from the county to all plaintiffs and one (1) change of venue from the county to all defendants.

(c) If a plaintiff files a change of venue from the county, all plaintiffs shall be considered the moving party, and all of the defendants shall be considered the nonmoving party. If the defendants file the change of venue from the county, all of the plaintiffs shall be considered the nonmoving party, and all of the defendants shall be considered the moving party. If there are multiple parties that constitute either the moving party or the nonmoving party, the decision of the majority of such parties is final as to naming the two (2) counties and as to the striking of one (1).

(d) If there is no majority agreement as to the naming of the two (2) counties between the nonmoving parties, the suggested counties shall be submitted to the court by the nonmoving parties and the court shall select the two (2) counties from the list to be named.

(e) If there is no majority agreement between the moving parties as to which county shall be struck, the clerk shall do the following:

(1) Place each named county on similar unidentifiable slips of paper.

(2) Place the slips of paper in a suitable container.

(3) Draw the name of one (1) county from the container without prior identification.

Both parties shall be given an opportunity to be present at the drawing of the name. The clerk shall then strike the name of the county that appeared on the slip of paper so that the action shall then be venued to the remaining named county.

As added by P.L.1-1998, SEC.31.

IC 34-35-3-2
Decedent's estate; change of judge or venue authorized

Sec. 2. (a) This section applies in any action, proceeding, or matter, of any character or nature whatever, relating to, connected with, or involving the estate of a decedent.

(b) Except as provided in subsection (c), any of the parties to the action, proceeding, or matter are entitled to:

(1) a change of judge; or

(2) a change of venue from the county;

for the same reasons, and upon the same terms and conditions, upon which there may be a change of judge or a change of venue from the county in any civil action.

(c) This section does not authorize:

(1) a change of venue from the county of the administration of

the estate of a decedent; or

(2) a change of venue from the county upon the exceptions to the final report of an administrator or executor;

and there shall be no change of venue from the county upon exceptions to the final report of an administrator or executor.

As added by P.L.1-1998, SEC.31.

IC 34-35-3-3

Nonjury cases; applications and affidavit

Sec. 3. (a) This section applies when any matter of a civil, statutory, or equitable nature not triable by a jury is pending.

(b) The judge before whom the cause is pending shall change the venue upon the application of either party to the cause, made upon affidavit, of either party or the party's attorney, showing any one (1) or more of the reasons named in the Indiana statutes authorizing changes of venue from the judge in civil actions.

(c) The presiding judge shall appoint a special judge to hear such cause in the manner provided by law for changes of venue in civil actions.

As added by P.L.1-1998, SEC.31.

IC 34-35-4

Chapter 4. Change of Venue in Cases on Remand

IC 34-35-4-1

Affidavit of undue influence, local prejudice, or inconvenience

Sec. 1. (a) This section applies where:

(1) an appeal to the court of appeals or supreme court of the state of Indiana has been taken from a judgment rendered against any party; and

(2) the judgment is reversed, and the cause is remanded for a new trial.

(b) Either party in the cause is entitled to a change of venue from the county notwithstanding any changes of venue already taken, upon filing an affidavit:

(1) stating that:

(A) the opposite party has an undue influence over the citizens of the county;

(B) an odium attaches to the applicant, or to the applicant's cause of action or defense, on account of local prejudice; or

(C) the county is a party to the suit; or

(2) showing to the satisfaction of the court that the convenience of witnesses and the ends of justice would be promoted by the change.

(c) All laws and parts of laws defining rights and duties in order to perfect a change of venue from the county in original actions and proceedings apply with equal force to the change of venue provided by this section.

As added by P.L.1-1998, SEC.31.

IC 34-35-4-2

Affidavit of judicial bias or prejudice

Sec. 2. (a) This section applies where:

(1) an appeal to the court of appeals or the supreme court has been taken from a judgment rendered against any party, and the judgment is reversed with the cause remanded for a new trial; or

(2) the action of the trial court in granting a new trial is affirmed on appeal.

(b) Either party in the cause is entitled to a change of venue from the judge before whom the cause is pending, notwithstanding any changes of venue previously taken, upon filing an affidavit stating that the party cannot have a fair trial of the cause before that judge because of bias or prejudice on the part of the judge before whom the cause is pending.

(c) The judge shall grant the requested change, and it is unlawful for any judge so challenged to appoint in that case as special judge any relative by blood or marriage of the judge.

As added by P.L.1-1998, SEC.31.

IC 34-35-5

Chapter 5. Reimbursement for Expenses Incurred by Change of Venue

IC 34-35-5-1

Originating county to pay expenses of change of venue

Sec. 1. In all cases, civil, criminal, or otherwise, where there is a change of venue from one (1) county to another, the county in which the cause originated and from which the change of venue is taken shall pay to the county to which the change of venue is taken all expenses incurred by the county to which the change of venue is taken.

As added by P.L.1-1998, SEC.31.

IC 34-35-5-2

Expenses to be paid by originating county

Sec. 2. Expenses to be paid under section 1 of this chapter include the following:

(1) The expense of keeping the prisoner, if any.

(2) The expense of transporting the prisoner to or from any penal institution.

(3) Any extraordinary expense for safekeeping the prisoner.

(4) The fee set by the venue court under IC 33-40-2-5 for pauper counsel, if counsel was appointed by that court.

(5) The expense of any mileage, meals, lodging, and per diems paid for or to jurors.

(6) The per diems paid jury administrators for drawing any special venire.

(7) The sum of five dollars ($5) for each day or part of a day a bailiff is engaged in assisting the court in the trial of the cause.

(8) The sum of eight dollars ($8) for each day or part of a day an official court reporter takes evidence or testimony before the judge or jury concerning the cause.

(9) The sum of ten dollars ($10) per day for each day of trial for use of facilities and utilities.

(10) The sum of five dollars ($5) for notifying the jury not to attend court after having been summoned in any cause.

(11) The amount of telephone or telegraph communications made by the court or authorized by it.

As added by P.L.1-1998, SEC.31. Amended by P.L.98-2004, SEC.132; P.L.118-2007, SEC.28; P.L.78-2014, SEC.19.

IC 34-35-5-3

Refund

Sec. 3. If any of the amounts specified in section 2 of this chapter are paid by any party against whom costs are taxed under IC 33-37-4-8, the amount paid shall be refunded to the county of origin.

As added by P.L.1-1998, SEC.31. Amended by P.L.98-2004, SEC.133.

IC 34-35-5-4
Audit and certification

Sec. 4. (a) Expenses shall be audited and allowed by the court to which the cause is venued. The allowance shall be certified by the court in duplicate to the auditor of the county, who shall:

(1) retain one (1) of the certificates of allowance in the auditor's office; and

(2) mail by certified mail the duplicate certificate of allowance to the auditor of the county in which the cause originated and from which such expenses are due.

(b) The auditor of the county in which the cause originated shall enter the duplicate certificate of allowance as a claim against the county in which the cause originated on the claim docket of the auditor's office for allowance by the board of county commissioners of the county at their next regular or special session. The certificate of allowance shall be allowed by the board of county commissioners unless it is contested and proved incorrect as provided in this chapter.
As added by P.L.1-1998, SEC.31.

IC 34-35-5-5
Court reporting fee

Sec. 5. Of any amount allowed for per diem of an official court reporter charged as expenses against the county of origin of any case, the sum of eight dollars ($8) shall be paid to the reporter as provided in this chapter.
As added by P.L.1-1998, SEC.31.

IC 34-35-5-6
Bailiff fee

Sec. 6. Of the amount allowed for per diem of a bailiff charged as expenses against the county of origin of any case, the sum of five dollars ($5) shall be paid to the bailiff as provided in this chapter.
As added by P.L.1-1998, SEC.31.

IC 34-35-5-7
Multiple proceedings

Sec. 7. Not more than one (1) per diem or charge for the official reporting or for use of facilities and utilities shall be made against any county of origin of the causes for the same day. However, if two (2) or more proceedings are conducted in two (2) or more separate causes from any county or counties of origin on the same day, the court shall allocate the charges for any such cause as it may determine. The per diem for the official court reporter or bailiff shall be paid by the county of trial in the first instance and reimbursement for that payment may be obtained from the county of origin.
As added by P.L.1-1998, SEC.31. Amended by P.L.78-2014, SEC.20.

IC 34-35-5-8
Repealed

(Repealed by P.L.78-2014, SEC.21.)

IC 34-35-5-9
Auditor records; payment of warrants

Sec. 9. (a) The county auditor of each county shall keep correctly the accounts of the auditor's county with the county:

(1) from which the expenses of change of venue are due; or
(2) to which the expenses are paid.

(b) The county auditor shall transmit by registered mail all warrants issued for the payment of the expenses of change of venue to the auditor of the county entitled to the payment.

(c) Except as provided in subsection (e), payments described in subsection (b) shall be made quarterly, on the last day of March, June, September, and December in each year.

(d) The auditor of the county receiving the payment shall immediately:

(1) pay the warrants into the county treasury of the county receiving the payment;
(2) transmit to the auditor of the county making such payment the quietus for the payment, to be filed with the paid claim; and
(3) advise the clerk of the circuit court of the county receiving the payment.

When notified of a payment under this section, the clerk shall note the payment on the clerk's record.

(e) If the date of making the quarterly settlement falls on Sunday, the settlement shall be made on the preceding day.

As added by P.L.1-1998, SEC.31.

IC 34-35-5-10
County council; duties

Sec. 10. The county council of each county shall provide for the payment of any claim filed in accordance with this chapter.

As added by P.L.1-1998, SEC.31.

IC 34-35-5-11
Counties; recovery of expenses

Sec. 11. (a) This section applies if:

(1) a suit is instituted by any county for the recovery of any expenses incurred by the county on account of change of venue; or
(2) a county is required to defend its claim for change of venue expenses.

(b) The court trying the cause shall allow:

(1) the necessary traveling expenses to the proper officers; and
(2) a reasonable attorney's fee;

to be taxed as a part of the costs in the cause.

As added by P.L.1-1998, SEC.31.

IC 34-35-6

Chapter 6. Collection and Payment of Fees Included in Transcript of Costs for Change of Venue Cases

IC 34-35-6-1

Duties of circuit court clerk

Sec. 1. (a) In all cases where a change of venue is taken from one (1) county to another, the clerk of the circuit court or superior court of the county in which final disposition is made of the cause, shall, within sixty (60) days after the costs are paid, transmit by check to the clerk of the circuit court or superior court of the county in which the costs were accrued.

(b) The check described in subsection (a) must be for an amount equal to all costs which have been included in the transcript.

(c) The clerk receiving the check shall mail a receipt for the amount of the check to the clerk that sent the check. The clerk that receives the receipt shall file the receipt in the clerk's office to be a part of the permanent records of the office.

(d) The clerk who collects the costs shall set out upon the register of fees and also upon the fee book where the costs are taxed a marginal note stating the date, amount, number of check, and the clerk to whom the fees and costs were transmitted.

As added by P.L.1-1998, SEC.31.

IC 34-35-6-2

Itemized statement of costs

Sec. 2. The clerk of the circuit court shall furnish a statement with each remittance of change of venue costs. Statements described in this section must:

(1) show in detail the cause number in the county to which remittance is made, title of case, and the items of costs paid; and

(2) be made on forms prescribed by the state board of accounts.

As added by P.L.1-1998, SEC.31.

IC 34-35-7

Chapter 7. Collection of Costs in Change of Venue Cases

IC 34-35-7-1

Itemized transcript of cost; certification

Sec. 1. (a) This section applies to an action in which:

(1) a change of venue from the county is taken;

(2) an order of judgment for costs is made and entered upon dismissal or otherwise disposed of; and

(3) the costs remain unpaid for thirty (30) days from the date of finality of the order or judgment.

(b) The clerk of the circuit court of the county in which the order or judgment is made and entered, shall certify an itemized transcript of all costs accrued in the action to:

(1) the clerk of the court of the county where the action was first filed; or

(2) the clerk of the court of the county of residence of the judgment debtor, if the residence of the judgment debtor is in a county other than where the action first originated.

As added by P.L.1-1998, SEC.31.

IC 34-35-7-2

Judgment for cost; recording; lien; receipt

Sec. 2. (a) The clerk of the court to which the transcript is sent shall immediately record the order or judgment upon the judgment docket of the circuit court of the county in the same manner as other judgments are recorded. The judgment is a lien on properties and land owned by the judgment debtor in the county in the same manner and to the same extent as if the property were situated in the county where the order or judgment was rendered.

(b) The clerk transmitting the transcript shall:

(1) make a notation in the records of the court in which the action was entered and the order or judgment was recorded, showing:

(A) the name of the county and court to which the transcript was transmitted;

(B) the date of transmittal; and

(C) any other necessary notation;

(2) prepare a receipt for the receiving clerk that shows:

(A) the name of judgment debtor;

(B) title and number of cause;

(C) amount of costs;

(D) to whom the costs are due; and

(E) record reference wherein recorded by both the receiving and sending clerk; and

(3) complete, date, sign, and return the receipt to the sending clerk to be filed with other papers relating to the action.

As added by P.L.1-1998, SEC.31.

IC 34-35-7-3

Duty of receiving court to collect costs

Sec. 3. (a) This section applies after the transcript of costs is certified to the clerk of the court of:

(1) the county where the action first originated; or

(2) the county of residence of the judgment debtor.

(b) The clerk of the court of the county in which the order or judgment was rendered may not:

(1) collect costs; or

(2) issue a fee bill, execution, or statement thereafter.

(c) The clerk of the court receiving and recording the transcript shall accept payment of costs from the judgment debtor or enforce collection by execution or fee bill as provided by law.

As added by P.L.1-1998, SEC.31.

IC 34-35-7-4

Remission of cost collected to proper counties

Sec. 4. Upon collection of change of venue costs by the clerk of the court of:

(1) the county where the action first originated; or

(2) the county of residence of the judgment debtor;

the clerk shall immediately remit to the county or counties entitled to payment all costs as shown by the transcript and retain costs that are due to the clerk's own county. Clerks of courts receiving payment of costs under this section shall account for and distribute the costs as provided by law.

As added by P.L.1-1998, SEC.31.

IC 34-35-7-5

Recording fees

Sec. 5. The clerks of the courts issuing and recording the transcript shall tax as additional costs, to be paid by the judgment debtor, the fees taxed in similar matters as provided by IC 33-37.

As added by P.L.1-1998, SEC.31. Amended by P.L.98-2004, SEC.134.

IC 34-36

ARTICLE 36. JURIES

IC 34-36-1

Chapter 1. Trial by Jury

IC 34-36-1-1

Submission or argument; opening and closing

Sec. 1. (a) The parties may either submit or argue a case to the jury.

(b) In the argument, the party with the burden of the issue has the opening and closing. The party who opens must disclose in the opening all the points relied on in the cause. If, in the closing, the party who closes refers to any new point or fact not disclosed in the opening, the adverse party has the right of replying to the new point or fact. The adverse party's reply closes the argument in the case.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-2

Notes of evidence

Sec. 2. When requested by either party, the court shall take brief notes of the evidence of the parties in the order in which the evidence is introduced in the trial.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-3

View of property; speaking to jury prohibited

Sec. 3. (a) Whenever, in the opinion of the court, it is proper for the jury to have a view of:

(1) real or personal property that is the subject of litigation; or

(2) the place in which a material fact occurred;

the court may order the jury to be conducted in a body, under the charge of a sworn officer, to the place.

(b) The place shall be shown to the jury by a person appointed by the court for that purpose.

(c) While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-4

Keeping jurors together; communications

Sec. 4. (a) When a case is submitted to the jury, the jury may:

(1) decide in court; or

(2) retire for deliberation.

(b) Except as provided in subsection (c), if the jury retires, the members of the jury must be kept together in some convenient place, under the charge of a sworn officer, until the members of the jury:

(1) agree upon a verdict; or

(2) are discharged by the court.

(c) The court may, in its discretion, permit the jury to separate temporarily and for meals.

(d) The officer in charge of the jury shall not permit any communication to be made to the jury. The officer in charge of the jury shall not communicate with the jury, except:

(1) to ask the jury if it has agreed upon a verdict; or

(2) by order of the court.

(e) The officer in charge of the jury shall not, before the verdict is rendered, communicate to any person the state of the jury's deliberations or the jury's verdict.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-5

Separation of jury; conversations; opinions

Sec. 5. (a) If the members of the jury are permitted to separate, either during the trial or after the cause is submitted to them, the court shall admonish the jurors that it is their duty not to:

(1) converse with each other; or

(2) permit themselves to be addressed by any other person, on any subject of the trial.

(b) If the members of the jury are permitted to separate during the trial, the court shall admonish the jurors that it is their duty not to form or express among themselves an opinion on the cause until the cause is finally submitted to them.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-6

Retirement for deliberation; request for information

Sec. 6. If, after the jury retires for deliberation:

(1) there is a disagreement among the jurors as to any part of the testimony; or

(2) the jury desires to be informed as to any point of law arising in the case;

the jury may request the officer to conduct them into court, where the information required shall be given in the presence of, or after notice to, the parties or the attorneys representing the parties.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-7

Discharge; sickness; accident, calamity, or consent; hung jury

Sec. 7. The jury may be discharged by the court under any of the following circumstances:

(1) Sickness of a juror.

(2) Other accident or calamity requiring the discharge.

(3) Both parties consent to the discharge.

(4) The jury has been kept together until it satisfactorily appears that there is no probability of the members agreeing upon a verdict.

As added by P.L.1-1998, SEC.32.

IC 34-36-1-8
Discharge of jury; new trial

Sec. 8. In all cases where the jury is discharged during the trial, or after the cause is submitted to them, the case may be tried again immediately or at a future time, as the court may direct.
As added by P.L.1-1998, SEC.32.

IC 34-36-1-9
Verdict; signature; dissent

Sec. 9. When the jury has agreed upon a verdict, the verdict must be reduced to writing and signed by the foreman. When returned into court, the foreman shall deliver the verdict, and either party may poll the jury. If a juror dissents from the verdict, the jury shall again be sent out to deliberate.
As added by P.L.1-1998, SEC.32.

IC 34-36-2

Chapter 2. Agreement Between Parties for a Special Jury and to Limit the Size of the Jury Panel

IC 34-36-2-1

Demand; calling from regular panel

Sec. 1. In a civil action where:

(1) the parties are entitled to a trial by jury; and

(2) either party demands a jury trial;

the sheriff shall call a jury from the regular panel, except as provided in this chapter.

As added by P.L.1-1998, SEC.32.

IC 34-36-2-2

Special jury

Sec. 2. If the parties:

(1) agree upon the jurors to compose a special jury; and

(2) notify the court;

the court shall direct the sheriff to impanel a special jury if it can be done without unreasonable delay of the cause.

As added by P.L.1-1998, SEC.32.

IC 34-36-2-3

Summoning; striking; number

Sec. 3. When both parties desire it, the court may direct the sheriff to summon eighteen (18) or fewer competent jurors, and the plaintiff first, and then the defendant, shall strike out one (1) juror in turn, until each has struck off six (6) or more jurors. The remaining jurors shall try the cause. However, if the parties consent, the parties, upon being furnished with a list of jurors to be summoned, may exercise the right to strike out any part of the names before the jurors are summoned, and the remaining jurors only shall be summoned.

As added by P.L.1-1998, SEC.32.

IC 34-36-3

Chapter 3. Jurors and Challenges

IC 34-36-3-1

Number of jurors; stipulations

Sec. 1. (a) In a civil case, the jury consists of six (6) members.

(b) At any time before the verdict is announced, the parties may stipulate that a verdict or finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

As added by P.L.1-1998, SEC.32.

IC 34-36-3-2

Alternate jurors

Sec. 2. (a) In a civil case, the court may direct that no more than three (3) jurors be called and impanelled, in addition to the regular jury, to sit as alternate jurors.

(b) Alternate jurors shall, in the order in which they are called, replace jurors who, before the time the jury returns its verdict, become unable or disqualified to perform their duties.

(c) Alternate jurors:

(1) shall be drawn in the same manner;

(2) must have the same qualifications;

(3) are subject to the same examination and challenges;

(4) shall take the same oath; and

(5) shall perform the same function and hold the same powers and privileges;

as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury brings in its verdict.

As added by P.L.1-1998, SEC.32.

IC 34-36-3-3

Number of challenges

Sec. 3. (a) Each party in a civil case has three (3) peremptory challenges.

(b) In addition to the peremptory challenges under subsection (a), each party is entitled to:

(1) one (1) peremptory challenge if the court directs that one (1) or two (2) alternate jurors are to be impanelled; or

(2) two (2) peremptory challenges if the court directs that three (3) alternate jurors are to be impanelled.

(c) The additional peremptory challenges under subsection (b) may be used only against alternate jurors, and the peremptory challenges under subsection (a) may not be used against alternate jurors.

As added by P.L.1-1998, SEC.32.

IC 34-36-3-4

Examination of jurors

Sec. 4. (a) The court may:

(1) permit the parties or their attorneys to conduct the

examination of prospective jurors; or

(2) conduct the examination itself.

(b) If the court conducts the examination of prospective jurors, the court shall permit the parties or their attorneys to supplement the examination by further inquiry.

As added by P.L.1-1998, SEC.32.

IC 34-36-3-5

Challenge; interested in another suit

Sec. 5. It is sufficient cause for challenge to a juror that the juror is interested in another suit, begun or contemplated, involving the same or a similar matter.

As added by P.L.1-1998, SEC.32.

IC 34-36-3-6

Oath; verdict

Sec. 6. Before the commencement of the trial, an oath must be administered to each juror that the juror will:

(1) well and truly try the matter in issue between the parties; and

(2) give a true verdict;

according to law and evidence.

As added by P.L.1-1998, SEC.32.

IC 34-36-3-7

Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 34-36-4
Repealed

(Repealed by P.L.13-2013, SEC.85.)

IC 34-36-5
Chapter 5. Verdicts

IC 34-36-5-1
Recovery of money; amount

Sec. 1. In actions for recovery of money, the jury must assess the amount of the recovery.

As added by P.L.1-1998, SEC.32.

IC 34-36-5-2
Recovery of property; assessment

Sec. 2. In actions for the recovery of property, the jury must make the assessments required under IC 32-35-2-35.

As added by P.L.1-1998, SEC.32. Amended by P.L.2-2002, SEC.99.

IC 34-37

ARTICLE 37. EVIDENCE: DOCUMENTARY AND OTHER WRITTEN EVIDENCE IN GENERAL

IC 34-37-1

Chapter 1. Documentary Evidence in General

IC 34-37-1-1

Sealed and unsealed writings; conveyances; compromise or settlement

Sec. 1. (a) There is no difference in evidence between sealed and unsealed writings. Every writing that is not sealed has the same force and effect that it would have if sealed.

(b) A writing under seal, except conveyances of real estate or any interest in real estate, may be changed or altogether discharged by a writing not under seal.

(c) An agreement in writing, without a seal, for the compromise or settlement of a debt, is as obligatory as if a seal were affixed.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-2

Execution of instrument; seal

Sec. 2. The execution of an instrument is the subscribing and delivering of the instrument with or without affixing a seal.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-3

Recitals in instrument; seal

Sec. 3. Recitals in any written instrument have no greater effect than they have had in writings not under seal.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-4

Seal to deed; savings clause

Sec. 4. Sections 1, 2, and 3 of this chapter do not repeal or affect any Indiana statute expressly requiring a seal to a deed or other instrument.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-5

Notary public; certificates or instruments

Sec. 5. Certificates or instruments, either printed or written, purporting to be:

(1) the official act of a notary public of this state, of the District of Columbia, or of any other state or territory of the United States; and

(2) under the seal and signature of a notary public;

shall be received as presumptive evidence of the official character of the instrument and of the facts set forth in the instrument.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-6
Notice; affidavit; presumptive evidence

Sec. 6. The original affidavit and copy of a notice published in a newspaper, which are filed under IC 34-32-1-3 (or IC 34-1-18-8 before its repeal), and copies of the affidavit and notice, duly certified by the clerk, are presumptive evidence in all cases and before every court of the facts contained in the affidavit.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-7
Affidavits; foreign states; authenticated

Sec. 7. When an affidavit taken in another state is:

(1) certified by the officer or justice of the peace taking the affidavit, under the:

(A) hand of the officer or justice of the peace; and

(B) seal of office, if the officer or justice of the peace has a seal; and

(2) attested by the clerk of the:

(A) circuit or district court; or

(B) court of common pleas;

of the county where the officer exercises the duties of office, under the hand of the clerk and seal of the court; and

the clerk certifies that the officer or justice of the peace is, by the laws of the other state, duly empowered to administer oaths and affirmations and to take affidavits, the affidavit is sufficiently authenticated and may be received and used in any Indiana court.

As added by P.L.1-1998, SEC.33.

IC 34-37-1-8
Copies of records; deeds; office books; official bonds

Sec. 8. Exemplifications or copies of records, records of deeds, other instruments, office books, parts of office books, and official bonds that are kept in any public office in Indiana shall be proved or admitted as legal evidence in any court or office in Indiana:

(1) by the attestation of the custodian of the records, books, deeds, other instruments, or official bonds that the copies are true and complete copies of the records, bonds, instruments, books, bonds, or parts of the records, books, deeds, other instruments, or official bonds in the custodian's custody; and

(2) by:

(A) the annexation by the custodian of the seal of office of the custodian if there is a seal; or,

(B) if there is no official seal, by the attachment to the attestation described in subdivision (1) of the certificate of the clerk and the seal of the circuit or superior court of the proper county where the custodian resides, that the attestation is made by the proper officer.

As added by P.L.1-1998, SEC.33.

IC 34-37-2

Chapter 2. Depositions as Evidence

IC 34-37-2-1

Perpetuating testimony; recording

Sec. 1. (a) A deposition taken and filed for the purpose of perpetuating testimony may, at any time before or after the commencement of an action, in anticipation of which the deposition may have been taken, be published by order of the court in the office of the clerk in which the order was filed, on the motion of any person or party interested in the preservation of the testimony.

(b) The court shall direct the deposition, with all the accompanying affidavits, orders, notices, and other documents, to be entered of record in the order book of the court, at the costs of the party making the motion. The record must contain a statement or recital of the date of the filing of the deposition.

As added by P.L.1-1998, SEC.33.

IC 34-37-2-2

Record; certified copy

Sec. 2. The record of any deposition recorded under the provisions of section 1 of this chapter (or IC 34-1-16-1 before its repeal), and copies of the record, duly certified, may be used as evidence, whenever and wherever the original deposition might be used.

As added by P.L.1-1998, SEC.33.

IC 34-37-3

Chapter 3. Handwriting Evidence

IC 34-37-3-1

Comparison by witness, jury, or court to determine genuineness

Sec. 1. In a proceeding before a court or judicial officer of Indiana in which the genuineness of the handwriting of any person is involved, any admitted or proved handwriting of the person is competent evidence as a basis for comparison by:

(1) witnesses; or

(2) the jury, court, or officer conducting the proceedings;

to prove or disprove the genuineness of the handwriting.

As added by P.L.1-1998, SEC.33.

IC 34-37-4

Chapter 4. Official Finding of Death, Missing Person, or Other Status Issued by United States Officers

IC 34-37-4-1

Written finding of presumed death; evidentiary status

Sec. 1. A written finding of presumed death made by an officer or employee of the United States authorized to make such finding under:

(1) the federal Missing Persons Act (50 U.S.C. App. 1001-17), before its repeal September 6, 1966;

(2) 5 U.S.C. 5565 to 5567; or

(3) 37 U.S.C. 555 to 557;

or a duly certified copy of such finding, shall be received in any court, office, or other place in Indiana as evidence of the death of the person found to be dead, and the date, circumstances and place of the person's disappearance.

As added by P.L.1-1998, SEC.33.

IC 34-37-4-2

Official reports of capture or missing in action; evidence

Sec. 2. An official written report or record, or a duly certified copy of a record or report:

(1) that states that a person is:

(A) missing;

(B) missing in action;

(C) interned in a neutral country;

(D) beleaguered, besieged, or captured by an enemy;

(E) dead; or

(F) alive; and

(2) that is made by any officer or employee of the United States authorized by the statute referred to in section 1 of this chapter or by any other law of the United States to make such a report or record;

shall be received in any court, office, or other place in Indiana as evidence that the person is missing, missing in action, interned in a neutral country, beleaguered, besieged, or captured by an enemy, dead, or alive.

As added by P.L.1-1998, SEC.33.

IC 34-37-4-3

Authority of employee or officer furnishing report

Sec. 3. For the purposes of sections 1 and 2 of this chapter, the following apply:

(1) Any finding, report, or record, or duly certified copy of a report or record, purporting to have been signed by an officer or employee of the United States described in section 1 or 2 of this chapter, shall prima facie be considered to have been signed and issued by the officer or employee pursuant to law.

(2) The person signing the finding, report, or record shall prima facie be considered to have acted within the scope of the

person's authority.

(3) If a copy purports to have been certified by a person authorized by law to certify the copy, the certified copy shall be prima facie evidence of the person's authority to certify.

As added by P.L.1-1998, SEC.33.

IC 34-38

ARTICLE 38. EVIDENCE: STATUTES AND LAWS

IC 34-38-1

Chapter 1. Statutes and Laws of Indiana and the Northwest Territories

IC 34-38-1-1

Statute books; territories

Sec. 1. The printed statute books of:

(1) Indiana;

(2) the late Territory of the United States North West of the River Ohio; and

(3) the territories of Indiana and Illinois;

purporting to be printed under the authority of the state or territory is evidence in all courts and places of the acts contained in the statute books.

As added by P.L.1-1998, SEC.34.

IC 34-38-1-2

Certificate of secretary of state; acts of general assembly

Sec. 2. The certificate of the secretary of state, under the seal of state, stating the time when any act or acts of the general assembly were deposited in:

(1) the secretary of state's office; or

(2) the office of the clerk of any circuit court in Indiana;

as appears on the certificate or receipt of the clerk, is admissible in all courts in Indiana as evidence of the facts stated in the secretary's certificate.

As added by P.L.1-1998, SEC.34.

IC 34-38-2

Chapter 2. Statutes and Laws of Other States and Countries

IC 34-38-2-1

Statute books; foreign states; United States territories

Sec. 1. (a) This section applies to the following:

(1) The printed statute books of the several states and territories of the United States, purporting to be printed under the authority of those states and territories.

(2) A copy of any statute or any part of a statute contained in a statute book described in subdivision (1) that is accompanied by the certificate of the secretary of state, under seal of the state, certifying that:

(A) the copy is complete and correct;

(B) the statute book from which the copy is taken is deposited in the office of the secretary or in the state library; and

(C) the secretary of state believes the book was received under the authority of the state or territory purporting to have enacted the statutes.

(b) A statute book, a copy of a statute, or a copy of part of a statute described in subsection (a) is presumptive evidence in all courts of public or private legislative acts of the state or territory purporting to have enacted the statute.

As added by P.L.1-1998, SEC.34.

IC 34-38-2-2

Legislative acts; foreign states or territories; full faith and credit

Sec. 2. Every act of the legislature of any state or territory of the United States, certified by the secretary, and having the seal of the state or territory affixed to the act, is considered authentic and shall receive full faith and credit when offered in evidence in any court in Indiana.

As added by P.L.1-1998, SEC.34.

IC 34-38-2-3

Laws of foreign countries

Sec. 3. The existence and tenor or effect of the laws of any foreign country may be proved as facts by parol evidence. However, if it appears that the law in question is contained in a written statute or code, the court may reject any evidence of the law that is not accompanied by a copy of the law as it appears in the written statute or code.

As added by P.L.1-1998, SEC.34.

IC 34-38-3

Chapter 3. Uniform Proof of Statutes Act

IC 34-38-3-1

Foreign laws

Sec. 1. Printed books or pamphlets purporting on their face to be the session or other statutes of any of the United States, a territory of the United States, or a foreign jurisdiction and to have been printed and published by the authority of the state, territory, or foreign jurisdiction, or proved to be commonly recognized in the courts of the state, territory or foreign jurisdiction, shall be received in Indiana courts as prima facie evidence of the statutes.

As added by P.L.1-1998, SEC.34.

IC 34-38-3-2

Interpretation and construction of chapter

Sec. 2. This chapter shall be interpreted and construed as to effectuate its general purposes to make uniform the law of those states that enact it.

As added by P.L.1-1998, SEC.34.

IC 34-38-3-3

Citation

Sec. 3. This chapter may be cited as the Uniform Proof of Statutes Act.

As added by P.L.1-1998, SEC.34.

IC 34-38-4

Chapter 4. Uniform Judicial Notice of Foreign Law Act

IC 34-38-4-1

Judicial notice by Indiana courts

Sec. 1. Every court in Indiana shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States.

As added by P.L.1-1998, SEC.34.

IC 34-38-4-2

Information to court

Sec. 2. The court may inform itself of such laws in the manner as the court considers proper. The court may call upon counsel to aid the court in obtaining this information.

As added by P.L.1-1998, SEC.34.

IC 34-38-4-3

Court determination; review

Sec. 3. The determination of these laws shall be made by the court and not by the jury, and is reviewable.

As added by P.L.1-1998, SEC.34.

IC 34-38-4-4

Evidence of laws in other jurisdictions; notice to adverse parties

Sec. 4. Any party may also present to the trial court any admissible evidence of such laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken of the evidence, reasonable notice shall be given to the adverse parties, either in the pleadings or otherwise.

As added by P.L.1-1998, SEC.34.

IC 34-38-4-5

Laws of other jurisdictions

Sec. 5. The law of a jurisdiction other than those referred to in section 1 of this chapter shall be an issue for the court, but shall not be subject to sections 1, 2, 3, and 4 of this chapter concerning judicial notice.

As added by P.L.1-1998, SEC.34.

IC 34-38-4-6

Interpretation and construction of chapter

Sec. 6. This chapter shall be interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

As added by P.L.1-1998, SEC.34.

IC 34-38-4-7

Citation

Sec. 7. This chapter may be cited as the Uniform Judicial Notice

of Foreign Law Act.
As added by P.L.1-1998, SEC.34.

IC 34-39

ARTICLE 39. EVIDENCE: COURT DECISIONS AND RECORDS OF OTHER LEGAL PROCEEDINGS

IC 34-39-1

Chapter 1. Published Decisions of the Supreme Court of Indiana

IC 34-39-1-1

Evidentiary value of Indiana reports

Sec. 1. In a case in which a certified copy of a decision of the Indiana supreme court is competent evidence in any court of the state, the decisions of the supreme court:

(1) as published in official Indiana reports, as provided by Indiana laws; and

(2) when properly identified by parol or other evidence;

may be admitted into evidence in any court.

As added by P.L.1-1998, SEC.35.

IC 34-39-2

Chapter 2. Record of Judgment or Proceeding

IC 34-39-2-1

Production of certain papers, certified and attested with seal of court, to have same force in evidence as transcript of complete record

Sec. 1. In a case where a complete record is dispensed with, the production of:

(1) the papers and entries relating to the case; and

(2) all transcripts of the case;

certified and attested with the seal of the court as complete copies of all the papers and entries of the cause, shall have the same force in evidence as a transcript of a complete record of a case.

As added by P.L.1-1998, SEC.35.

IC 34-39-3

Chapter 3. Evidence of Prior Felony Conviction in a Civil Action

IC 34-39-3-1

Prior felony conviction; admissibility

Sec. 1. (a) Evidence of a final judgment that:

(1) is entered after a trial or upon a plea of guilty; and

(2) adjudges a person guilty of a crime punishable by death or imprisonment of more than one (1) year;

shall be admissible in a civil action to prove any fact essential to sustaining the judgment, and is not excluded from admission as hearsay regardless of whether the declarant is available as a witness.

(b) The pendency of an appeal may be shown but does not affect the admissibility of evidence under this section.

As added by P.L.1-1998, SEC.35.

IC 34-39-4

Chapter 4. Records and Proceedings in Foreign Jurisdictions

IC 34-39-4-1

Proceedings and judgment; foreign states; United States territories; District of Columbia

Sec. 1. Copies of the proceedings and judgments of any justice of the peace of any state or territory of the United States or of the District of Columbia:

(1) certified by the hand and seal of:

(A) the justice before whom the proceedings were held or judgments rendered; or

(B) the justice's successor in office, or other justices having legal custody of the proceedings or judgments;

that the copies are true and complete copies of the proceedings or judgments; and

(2) accompanied by the certificate of the clerk or prothonotary of any court of record of the county or district where the justice holds office, certifying under the seal of the court that the justice was duly commissioned and qualified to act as a justice at the time:

(A) the proceedings were held or the judgments rendered; and

(B) the copy was taken;

are admissible as evidence in any court in Indiana.

As added by P.L.1-1998, SEC.35.

IC 34-39-4-2

Common law of foreign courts

Sec. 2. The unwritten or common law of any other of the United States or of the territories of the United States may be proved as facts by parol evidence. The books of reports of cases adjudged in the courts of other states or territories may also be admitted in evidence of the unwritten or common law.

As added by P.L.1-1998, SEC.35.

IC 34-39-4-3

Records and judicial proceedings of foreign courts

Sec. 3. (a) The records and judicial proceedings of the several courts of record of or within the United States or the territories of the United States shall be admitted in Indiana courts as evidence when authenticated by attestation or certificate of the clerk or prothonotary, with the seal of the court annexed, together with the seal of the chief justice or one (1) or more of the judges, or the presiding magistrate of the court, that:

(1) the person who signed the attestation or certificate was, at the time of subscribing it, the clerk or prothonotary of the court; and

(2) the attestation is in due form of law.

(b) Records and judicial proceedings that have been authenticated

as described in subsection (a) shall have full faith and credit given to them in any court in Indiana as by law or usage they have in the courts in which they originated.

As added by P.L.1-1998, SEC.35.

IC 34-40

ARTICLE 40. EVIDENCE: RECORDS OF PUBLIC AGENCIES

IC 34-40-1

Chapter 1. Prima Facie Proof of Lack of Records or Entry in Records Kept in Public Offices

IC 34-40-1-1

Inapplicability of chapter to criminal proceedings

Sec. 1. (a) This chapter applies to civil proceedings in which a party seeks to prove the lack of a record or entry in a record kept in a public office.

(b) This chapter does not apply to any criminal proceedings.

As added by P.L.1-1998, SEC.36.

IC 34-40-1-2

Prima facie proof of lack of record

Sec. 2. (a) Whenever a record or book kept in a public office of this state or a political subdivision of this state is admissible for any purpose as evidence in:

(1) a civil proceeding in any court of this state; or

(2) a hearing or determination before a board, commission, or officer of this state, or a political subdivision of this state;

a written statement that meets the requirements of subsection (b), is admissible in evidence as prima facie proof of the lack of record or entry.

(b) The statement described in subsection (a) must:

(1) be signed by:

(A) an officer or person who has custody of official records or books; or

(B) a deputy of the officer or person described in clause (A);

(2) state that, after diligent search no record or entry of a specified tenor is found to exist in the records of the office of the officer or person described in subdivision (1)(A); and

(3) include the seal of the office, if there is a seal.

As added by P.L.1-1998, SEC.36.

IC 34-40-1-3

Proof of record by other sources

Sec. 3. (a) Proof of the lack of a record or entry as provided in section 2 of this chapter does not prevent the proof of:

(1) an official record or book; or

(2) the lack of an entry in an official record or book;

by any method authorized by an applicable statute, the Indiana rules of evidence, or at common law.

(b) This chapter shall be considered and construed as:

(1) being supplemental to other applicable statutes, the Indiana rules of evidence, and common law; and

(2) giving an additional means of proof of the lack of an entry.

As added by P.L.1-1998, SEC.36.

IC 34-40-2

Chapter 2. Records of the Worker's Compensation Board

IC 34-40-2-1

Evidentiary value

Sec. 1. Copies of:

(1) all papers filed with; and

(2) all records, exhibits, awards, and orders made by;

the worker's compensation board, when certified by the secretary of the board to be true and complete copies, are competent evidence in the several courts of record in Indiana in all cases in which the original papers, records, awards, exhibits, and orders would be competent evidence.

As added by P.L.1-1998, SEC.36.

IC 34-40-3

Chapter 3. Schedules and Other Records Filed With the Interstate Commerce Commission or Its Successor Agency, or the Utility Regulatory Commission

IC 34-40-3-1

Presumption of correctness; evidentiary value

Sec. 1. Printed copies of schedules, classifications and tariffs of rates, fares and charges, and supplements that:

(1) are filed with:

(A) the Interstate Commerce Commission or its successor agency; or

(B) the utility regulatory commission; and

(2) show:

(A) an Interstate Commerce Commission (or its successor agency) or utility regulatory commission number, which may be stated in abbreviated form, as I.C.C. or IRC No. _____; and

(B) an effective date;

are presumed to be correct copies of the original schedules, classifications, tariffs and supplements on file with the Interstate Commerce Commission (or its successor agency) or the utility regulatory commission and shall be received as good and sufficient evidence in civil actions, without certification, in any court of this state to prove the schedules, classifications, tariffs, and supplements.

As added by P.L.1-1998, SEC.36.

IC 34-40-4

Chapter 4. Prima Facie Evidence of Ownership of Motor Vehicle

IC 34-40-4-1

Certified copy as prima facie evidence

Sec. 1. In a civil proceeding, a certified copy of a certificate of title is prima facie evidence of the ownership of a motor vehicle.

As added by P.L.1-1998, SEC.36.

IC 34-41

ARTICLE 41. EVIDENCE: REAL ESTATE RECORDS

IC 34-41-1

Chapter 1. Deeds and Other Real Estate Records

IC 34-41-1-1

Admission of copies

Sec. 1. Admission of a copy of a deed is governed by IC 34-37-1-8.

As added by P.L.1-1998, SEC.37.

IC 34-41-1-2

Seals

Sec. 2. The circumstances under which seals are required on deeds and other instruments conveying land are governed by IC 32-21-1-12 and IC 34-37-1.

As added by P.L.1-1998, SEC.37. Amended by P.L.2-2002, SEC.100.

IC 34-41-1-3

United States land office records; sale of canal or Michigan road lands

Sec. 3. (a) This section applies to the following documents kept at any land office of the United States located in Indiana or at any office for the sale of canal or Michigan road lands:

(1) The register, catalog, tractbook, platbook, and description of lands.

(2) Copies of documents described in subdivision (1) that are duly certified as true and complete by the proper custodian of the document.

(3) Copies of documents described in subdivision (1) that are:

(A) duly certified by the commissioner of the department of administration as true and complete copies from the original documents, or from copies of the original documents; and

(B) legally deposited in the land office division of the department of administration.

(b) Documents described in subsection (a) are admissible in evidence in civil actions in all courts in Indiana, and are prima facie evidence of the truth of their contents.

As added by P.L.1-1998, SEC.37.

IC 34-41-1-4

Certificate of purchase; United States land office

Sec. 4. Every certificate of purchase at a land office of the United States is evidence of legal title to the land described in the certificate.

As added by P.L.1-1998, SEC.37.

IC 34-41-1-5

Michigan road lands; sales; register

Sec. 5. (a) The:

(1) register of the sales of the Michigan road lands located in the Indiana state archives, commission on public records; and

(2) certified copies of any entry in the register under the seal of Indiana;

are admissible in evidence in all courts and places.

(b) The register, or a certified copy of the entry of the sale of a tract of land described in the register, by any person named in the register as the purchaser of the land, is prima facie evidence that:

(1) the person designated in the register was the purchaser of the land; and

(2) the title to the land has been conveyed by the state to the purchaser in fee simple.

As added by P.L.1-1998, SEC.37.

IC 34-41-1-6

Land patents; certificates of purchase; evidence

Sec. 6. The following documents are admissible in evidence in all courts and places, with the same force and effect as if the original were produced:

(1) The record of all:

(A) patents;

(B) certificates of purchase; and

(C) other evidence in writing of the sale of real estate;

whether issued by the United States or this state, or made by any person or corporation.

(2) All duly certified copies of the record of the documents described in subdivision (1).

As added by P.L.1-1998, SEC.37.

IC 34-41-2

Chapter 2. Recorded Patents Conveying Real Estate

IC 34-41-2-1

Recorded patents

Sec. 1. All:

(1) patents issued by the United States or by the state of Indiana conveying real estate in Indiana; and

(2) the records of those patents that have been duly recorded;

shall be taken and received as competent evidence in all courts in Indiana.

As added by P.L.1-1998, SEC.37.

IC 34-41-2-2

Patents not previously recorded

Sec. 2. All patents described in section 1 of this chapter that have not been recorded may be recorded as other deeds and conveyances are recorded by law. That record shall be competent evidence in all Indiana courts.

As added by P.L.1-1998, SEC.37.

IC 34-41-3

Chapter 3. General Index as Evidence of Deeds and Mortgages Lost or Destroyed

IC 34-41-3-1

Application of chapter

Sec. 1. This chapter applies when a deed or mortgage is recorded in the proper recorder's office of any county in Indiana and the record of the deed or mortgage is burned, lost, or destroyed.

As added by P.L.1-1998, SEC.37.

IC 34-41-3-2

Indexes as prima facie evidence

Sec. 2. The general index of the record of an instrument described in section 1 of this chapter made:

(1) under law;

(2) in the handwriting of the county recorder; and

(3) at the date the general index was made in any county of the state;

is prima facie evidence of the proper execution and record of the deed or mortgage, as shown by the general index. However, this chapter shall not affect any litigation pending on March 6, 1883, in any of the courts of this state.

As added by P.L.1-1998, SEC.37.

IC 34-41-4

Chapter 4. Presumption of Validity of Record After Destruction of Deed

IC 34-41-4-1

Application of chapter

Sec. 1. This chapter applies when the record or any part of the record of any action, proceeding, order, judgment, or decree of any court in Indiana:

(1) in which title to real estate has been determined; or

(2) upon the authority of which any administrator's, executor's, guardian's, commissioner's, trustee's, receiver's or other deed of conveyance has been executed;

has been destroyed.

As added by P.L.1-1998, SEC.37.

IC 34-41-4-2

Presumption of validity

Sec. 2. When a record or part of a record described in section 1 of this chapter is destroyed, it shall be presumed that:

(1) the court proceedings by which the title to the real estate was established or the deed was executed and the record of which has been destroyed were in all things regular and legal; and

(2) the court making the record and rendering the judgment or decree had jurisdiction of:

(A) the subject matter; and

(B) all the persons whose title the judgment, decree, or deed of conveyance assumes to determine or convey.

As added by P.L.1-1998, SEC.37.

IC 34-41-4-3

Burden of proof

Sec. 3. In an action attacking the validity of:

(1) the title of or conveyance of real estate; or

(2) any such record, judgment, or decree;

the record of which has been destroyed, the burden of proof is upon the person attacking the validity.

As added by P.L.1-1998, SEC.37.

IC 34-41-4-4

Limitation of actions attacking validity

Sec. 4. An action attacking the validity of:

(1) an order, decree, or judgment described in section 1 of this chapter; or

(2) the title established by or resulting from an order, decree, or judgment described in section 1 of this chapter;

must be brought not later than one (1) year after the date of the destruction of the record.

As added by P.L.1-1998, SEC.37.

IC 34-41-5

Chapter 5. Records as Evidence of Conveyances After Destruction of Original by Fire

IC 34-41-5-1

Deed or record thereof as prima facie evidence of facts recited therein

Sec. 1. (a) This section applies to a deed that has been executed:

(1) by an administrator, executor, guardian, sheriff, or commissioner of court; and

(2) by virtue of any:

(A) order, judgment, or decree of court;

(B) will; or

(C) sale made upon any execution issued on any judgment.

(b) If the record of an order, decree of court, will, execution, or judgment described in subsection (a) is destroyed by fire in the burning of a courthouse in Indiana, the deed or the record of the deed is prima facie evidence of:

(1) all the facts recited in the deed; and

(2) the regularity and sufficiency of all the proceedings, records, and papers in virtue of which the deed was executed.

As added by P.L.1-1998, SEC.37.

IC 34-41-5-2

Certified transcript of partition judgment; evidentiary value

Sec. 2. Whenever:

(1) any partition of real estate in any Indiana county has been made by judgment of any court in Indiana; and

(2) the records of the court in which the proceedings for partition were held have been destroyed by fire;

a certified transcript of the judgment of partition and any record of the judgment in the recorder's office of the county in which the real estate is situated is admissible in evidence, without the residue of the record of the proceedings. The certified transcript and any record of the judgment are prima facie evidence of the sufficiency and regularity of all the proceedings, records, and papers in the case in which the judgment was rendered.

As added by P.L.1-1998, SEC.37.

IC 34-41-6

Chapter 6. Misrecorded Instruments

IC 34-41-6-1

Application of chapter

Sec. 1. This chapter applies when the records kept in the recorder's offices of the various counties:

(1) contain records of instruments purporting to be deeds, mortgages, trust deeds, assignments, releases, or other instruments entitled to record by Indiana recording statutes; and

(2) the records of instruments described in subdivision (1) have been recorded in records other than those designated by statute for the recording of instruments.

As added by P.L.1-1998, SEC.37.

IC 34-41-6-2

Admissibility

Sec. 2. The records of instruments and certified copies of records of instruments described in section 1 of this chapter are admissible in evidence after the instruments have been recorded for twenty (20) years.

As added by P.L.1-1998, SEC.37.

IC 34-41-7
Chapter 7. Wabash and Erie Canal Certificates and Deeds

IC 34-41-7-1
Admissibility of certificate or copies

Sec. 1. (a) The following documents are admissible in evidence in all courts in Indiana in all cases in which, by law, duly made and completed deeds and records are legal evidence:

(1) Certificates issued before March 7, 1903, by the general land office and the United States Department of the Interior setting forth the list of lands in Indiana without the strip of five (5) miles on each side of the Wabash and Erie Canal, from Terre Haute to Evansville, in the Vincennes land district, selected by the state of Indiana, under the Act of Congress of March 3, 1845, 5 Stat. 731, to aid the state of Indiana in extending and completing the canal, on file on March 7, 1903, in the office of the auditor of state.

(2) All copies of the certificates described in subdivision (1), duly certified to by the auditor of state, (or by the commissioner of the department of administration after June 30, 1987).

(3) All records of certified copies recorded in the recorder's office of any county in which the lands described in the documents are situated.

(4) All certified copies made by the county recorder of the record in the recorder's office.

(b) The documents described in subsection (a) are conclusive evidence of all matters recited in those documents.

As added by P.L.1-1998, SEC.37.

IC 34-41-7-2
Admissibility of deeds or copies

Sec. 2. (a) The following documents are admissible in evidence in all courts in Indiana in all cases in which, by law, duly made and completed deeds and records are legal evidence:

(1) The copies of all deeds on file on March 7, 1903, in the office of the auditor of state made by the board of trustees of the Wabash and Erie Canal, in records kept by such boards of trustees and afterward filed in the land office division of the department of administration.

(2) All copies of deeds duly certified to by the auditor of state (or by the commissioner of the department of administration after June 30, 1987).

(3) All records of certified copies recorded in the recorder's office in any county in which any of the lands described in the documents are situated.

(4) All duly certified copies of any record described in subdivision (3) in the recorder's office.

(b) The documents described in subsection (a) are conclusive evidence of all matters recited in those documents.

As added by P.L.1-1998, SEC.37.

IC 34-41-7-3

Recording of certified copies

Sec. 3. All copies duly certified by the auditor of state or the commissioner of the department of administration of:

(1) the certificate and list referred to in section 1 of this chapter; and

(2) the copies of deeds referred to in section 2 of this chapter;

shall, upon presentation, be recorded in the recorder's office of any county in which the lands are situated. A record made as described in this section has the same force and effect as other records duly authorized and made in a recorder's office.

As added by P.L.1-1998, SEC.37.

IC 34-42

ARTICLE 42. EVIDENCE: BUSINESS RECORDS

IC 34-42-1

Chapter 1. Business Records

IC 34-42-1-1

Disposition of original record authorized

Sec. 1. A business may cause any record kept by the business to be recorded, copied, or reproduced by any photographic, photostatic, miniature photographic, or optical imaging process that correctly, accurately, and permanently copies, reproduces, or forms a medium for copying or reproducing the original record on a film or other durable material. The business may subsequently dispose of the original record.

As added by P.L.1-1998, SEC.38.

IC 34-42-1-2

Copies treated as original for evidentiary purposes

Sec. 2. (a) A photographic, photostatic, miniature photographic, or optical image copy or reproduction is considered an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence.

(b) A facsimile, exemplification, or certified copy of a photographic or optical image copy or reproduction shall, for all purposes, be considered a facsimile, an exemplification, or a certified copy of the original record.

As added by P.L.1-1998, SEC.38.

IC 34-42-1-3

Corporate acts and proceedings; evidence

Sec. 3. The acts and proceedings of corporations may be proved by a sworn copy of the record of such acts and proceedings. The oath must state that the transcript is a true and full copy of the original, and that the original has remained unaltered from its date, to the best of deponent's knowledge and belief. The sworn copies shall be received as evidence in all cases where the original would be evidence.

As added by P.L.1-1998, SEC.38.

IC 34-43

ARTICLE 43. EVIDENCE: MEDICAL RECORDS

IC 34-43-1

Chapter 1. Hospital Medical Records

IC 34-43-1-1

Photographic process; treatment as original for purposes of admissibility

Sec. 1. (a) The recording of hospital medical records by an electronic image system or reproduction process shall, for the purposes of this chapter, be considered a photographic process.

(b) The making or recording of hospital medical records by electronic data processing systems is an original written record. Printouts or other types of retrieved information in written or printed form shall be treated as original records in all courts or administrative agencies for the purpose of its admissibility into evidence.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-2

Authentication of entries; procedure

Sec. 2. Entries made in a hospital medical record may be authenticated by showing that:

(1) the electronic data processing equipment is standard equipment in the hospital;

(2) the entries were made in the regular course of business at or reasonably near to the happening of the event or order, opinion, or other information recorded;

(3) the security of the entries from unauthorized access can be demonstrated through the use of audit trails; and

(4) records of all original entries and subsequent access to the information are maintained.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-3

Availability of records to authorized persons

Sec. 3. Hospitals using systems described in this chapter to keep their hospital medical records must do so in such a manner that permits the information to be made readily available, in written or printed form, to authorized persons only.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-4

Photostatic copies; admissibility

Sec. 4. Notwithstanding the hearsay rule, but subject to all other objections, photostatic copies of hospital medical records certified under section 7 of this chapter are admissible into evidence in any civil action or administrative proceeding without testimony from the custodian of the hospital medical records.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-5
Response to subpoena or court order

Sec. 5. When a:

(1) subpoena coupled with a request under Rule 34 of the Indiana Rules of Trial Procedure;

(2) subpoena coupled with a patient's written authorization under IC 34-6-2-15(2) (or IC 34-3-15.5-4 before its repeal); or

(3) court order;

requiring the production of a hospital medical record is served upon any hospital employee, the hospital employee with custody of the original hospital medical record may elect, instead of personally appearing and producing the original hospital medical record, to furnish the requesting party or the party's attorney with a photostatic copy of the hospital medical record, certified in accordance with section 7 of this chapter.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-6
Delivery of copies pursuant to subpoena

Sec. 6. If the hospital has elected to proceed under section 5 of this chapter, the hospital employee with custody of the original hospital medical records shall, upon receipt of payment for the reproduction of the hospital medical records, promptly deliver, by certified mail or personal delivery, copies of the hospital medical records specified in the subpoena to the person specified in the subpoena.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-7
Certification of medical records

Sec. 7. The hospital employee's certification of the hospital medical records under section 5 of this chapter must:

(1) be signed by the hospital employee with custody of the hospital medical records; and

(2) include:

(A) the full name of the patient;

(B) the patient's medical record number;

(C) the number of pages in the hospital medical record; and

(D) a statement in substantially the following form:

"The copies of records for which this certification is made are true and complete reproductions of the original or microfilmed hospital medical records that are housed in _____ (name of hospital). The original records were made in the regular course of business, and it was the regular course of _____ (name of hospital) to make the records at or near the time of the matter recorded. This certification is given under IC 34-43-1-5 by the custodian of the records instead of the custodian's personal appearance.".

As added by P.L.1-1998, SEC.39.

IC 34-43-1-8
Handling of copies

Sec. 8. The hospital shall:

(1) place the copies of the hospital medical records in an envelope or wrapper; and

(2) write or type on the envelope or wrapper:

(A) the words "Confidential Medical Records";

(B) the title and number of the action or proceeding; and

(C) the name and business telephone number of the hospital employee making the certification.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-9
Procedure when records not in possession of hospital

Sec. 9. If the hospital does not have the hospital medical records or has only a part of the hospital medical records specified in the subpoena, the hospital employee with custody of the original hospital medical records shall:

(1) execute an affidavit, either notarized or by affirmation, stating that the hospital does not have or has only a part of the subpoenaed hospital medical records; and

(2) follow the procedures in sections 5 through 8 of this chapter in delivering the part of the hospital medical records that are in the hospital's possession.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-10
Medical records confidential under certain federal statutes

Sec. 10. (a) This section applies to a medical record or part of a record that is confidential under 42 U.S.C. 290dd-3, 42 U.S.C. 290ee-3, or the regulations adopted under those statutes.

(b) The hospital employee with custody of the original medical records shall:

(1) execute a verified affidavit:

(A) identifying the record or part of the record that is confidential; and

(B) stating that the confidential record or part of the record will only be provided under the federal procedure for production of the record; and

(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under subdivision (1).

As added by P.L.1-1998, SEC.39.

IC 34-43-1-11
Medical records regarding treatment for mental illness

Sec. 11. (a) This section applies to a medical record or part of a record concerning treatment for mental illness.

(b) The hospital employee with custody of the original medical records shall:

(1) execute a verified affidavit:
(A) identifying the record or part of a record that contains the confidential information concerning the treatment of mental illness; and
(B) stating that the confidential record or part of the record will only be provided under a court order after in camera review; and
(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under subdivision (1).

As added by P.L.1-1998, SEC.39.

IC 34-43-1-12
Confidential records regarding communicable diseases

Sec. 12. (a) This section applies to a medical record or part of a record that contains information that is confidential under IC 16-41-8-1.

(b) The hospital employee with custody of the original medical records shall:
(1) execute a verified affidavit:
(A) identifying the record or part of a record that contains the confidential information concerning a dangerous communicable disease; and
(B) stating that the confidential record or part of the record will only be provided under a court order after in camera review under IC 16-41-8-1; and
(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under subdivision (1).

As added by P.L.1-1998, SEC.39. Amended by P.L.1-1999, SEC.75.

IC 34-43-1-13
Fees

Sec. 13. The hospital may charge the fee permitted under IC 16-39-9 to cover the costs of reproducing the hospital medical records under section 5 of this chapter.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-14
Personal delivery of copies; receipt

Sec. 14. (a) Whenever the copies of the hospital medical records are personally delivered, the person receiving the hospital medical records shall give a receipt to the person delivering them.

(b) The receipt required by subsection (a) must contain:
(1) the name of the hospital that sent the hospital medical records;
(2) the patient's full name;
(3) the patient's medical record number;
(4) the date the copies of the hospital medical records were received; and

(5) the signature of the person who receives the hospital medical records.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-15

Delivery of copies by certified mail; receipt

Sec. 15. Whenever the copies of the hospital medical records are sent by certified mail, the receipt used by the United States Postal Service is sufficient to prove delivery and receipt of the hospital medical records.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-16

Disposal of copies

Sec. 16. The party or party's attorney of record shall dispose of copies of hospital medical records obtained under this chapter in a manner that protects the confidentiality of the medical information in the copies.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-17

Orders

Sec. 17. Upon motion by any party to an action or proceeding, or by the person from whom discovery is sought under this chapter, and for good cause shown, the court, hearing officer, or other body conducting the proceeding may make any order that justice requires.

As added by P.L.1-1998, SEC.39.

IC 34-43.5

ARTICLE 43.5. EVIDENCE: SPECIFIC COMMUNICATIONS

IC 34-43.5-1

Chapter 1. Communications of Sympathy

IC 34-43.5-1-1

Exception

Sec. 1. This chapter does not apply to a criminal proceeding.

As added by P.L.76-2006, SEC.1.

IC 34-43.5-1-2

Application

Sec. 2. This chapter applies to a cause of action in tort, including a medical malpractice action under IC 34-18-8.

As added by P.L.76-2006, SEC.1.

IC 34-43.5-1-3

"Communication of sympathy"

Sec. 3. As used in this section "communication of sympathy" means a statement, a gesture, an act, conduct, or a writing that expresses:

(1) sympathy;
(2) an apology; or
(3) a general sense of benevolence.

As added by P.L.76-2006, SEC.1.

IC 34-43.5-1-4

Prohibited admission of communications of sympathy

Sec. 4. Except as provided in section 5 of this chapter, a court may not admit into evidence a communication of sympathy that relates to causing or contributing to:

(1) a loss;
(2) an injury;
(3) pain;
(4) suffering;
(5) a death; or
(6) damage to property.

As added by P.L.76-2006, SEC.1.

IC 34-43.5-1-5

Admission of statements of fault, including communications of sympathy

Sec. 5. A court may admit a statement of fault into evidence, including a statement of fault that is part of a communication of sympathy, if otherwise admissible under the Indiana Rules of Evidence.

As added by P.L.76-2006, SEC.1.

IC 34-44

ARTICLE 44. EVIDENCE: DAMAGES

IC 34-44-1

Chapter 1. Collateral Source Evidence

IC 34-44-1-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-36 (before its repeal, now codified in this chapter) by P.L.196-1986 does not apply to civil actions accruing before January 1, 1987.

As added by P.L.220-2011, SEC.573.

IC 34-44-1-1

Purpose of chapter

Sec. 1. The purpose of this chapter is:

(1) to enable the trier of fact in a personal injury or wrongful death action to determine the actual amount of the prevailing party's pecuniary loss; and

(2) to provide that a prevailing party not recover more than once from all applicable sources for each item of loss sustained.

As added by P.L.1-1998, SEC.40.

IC 34-44-1-2

Personal injury or wrongful death actions; admissibility of evidence

Sec. 2. In a personal injury or wrongful death action, the court shall allow the admission into evidence of:

(1) proof of collateral source payments other than:

(A) payments of life insurance or other death benefits;

(B) insurance benefits that the plaintiff or members of the plaintiff's family have paid for directly; or

(C) payments made by:

(i) the state or the United States; or

(ii) any agency, instrumentality, or subdivision of the state or the United States;

that have been made before trial to a plaintiff as compensation for the loss or injury for which the action is brought;

(2) proof of the amount of money that the plaintiff is required to repay, including worker's compensation benefits, as a result of the collateral benefits received; and

(3) proof of the cost to the plaintiff or to members of the plaintiff's family of collateral benefits received by the plaintiff or the plaintiff's family.

As added by P.L.1-1998, SEC.40. Amended by P.L.1-2010, SEC.139.

IC 34-44-1-3

Proof of payments; consideration for amount and review of award

Sec. 3. Proof of payments under section 2 of this chapter shall be

considered by the trier of fact in arriving at the amount of any award and shall be considered by the court in reviewing awards that are alleged to be excessive.

As added by P.L.1-1998, SEC.40.

IC 34-44-2

Chapter 2. Advance Payments in Personal Injury and Property Damage Cases

IC 34-44-2-1

Applicability of chapter

Sec. 1. (a) This chapter applies to an action brought to recover damages for:

(1) personal injuries;

(2) wrongful death; or

(3) property damage.

(b) This chapter does not apply to actions in which there is more than one (1) defendant.

As added by P.L.1-1998, SEC.40.

IC 34-44-2-2

No admission of liability

Sec. 2. (a) An advance payment shall not be construed as an admission of liability by any person.

(b) Except as provided in section 3 of this chapter, evidence of an advance payment is not admissible during the trial for any purpose by either plaintiff or defendant.

As added by P.L.1-1998, SEC.40.

IC 34-44-2-3

Reduction of plaintiff's award by amount of advance payment

Sec. 3. If it is determined that the plaintiff is entitled to recover in an action described in section 1 of this chapter:

(1) the defendant may introduce evidence of any advance payment made; and

(2) the court shall reduce the award to the plaintiff to the extent that the award includes an amount paid by the advance payment.

As added by P.L.1-1998, SEC.40.

IC 34-44-2-4

Insurance companies

Sec. 4. (a) An advance payment made by an insurance company on behalf of an insured does not increase the limits of liability of the insurance company under any existing policy of insurance.

(b) The amount of an advance payment made in respect to any claim shall be credited against any obligation of the insurance company in respect to the claim.

As added by P.L.1-1998, SEC.40.

IC 34-44.5

ARTICLE 44.5. EVIDENCE: UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT

IC 34-44.5-1

Chapter 1. Uniform Interstate Depositions and Discovery Act

IC 34-44.5-1-1

"Foreign jurisdiction"

Sec. 1. As used in this chapter, "foreign jurisdiction" means a state other than Indiana.

As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-2

"Foreign subpoena"

Sec. 2. As used in this chapter, "foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-3

"Person"

Sec. 3. As used in this chapter, "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-4

"State"

Sec. 4. As used in this chapter, "state" means any of the following:

(1) A state of the United States.
(2) The District of Columbia.
(3) Puerto Rico.
(4) The United States Virgin Islands.
(5) A federally recognized Indian tribe.
(6) Any territory or insular possession subject to the jurisdiction of the United States.

As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-5

"Subpoena"

Sec. 5. As used in this chapter, "subpoena" means a document, however denominated, issued under authority of a court of record that requires a person to:

(1) attend and give testimony at a deposition;
(2) produce and allow inspection and copying of designated:
    (A) books;
    (B) documents;

(C) records;
(D) electronically stored information; or
(E) other tangible things;
in the possession, custody, or control of the person; or
(3) allow inspection of premises under the control of the person.
As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-6
Subpoena; request; issuance; contents
Sec. 6. (a) To request issuance of a subpoena under this chapter that is based on a foreign subpoena, a party must submit the foreign subpoena to the clerk of the court in the county in which discovery is sought to be conducted in Indiana. A request for the issuance of a subpoena under this chapter does not constitute an appearance in a court of this state.
(b) When a party submits a foreign subpoena to the clerk of a court in Indiana, the clerk, in accordance with the court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.
(c) A subpoena issued under subsection (b) must:
(1) incorporate the terms used in the foreign subpoena; and
(2) contain or be accompanied by the names, addresses, and telephone numbers of the following:
(A) All counsel of record in the proceeding to which the subpoena relates.
(B) Any party not represented by counsel.
As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-7
Service of subpoena
Sec. 7. A subpoena issued by a clerk of the court under section 6 of this chapter must be served in compliance with all applicable laws concerning service of a subpoena in Indiana.
As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-8
Application of Indiana laws
Sec. 8. All applicable Indiana law concerning compliance with subpoenas to:
(1) attend and give testimony;
(2) produce designated books, documents, records, electronically stored information, or other tangible things; or
(3) allow inspection of premises;
applies to subpoenas issued under section 6 of this chapter.
As added by P.L.57-2010, SEC.1. Amended by P.L.42-2011, SEC.72.

IC 34-44.5-1-9
Applications for protective orders and subpoenas; submission to court
Sec. 9. An application to a court for a protective order or to

enforce, quash, or modify a subpoena issued by a clerk of court under section 6 of this chapter must:

(1) comply with all applicable Indiana laws; and

(2) be submitted to a court in the county in which discovery is to be conducted.

As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-10

Consideration for uniformity of the law

Sec. 10. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Interstate Depositions and Discovery Act.

As added by P.L.57-2010, SEC.1.

IC 34-44.5-1-11

Application

Sec. 11. This chapter applies to requests for discovery in cases:

(1) pending on July 1, 2010; or

(2) filed after June 30, 2010.

As added by P.L.57-2010, SEC.1.

IC 34-45

ARTICLE 45. WITNESSES

IC 34-45-1

Chapter 1. General Requirements

IC 34-45-1-1

Attachment; affidavit; knowledge of service

Sec. 1. An attachment shall not issue against a witness who has been served a copy only of the summons until the party applying for the attachment or the party's attorney makes an affidavit in the court from which the party is seeking the attachment, stating that the party or the party's attorney has reasonable cause to believe, and does believe, that the witness against whom the summons issued has knowledge of the service of the summons by copy in time to have obeyed its command.

As added by P.L.1-1998, SEC.41.

IC 34-45-1-2

Oath

Sec. 2. Before testifying, every witness shall be sworn to testify the truth, the whole truth, and nothing but the truth. The mode of administering an oath must be the most consistent with and binding upon the conscience of the person to whom the oath may be administered.

As added by P.L.1-1998, SEC.41.

IC 34-45-1-3

Interpreters; entitlement

Sec. 3. Every person who cannot speak or understand the English language or who because of hearing, speaking, or other impairment has difficulty in communicating with other persons, and who is a party to or a witness in a civil proceeding is entitled to an interpreter to assist the person throughout the proceeding.

As added by P.L.1-1998, SEC.41.

IC 34-45-1-4

Interpreters; appointment and qualifications

Sec. 4. (a) An interpreter assisting a person under section 3 of this chapter may be:

(1) retained by the party or witness; or

(2) appointed by the court before which the action is pending.

(b) If an interpreter is appointed by the court, the fee for the services of the interpreter shall be:

(1) set by the court; and

(2) paid in a manner as the court may determine.

(c) The court may inquire into the qualifications and integrity of any interpreter, and may disqualify any person from serving as an interpreter.

As added by P.L.1-1998, SEC.41.

IC 34-45-1-5
Interpreters; oath

Sec. 5. Every interpreter for another person who is either a party or a witness in a court proceeding described in this chapter shall take the following oath:

Do you solemnly swear (or affirm) that you will justly, truly, and impartially interpret to _____ the oath about to be administered to him (her), and the questions which may be asked him (her), and the answers that he (she) shall give to such questions, relative to the cause now under consideration before this court so help you God (or under the pains and penalties of perjury)?

As added by P.L.1-1998, SEC.41.

IC 34-45-2

Chapter 2. Competent and Incompetent Witnesses

IC 34-45-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.252-2001 apply to the estate of an individual who dies after June 30, 2001.

As added by P.L.220-2011, SEC.574.

IC 34-45-2-1

Competent witnesses generally

Sec. 1. All persons, whether parties to or interested in the suit, are competent witnesses in a civil action or proceeding, except as otherwise provided.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-2

Insane persons considered incompetent witnesses

Sec. 2. Except as otherwise provided by statute, persons who are insane at the time they are offered as witnesses are not competent witnesses, whether or not they have been adjudged insane.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-3

Mentally incompetent persons and guardians

Sec. 3. (a) This section applies in all suits by or against any person adjudged to be a mentally incompetent person or against the mentally incompetent person's guardian:

(1) founded upon any contract with, or demand against the protected person;

(2) to obtain possession of the real or personal property of the protected person; or

(3) to affect the protected person's property in any manner.

(b) Except as provided in subsection (c), neither party to the transaction is a competent witness to any matter that occurred before the appointment of the incompetent person's guardian.

(c) If the party to the transaction who is under guardianship is adjudged by the court to be competent to testify, the other party to the suit shall not be excluded.

(d) This section does not apply to a contract made or transaction had before February 27, 1903.

(e) Either party to a suit under this section has the right to call and examine an adverse party as a witness. The court may require a party to a suit or other person to testify. An abuse of discretion under this subsection is reviewable on appeal.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-4

Executors or administrators; depositions; evidence given by

decedent

Sec. 4. (a) This section applies to suits or proceedings:

(1) in which an executor or administrator is a party;

(2) involving matters that occurred during the lifetime of the decedent; and

(3) where a judgment or allowance may be made or rendered for or against the estate represented by the executor or administrator.

(b) This section does not apply in a proceeding to contest the validity of a will or a proceeding to contest the validity of a trust.

(c) This section does not apply to a custodian or other qualified witness to the extent the witness seeks to introduce evidence that is otherwise admissible under Indiana Rule of Evidence 803(6).

(d) Except as provided in subsection (e), a person:

(1) who is a necessary party to the issue or record; and

(2) whose interest is adverse to the estate;

is not a competent witness as to matters against the estate.

(e) In cases where:

(1) a deposition of the decedent was taken; or

(2) the decedent has previously testified as to the matter;

and the decedent's testimony or deposition can be used as evidence for the executor or administrator, the adverse party is a competent witness as to any matters embraced in the deposition or testimony.

As added by P.L.1-1998, SEC.41. Amended by P.L.252-2001, SEC.37.

IC 34-45-2-5

Contract actions involving heirs or devisees; competent witnesses

Sec. 5. (a) This section applies to suits by or against heirs or devisees founded on a contract with or demand against an ancestor:

(1) to obtain title to or possession of property, real or personal, of, or in right of, the ancestor; or

(2) to affect property described in subdivision (1) in any manner.

(b) This section does not apply in a proceeding to contest the validity of a:

(1) will; or

(2) trust.

(c) Except as provided in subsection (d), neither party to a suit described in subsection (a) is a competent witness as to any matter that occurred before the death of the ancestor.

(d) A custodian or other qualified witness in a suit described in subsection (a) may present evidence that is admissible under Indiana Evidence Rule 803(6).

As added by P.L.1-1998, SEC.41. Amended by P.L.33-2004, SEC.1.

IC 34-45-2-6

Agent of decedent; transactions

Sec. 6. (a) This section applies:

(1) when an agent of a decedent testifies on behalf of an

executor, administrator, or heirs concerning any transaction the agent had:

(A) with a party to the suit, or the party's assignor or grantor; and

(B) in the absence of the decedent; or

(2) if any witness testifies on behalf of the executor, administrator, or heirs, to any conversation or admission of a party to the suit, or the party's assignor or grantor, made in the absence of the deceased.

(b) The party against whom the evidence is adduced, or the party's assignor or grantor, is competent to testify concerning the matters described in subsection (a).

As added by P.L.1-1998, SEC.41.

IC 34-45-2-7

Agent of decedent; contracts

Sec. 7. (a) Except as provided in subsection (b), a person who acted as an agent in the making or continuing of a contract with any person who has died, is not a competent witness, in any suit upon or involving the contract, as to matters occurring before the death of the decedent, on behalf of the principal to the contract, against the legal representatives or heirs of the decedent.

(b) If the person is called by the decedent's heirs or legal representatives, the person is a competent witness, as to matters about which the person is interrogated by the heirs or representatives.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-8

Unlawfully taking or damaging personal property

Sec. 8. If the defendant in a case:

(1) is charged with unlawfully taking or detaining personal property or having done damage to personal property; and

(2) defends the charge in the defendant's pleading by asserting that the defendant is the executor, administrator, guardian, or heir, and, as such, has taken or detained the property or has done the acts charged;

a person is not competent to testify who would not be competent if the defendant were the complainant. However, when the person complaining cannot testify, the defendant shall also be excluded.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-9

Husband or wife

Sec. 9. When the husband or wife is a party, and not a competent witness in his or her own behalf, the other shall also be excluded.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-10

Assignor or grantor; adverse party

Sec. 10. (a) In all cases in which:

(1) executors, administrators, heirs, or devisees are parties; and

(2) one (1) of the parties to the suit is incompetent under this chapter to testify against the parties described in subdivision (1);

the assignor or grantor of a party making the assignment or grant voluntarily shall be considered a party adverse to the executor or administrator, heir, or devisee.

(b) However, in all cases referred to in sections 4 through 9 of this chapter, any party to the suit has the right to call and examine any adverse party as a witness.

(c) The court may require any party to a suit or other person to testify. Any abuse of the court's discretion under this subsection is reviewable on appeal.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-11

Executors or administrators; contracts assigned

Sec. 11. In all actions by an executor or administrator, on contracts assigned to the decedent, when the assignor is alive and a competent witness in the cause:

(1) the executor or administrator; and

(2) the defendant or defendants;

are competent witnesses as to all matters that occurred between the assignors and the defendant or defendants before notice of the assignment.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-12

Effect of lack of religious belief; moral character

Sec. 12. Lack of belief in a supreme being or in the Christian religion does not render a witness incompetent. However, lack of religious belief may be shown upon the trial. In all questions affecting the credibility of a witness, the general moral character of the witness may be given in evidence.

As added by P.L.1-1998, SEC.41.

IC 34-45-2-13

Facts shown to affect credibility of witness

Sec. 13. Any fact that might have been shown to render a witness incompetent may be shown to affect the credibility of the witness.

As added by P.L.1-1998, SEC.41.

IC 34-45-3

Chapter 3. Expert Witnesses

IC 34-45-3-1

Applicability of chapter

Sec. 1. This chapter applies to a witness who is an expert in any art, science, trade, profession or mystery.

As added by P.L.1-1998, SEC.41.

IC 34-45-3-2

Witness compelled to appear and testify

Sec. 2. A witness described in section 1 of this chapter may be compelled to appear and testify in:

(1) any court in the county of the residence of the witness; or

(2) any court in an adjoining county;

to an opinion as an expert in relation to any matter whenever the opinion is material evidence relevant to an issue on trial before a court or jury.

As added by P.L.1-1998, SEC.41.

IC 34-45-3-3

Per diem compensation and mileage

Sec. 3. A witness compelled to appear and testify under section 2 of this chapter may be compelled to do so without payment or tender of compensation other than the per diem and mileage allowed by law to other witnesses.

As added by P.L.1-1998, SEC.41.

IC 34-45-3-4

Expert witnesses subject to same rules as nonexpert witnesses

Sec. 4. The same rules and regulations apply to witnesses described in section 1 of this chapter as apply to a witness who can be compelled to appear and testify to knowledge the witness has of facts relevant to the same issue.

As added by P.L.1-1998, SEC.41.

IC 34-45-4

Chapter 4. Impeachment of Witnesses

IC 34-45-4-1

Impeachment by evidence of bad character

Sec. 1. (a) Except as provided in subsections (b) and (c), the party producing a witness shall not be allowed to impeach the credibility of the witness by evidence of bad character.

(b) The party producing a witness may impeach the credibility of the witness by evidence of bad character if:

(1) it was indispensable that the party produce the witness; or

(2) it is a case of manifest surprise.

(c) In all cases, the party producing the witness may contradict the witness:

(1) by other evidence; and

(2) by showing that the witness has made statements different from the present testimony of the witness.

As added by P.L.1-1998, SEC.41.

IC 34-45-4-2

Cross-examination; foundation

Sec. 2. (a) This section applies when a witness, whether a party to the record or not:

(1) is cross-examined to lay the foundation for impeachment of the witness by proof of an act or statement inconsistent with the testimony of the witness;

(2) is asked if the witness did not do the act or make the statement; and

(3) answers that the witness does not recollect having done the act or made the statement.

(b) The party laying the foundation for impeachment has the right to introduce evidence of the act or statement in the same manner as if the witness had answered that the witness had not done the act or made the statement.

As added by P.L.1-1998, SEC.41.

IC 34-46

ARTICLE 46. PRIVILEGED COMMUNICATIONS

IC 34-46-1

Chapter 1. Scope of Article

IC 34-46-1-1

Enumeration of privileges in article not exhaustive

Sec. 1. This article is not intended to be an exhaustive compilation of all privileged communications recognized in the Indiana Code. In addition to the privileged communications that are recognized in this article, other privileged communications may be recognized in other provisions of the Indiana Code.

As added by P.L.1-1998, SEC.42.

IC 34-46-1-2

Other locations of privileges in Indiana Code

Sec. 2. As an aid to the reader, an effort has been made to list other locations in the Indiana Code where privileged communications are recognized. This list provided in IC 34-46-2 does not take the place of traditional legal research.

As added by P.L.1-1998, SEC.42.

IC 34-46-2

Chapter 2. Statutes Outside IC 34 That Confer Privilege

IC 34-46-2-1

Listing of other privileges; effect of listing

Sec. 1. (a) This chapter contains a list of references to other privileged communication provisions outside IC 34.

(b) Listing in this chapter does not equate to the creation of a privilege, and failure to be listed in this chapter does not negate a privileged communication recognized elsewhere in the Indiana Code.

(c) Many of the statutes granting privilege also contain exceptions to the privilege granted and therefore each statute must be consulted directly to determine the extent of the privilege provided.

As added by P.L.1-1998, SEC.42.

IC 34-46-2-2

Mediators

Sec. 2. IC 4-21.5-3.5-18 (Concerning confidential statement to mediator in administrative proceeding).

As added by P.L.1-1998, SEC.42.

IC 34-46-2-3

Mediation

Sec. 3. IC 4-21.5-3.5-27 (Concerning matters discussed during mediation).

As added by P.L.1-1998, SEC.42.

IC 34-46-2-4

Chemical tests

Sec. 4. IC 9-30-6-6 (Concerning chemical tests on blood, urine, or other bodily substance).

As added by P.L.1-1998, SEC.42.

IC 34-46-2-5

Adult protective services

Sec. 5. IC 12-10-3-11 (Concerning reports to adult protective services).

As added by P.L.1-1998, SEC.42.

IC 34-46-2-6

Environmental audit reports

Sec. 6. IC 13-28-4-1 (Concerning environmental audit reports).

As added by P.L.1-1998, SEC.42.

IC 34-46-2-7

Coal exploration trade secrets

Sec. 7. IC 14-34-9-4 (Concerning coal exploration trade secrets, and commercial or financial information).

As added by P.L.1-1998, SEC.42.

IC 34-46-2-8
Cause of death
Sec. 8. IC 16-37-4-4 (Concerning medical data regarding cause of death).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-9
Reports of communicable diseases
Sec. 9. IC 16-41-2-4 (Concerning reports of communicable or dangerous diseases).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-10
Warnings of communicable diseases
Sec. 10. IC 16-41-7-3 (Concerning warning by physician of dangerous communicable disease).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-11
Expert review panels for health care workers
Sec. 11. IC 16-41-11-10 (Concerning expert review panels who consult and advise health care workers who have communicable diseases).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-11.4
Local child fatality review teams
Sec. 11.4. IC 16-49-3-13 (Concerning discussions, determinations, conclusions, and recommendations of a local child fatality review team).
As added by P.L.119-2013, SEC.21.

IC 34-46-2-11.5
Statewide child fatality review committee
Sec. 11.5. IC 16-49-4-13 (Concerning discussions, determinations, conclusions, and recommendations of the statewide child fatality review committee).
As added by P.L.119-2013, SEC.22.

IC 34-46-2-12
School psychologists
Sec. 12. IC 20-28-12-5 (Concerning information school psychologist acquires in professional capacity).
As added by P.L.1-1998, SEC.42. Amended by P.L.1-2005, SEC.224.

IC 34-46-2-13
School counselors
Sec. 13. IC 20-28-10-17 (Concerning communications made to a school counselor).
As added by P.L.1-1998, SEC.42. Amended by P.L.1-2005, SEC.225.

IC 34-46-2-14
Student alcohol and drug violations
Sec. 14. IC 20-33-9-5 and IC 20-33-9-7 (Concerning reports of elementary and secondary school students suspected of alcohol and controlled substance violations).
As added by P.L.1-1998, SEC.42. Amended by P.L.1-2005, SEC.226.

IC 34-46-2-15
Department of workforce development information
Sec. 15. IC 22-4-19-6 (Concerning department of workforce development information).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-16
Professional corporation or employees
Sec. 16. IC 23-1.5-2-7 (Concerning communications involving a professional corporation or its employees).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-17
Quality review committee for accounting firm
Sec. 17. IC 25-2.1-5-8 (Concerning proceedings, records, and work papers of a quality review committee that conducts a quality review of an accounting firm before July 1, 2012, or a peer review committee that conducts a peer review of an accounting firm after June 30, 2012).
As added by P.L.1-1998, SEC.42. Amended by P.L.197-2011, SEC.126.

IC 34-46-2-18
Accountants
Sec. 18. IC 25-2.1-14-1 (Concerning information relative to and in connection with any professional service as a certified public accountant, public accountant, or accounting practitioner).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-19
Impaired nurses
Sec. 19. IC 25-23-1-31 (Concerning information pertaining to an impaired registered nurse or licensed practical nurse).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-20
Social workers or counselors
Sec. 20. IC 25-23.6-6-1 (Concerning matters communicated to a social worker or other counselor).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-21
Impaired pharmacists

Sec. 21. IC 25-26-13-4.5 (Concerning information pertaining to an impaired pharmacist).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-22
Prescription records
Sec. 22. IC 25-26-13-15 (Concerning pharmacist's knowledge of prescriptions, drug orders, records, and patient information).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-23
Psychologists
Sec. 23. IC 25-33-1-17 (Concerning information communicated to a psychologist in the psychologist's professional capacity).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-23.5
Employee assistance professional
Sec. 23.5. IC 25-40-2-2 (Concerning matters communicated by a client to an employee assistance professional).
As added by P.L.185-1999, SEC.2.

IC 34-46-2-24
Repealed
(Repealed by P.L.132-2001, SEC.26.)

IC 34-46-2-25
Records of insurers
Sec. 25. IC 27-1-23-6 (Concerning records of certain insurers obtained through examination or investigation, registration statement of members of an insurance holding company, and other information filed with the insurance commissioner).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-26
Child abuse and neglect proceedings
Sec. 26. IC 31-32-11-1 (Concerning the abrogation of privileged communications in child abuse and neglect proceedings).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-27
Repealed
(Repealed by P.L.41-2005, SEC.2.)

IC 34-46-2-28
Uniform Interstate Family Support Act
Sec. 28. IC 31-18-3-16(h) (Concerning disclosure of spousal communications in proceedings under Uniform Interstate Family Support Act).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-28.5
Communications made to a mental health evaluator

Sec. 28.5. IC 31-32-2-2.5 and IC 31-37-8-4.5 (Concerning information communicated to an evaluator providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding.)
As added by P.L.120-2007, SEC.5.

IC 34-46-2-29
Commission on judicial qualifications

Sec. 29. IC 33-38-13-10 and IC 33-38-13-11 (Concerning papers filed with and testimony before the commission on judicial qualifications).
As added by P.L.1-1998, SEC.42. Amended by P.L.98-2004, SEC.135.

IC 34-46-2-30
Commission on judicial qualifications

Sec. 30. IC 33-38-14-12 and IC 33-38-14-13 (Concerning papers filed with and testimony before the commission on judicial qualifications).
As added by P.L.1-1998, SEC.42. Amended by P.L.98-2004, SEC.136.

IC 34-46-2-30.4
Commission on judicial qualifications for St. Joseph Superior Court

Sec. 30.4. IC 33-33-71-49 (Concerning papers filed and testimony before the commission on judicial qualifications for St. Joseph Superior Court).
As added by P.L.1-1998, SEC.42. Amended by P.L.98-2004, SEC.137.

IC 34-46-2-31
Victim and victim's counselor

Sec. 31. IC 35-37-6-9 (Concerning communications between a victim and a victim's counselor, and the identity of facility providing temporary emergency shelter to a victim).
As added by P.L.1-1998, SEC.42.

IC 34-46-2-32
Obstruction of justice

Sec. 32. IC 35-44.1-2-2 (Concerning inapplicability of obstruction of justice provisions for persons who qualify for certain privileges).
As added by P.L.1-1998, SEC.42. Amended by P.L.126-2012, SEC.44.

IC 34-46-3

Chapter 3. Privileges of Attorneys, Physicians, Clergymen, and Spouses

IC 34-46-3-1

Persons not required to testify

Sec. 1. Except as otherwise provided by statute, the following persons shall not be required to testify regarding the following communications:

(1) Attorneys, as to confidential communications made to them in the course of their professional business, and as to advice given in such cases.

(2) Physicians, as to matters communicated to them by patients, in the course of their professional business, or advice given in such cases.

(3) Clergymen, as to the following confessions, admissions, or confidential communications:

(A) Confessions or admissions made to a clergyman in the course of discipline enjoined by the clergyman's church.

(B) A confidential communication made to a clergyman in the clergyman's professional character as a spiritual adviser or counselor.

(4) Husband and wife, as to communications made to each other.

As added by P.L.1-1998, SEC.42.

IC 34-46-3-2

Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 34-46-4

Chapter 4. Journalist's Privilege Against Disclosure of Information Source

IC 34-46-4-1

Applicability of chapter

Sec. 1. This chapter applies to the following persons:

(1) any person connected with, or any person who has been connected with or employed by:

(A) a newspaper or other periodical issued at regular intervals and having a general circulation; or

(B) a recognized press association or wire service;

as a bona fide owner, editorial or reportorial employee, who receives or has received income from legitimate gathering, writing, editing and interpretation of news; and

(2) any person connected with a licensed radio or television station as owner, official, or as an editorial or reportorial employee who receives or has received income from legitimate gathering, writing, editing, interpreting, announcing or broadcasting of news.

As added by P.L.1-1998, SEC.42.

IC 34-46-4-2

Privilege against disclosure of source of information

Sec. 2. A person described in section 1 of this chapter shall not be compelled to disclose in any legal proceedings or elsewhere the source of any information procured or obtained in the course of the person's employment or representation of a newspaper, periodical, press association, radio station, television station, or wire service, whether:

(1) published or not published:

(A) in the newspaper or periodical; or

(B) by the press association or wire service; or

(2) broadcast or not broadcast by the radio station or television station;

by which the person is employed.

As added by P.L.1-1998, SEC.42.

IC 34-46-5

Chapter 5. Privileged Communications of Mental Health Service Providers

IC 34-46-5-1

Privilege governed by IC 34-30-16

Sec. 1. Privileged communications of mental health service providers are governed by IC 34-30-16.

As added by P.L.1-1998, SEC.42.

IC 34-46-6

Chapter 6. Privileged Communications of Health Care Provider Peer Review Committees

IC 34-46-6-1

Privilege governed by IC 34-30-15

Sec. 1. Privileged communications of health care provider peer review committees are governed by IC 34-30-15.

As added by P.L.1-1998, SEC.42.

IC 34-47

ARTICLE 47. CONTEMPT OF COURT

IC 34-47-1

Chapter 1. Applicability

IC 34-47-1-1

Applicability of article

Sec. 1. (a) Except as provided in subsection (b), (c), and IC 34-47-3-8, IC 34-47-2 and IC 34-47-3 apply to all proceedings for contempt in all courts of record in Indiana except the supreme court.

(b) Nothing in IC 34-47-2 and IC 34-47-3 shall be construed or held to embrace, limit, or control any proceeding against any officer or party for contempt for the enforcement of civil rights and remedies.

(c) IC 34-47-2 and IC 34-47-3 do not apply to any case where any person has been personally served with notice to appear and testify as a witness in any court in Indiana in any civil or criminal case. A court may proceed against a person who fails to appear as a witness for contempt of court:

(1) by attachment; and

(2) as though IC 34-47-2 and IC 34-47-3 were not in force.

The proceeding against an absent witness by attachment shall not cause a continuance of the case in which the witness was subpoenaed to testify.

As added by P.L.1-1998, SEC.43.

IC 34-47-2

Chapter 2. Direct Contempt of Court

IC 34-47-2-1

Disturbing court

Sec. 1. (a) Every person who disturbs the business and proceedings of a court:

(1) by creating any noise or confusion;

(2) in a court of record; and

(3) while the court is open for and engaged in the transaction of business;

is considered guilty of a direct contempt of court.

(b) This section applies to a disturbance caused:

(1) by the commission of a felony, a misdemeanor, or an other unlawful act;

(2) by talking, moving about, or by signs, or gestures; or

(3) in any other manner.

As added by P.L.1-1998, SEC.43.

IC 34-47-2-2

Witnesses

Sec. 2. Every person who:

(1) is sworn to testify as a witness, in any trial or proceeding, in any court of record, and refuses to testify in the trial or proceeding;

(2) is required by any court to be sworn in any trial or proceeding, and refuses to take an oath or affirmation; or

(3) while upon the witness stand, is purposely so demeaning as to retard or disturb the proceedings of the court;

is considered guilty of a direct contempt of court.

As added by P.L.1-1998, SEC.43.

IC 34-47-2-3

Assaulting, influencing, or intimidating witnesses

Sec. 3. A person:

(1) who:

(A) offers, gives, or promises any reward to;

(B) threatens to assault or injure;

(C) assaults or beats; or

(D) in any other manner influences, intimidates, or attempts to influence;

any witness to give or abstain from giving testimony in any case, or to abstain from attending as a witness in any case;

(2) who does any act to put a witness in fear, on account of any testimony that the witness may have given; or

(3) who, on account of any testimony, injures or threatens to injure a witness;

is guilty of a direct contempt of the court in which the witness may be called to testify, if the acts are done in the presence of the court.

As added by P.L.1-1998, SEC.43.

IC 34-47-2-4
Trial procedure

Sec. 4. (a) Except as provided in subsection (b), when a person is arraigned for a direct contempt in any court of record in Indiana, no affidavit, charge in writing, or complaint is required to be filed against the person.

(b) The court shall distinctly state the act, words, signs, gestures, or other conduct of the defendant that is alleged to constitute the contempt. The statement shall be reduced to writing either by:

(1) the judge making the statement; or

(2) by a reporter authorized by the judge to take down the statement when the statement is made.

(c) A statement described in subsection (b), shall be substantially set forth in the order of the court on the contempt, together with any statement made in explanation, extenuation, or denial of the contempt, which the defendant may make in response to the judge's statement.

(d) The court shall pronounce judgment upon the statements set forth under subsections (b) and (c), either:

(1) acquitting and discharging the defendant; or

(2) inflicting such punishment upon the defendant as may be consistent with this chapter.

As added by P.L.1-1998, SEC.43.

IC 34-47-2-5
Appeal

Sec. 5. (a) If the defendant is found guilty of direct contempt under section 4 of this chapter (or IC 34-4-7-7 before its repeal), the defendant has the right to appeal the judgment of the court.

(b) In all cases where the defendant may be adjudged to pay a fine of at least fifty dollars ($50), or to be imprisoned for contempt, the defendant has the right, either before or after the payment of the fine, or undergoing the imprisonment, to move the court to reconsider its opinion and judgment of the case upon:

(1) the facts before the court; or

(2) the affidavits of any or all persons who were actually present and heard or saw the conduct that was alleged to have constituted the contempt.

(c) If the defendant files a motion under subsection (b) and fails to present the affidavit of every person present in support of the motion, the court may direct the affidavits of all persons:

(1) who were present; and

(2) whose affidavits the defendant may have failed to procure; to be procured.

(d) The defendant may move the court for:

(1) a new trial; and

(2) recision of the court's judgment against the defendant;

upon all affidavits and the original statements of the court, and the defendant, concerning the contempt.

(e) If the court overrules a motion filed by the defendant under

subsection (d), the defendant may appeal as in other criminal actions.

(f) In all cases described in this section, an appeal may be made to the court of appeals.

As added by P.L.1-1998, SEC.43.

IC 34-47-3

Chapter 3. Indirect Contempt of Court

IC 34-47-3-1

Disobedience of process

Sec. 1. A person who is guilty of any willful disobedience of any process, or any order lawfully issued:

(1) by any court of record, or by the proper officer of the court;

(2) under the authority of law, or the direction of the court; and

(3) after the process or order has been served upon the person;

is guilty of an indirect contempt of the court that issued the process or order.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-2

Resisting or delaying process

Sec. 2. A person who willfully resists, hinders, or delays the execution of any lawful process, or order of any court of record is guilty of an indirect contempt of court.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-3

Assaulting, influencing, or intimidating witnesses

Sec. 3. A person:

(1) who:

(A) offers, gives, or promises any reward to;

(B) threatens to assault or injure;

(C) assaults or beats; or

(D) in any other manner influences, intimidates, or attempts to influence;

any witness to give or abstain from giving testimony in any case, or to abstain from attending as a witness in any case;

(2) who does any act to put a witness in fear, on account of any testimony that the witness may have given; or

(3) who, on account of any testimony, injures or threatens to injure a witness;

is guilty of an indirect contempt of the court in which such witness may be called to testify, if the acts are done elsewhere, out of the presence of the court.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-4

False or inaccurate reporting of case or proceeding

Sec. 4. (a) A person who falsely makes, utters, or publishes any false or grossly inaccurate report of any case, trial, or proceeding, or part of any case, trial, or proceeding is considered guilty of an indirect contempt of the court in which the case, trial, or proceeding was instituted, held, or determined, if made at any time:

(1) after the proceeding commenced;

(2) while the proceeding is pending;

(3) while the court has jurisdiction; and
(4) before the proceeding is fully determined and ended.
(b) If a report described in subsection (a) is made:
(1) pending the case, trial, or proceeding; and
(2) concerning any ruling or order of the court;
the person is considered guilty of an indirect contempt of the court making the ruling or order.
As added by P.L.1-1998, SEC.43.

IC 34-47-3-5
Service of rule upon defendant; procedure
Sec. 5. (a) In all cases of indirect contempts, the person charged with indirect contempt is entitled:
(1) before answering the charge; or
(2) being punished for the contempt;
to be served with a rule of the court against which the contempt was alleged to have been committed.
(b) The rule to show cause must:
(1) clearly and distinctly set forth the facts that are alleged to constitute the contempt;
(2) specify the time and place of the facts with reasonable certainty, as to inform the defendant of the nature and circumstances of the charge against the defendant; and
(3) specify a time and place at which the defendant is required to show cause, in the court, why the defendant should not be attached and punished for such contempt.
(c) The court shall, on proper showing, extend the time provided under subsection (b)(3) to give the defendant a reasonable and just opportunity to be purged of the contempt.
(d) A rule provided for under subsection (b) may not issue until the facts alleged to constitute the contempt have been:
(1) brought to the knowledge of the court by an information; and
(2) duly verified by the oath of affirmation of some officers of the court or other responsible person.
As added by P.L.1-1998, SEC.43.

IC 34-47-3-6
Proceedings and appeal
Sec. 6. (a) If the defendant:
(1) fails to appear in court at the time and place specified in the rule provided for in section 5 of this chapter, to answer the rule; or
(2) appears in court, but fails or refuses to answer concerning the alleged contempt;
the court may proceed at once, and without any further delay, to attach and punish the defendant for contempt.
(b) If the defendant answers to the facts set forth in the rule by:
(1) showing that, even if the facts set forth are all true, they do not constitute a contempt of the court; or

(2) denying, or explaining, or confessing and avoiding the facts, so as to show that no contempt was intended;

the court shall acquit and discharge the defendant.

(c) If the defendant's answer to the rule does not sufficiently deny, explain, or avoid the facts set forth in the rule, so as to show that no contempt has been committed, the court may proceed to attach and punish the defendant for the contempt, by:

(1) fine;

(2) imprisonment; or

(3) both fine and imprisonment.

(d) A defendant who appeared to respond to the rule may appeal to the court of appeals in the same manner as in cases of direct contempt.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-7

Special judge; selection, powers, and duties

Sec. 7. (a) Except as provided in subsection (b), this section applies to all cases of indirect contempt of courts of this state, other than the supreme court or the court of appeals.

(b) This section does not apply to indirect contempts growing out of willfully resisting, hindering, delaying, or disobeying any lawful process or order of court.

(c) The court against which the alleged contempt was committed shall, at the time the rule to show cause is issued, nominate three (3) competent and disinterested persons, each of whom shall be an available judge or member of the Indiana bar, to be submitted to the parties in the action, from which the state, by the prosecuting attorney, and the defendant shall immediately strike off one (1) name each.

(d) The court shall appoint the person who remains unchallenged under subsection (c) to preside in the cause as special judge.

(e) If the prosecuting attorney, the defendant, or the defendant's attorney refuse to strike off the names under subsection (c), then the clerk of the court shall strike for them.

(f) If the person appointed under subsection (d) is an attorney and not a regular judge, and if that person consents to serve, the person shall be qualified as other judges. The person's appointment and oath shall be filed with the clerk and entered on the order book of the court. The appointed person may hear and determine the cause until the cause is disposed of.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-8

Contempt of supreme or appellate courts; special commissioner; selection, powers, and duties

Sec. 8. (a) Except as provided in subsection (b), this section applies to all cases of indirect contempt of the supreme court or the court of appeals.

(b) This section does not apply to indirect contempt growing out

of willfully resisting, hindering, delaying, or disobeying any lawful process or order of court.

(c) The court against which the alleged contempt has been committed shall, at the time the rule to show cause is issued, nominate three (3) competent and disinterested persons, each of whom shall be an available judge or member of the Indiana bar, to be submitted to the parties in the action, from which the state, by the attorney general, and the defendant shall immediately strike off one (1) name each.

(d) The court shall appoint the person who remains unchallenged under subsection (c) a special commissioner of the court, who shall:

(1) hear the evidence in the cause; and

(2) report in writing to the court:

(A) findings as to the guilt or innocence of the cited person; and

(B) recommendations for punishment of the cited person, if the person is found guilty of contempt as charged.

(e) A report prepared under subsection (d) shall be filed with the clerk and entered on the minutes of the court.

(f) The appointed special commissioner shall qualify by accepting the appointment and taking the same oath as a regularly qualified judge, if the special commissioner is not a regularly qualified judge. The appointment and oath shall be filed with the clerk and entered on the minutes of the court.

(g) The special commissioner appointed under subsection (d):

(1) has full authority to examine the parties in the cause, upon oath, concerning all matters contained in the citation for contempt;

(2) may require the production of all books, writings, records, and other documents applicable;

(3) may examine under oath all witnesses produced by the parties and compel their attendance at the hearings of the cause; and

(4) may do all other acts and direct all other inquiries and proceedings in the matter necessary and proper to the justice and merits of the cause and the rights of the parties.

As added by P.L.1-1998, SEC.43.

IC 34-47-4

Chapter 4. Contempt Citations and Writs of Attachment

IC 34-47-4-1

Service and return of citation

Sec. 1. (a) This section applies to any proceeding in any court of record and of original jurisdiction authorized or empowered by law to:

(1) punish for contempts of court; or

(2) enforce its orders by contempt proceedings;

whether the contempt proceedings are civil or criminal in nature.

(b) The court may order a citation issued to the sheriff of any county for service upon the person alleged to be guilty of contempt, or in violation of any order of the court to:

(1) appear before the court at the time fixed in the citation; and

(2) show cause why the person should not be punished for contempt of court.

(c) The citation shall be served by the sheriff to whom it is addressed in the same manner as summons is served in a civil proceeding and due return shall be made to the court issuing the citation.

As added by P.L.1-1998, SEC.43.

IC 34-47-4-2

Writ of attachment of the body of the person

Sec. 2. (a) For the purpose of procuring personal jurisdiction over a person who has allegedly violated a court order or who is otherwise in contempt of court, the court may issue a writ of attachment of the body of the person.

(b) A writ of attachment issued under subsection (a) shall:

(1) be directed to a sheriff or assisting sheriff; and

(2) fix an amount of:

(A) bail, if the order that the person has allegedly violated does not concern a child support obligation; or

(B) escrow, if the order that the person has allegedly violated concerns a child support obligation.

(c) A sheriff or assisting sheriff who receives an order under this section shall immediately:

(1) serve the writ; and

(2) take the person into custody.

A sheriff may serve a writ of attachment and take the person into custody in any county.

(d) If an assisting sheriff takes a person into custody, the assisting sheriff shall notify the sheriff. The sheriff, after notification, shall immediately return the person to the county in which the writ was issued and take the person before the court that issued the writ. However, the sheriff may release the person:

(1) on bail as in criminal matters; or

(2) after any person has deposited the amount of escrow in accordance with subsection (e).

(e) The escrow shall be:

(1) deposited with the clerk of the court;

(2) an amount:

(A) fixed by the court; and

(B) not more than any delinquent child support allegedly owed by the person to another; and

(3) subject to a court ordered attachment for satisfaction of delinquent child support and interest under IC 31-16-12-2 and IC 31-14-12-1 (before its repeal).

(f) All escrow money collected under this section (or IC 34-4-9-2.1 before its repeal) by the clerk of the court shall be deposited into a single account. The clerk shall:

(1) keep an accounting of all money transferred to the escrow account;

(2) issue a receipt to any person who transfers money to the clerk under this section; and

(3) transfer money from the escrow account only under an order from the court that issued the writ of attachment under subsection (a).

As added by P.L.1-1998, SEC.43. Amended by P.L.207-2013, SEC.52.

IC 34-47-4-3

Supplemental nature of chapter

Sec. 3. This chapter shall be construed as supplemental to all laws:

(1) concerning contempts of courts and punishments for contempts of court; or

(2) providing for the enforcement of the lawful order of any such court.

As added by P.L.1-1998, SEC.43.

IC 34-48

ARTICLE 48. REPEALED

(Repealed by P.L.2-2002, SEC.128.)

IC 34-49

ARTICLE 49. BONDS

IC 34-49-1

Chapter 1. Fixing of Bond

IC 34-49-1-1

Fixing of bond by judge

Sec. 1. (a) This section applies whenever:

(1) any bond or undertaking is required in connection with any civil action or proceeding brought in any court of Indiana; and

(2) in the absence of any provision of law specifying the amount of the bond or undertaking.

(b) The judge of the court shall fix the penalty in an amount that the judge considers adequate, but not less than one hundred dollars ($100).

(c) This section does not preclude a full and complete reconsideration of the sufficiency of the amount by the judge of the court in which the action or proceeding is pending upon the motion of any aggrieved party.

As added by P.L.1-1998, SEC.45.

IC 34-49-1-2

Deposit of cash, check, or draft instead of bond

Sec. 2. (a) This section applies when any bond is required by law to be filed in any civil, criminal, or probate proceedings, whether in a circuit court, superior court, or a city court.

(b) The officer with whom the bond is required to be filed may accept a deposit of cash or a properly certified check or draft for the full amount of the bond instead of a bond.

(c) This section shall not be construed as mandatory on any court or officer, but as conferring a privilege that may be exercised for the convenience of litigants.

As added by P.L.1-1998, SEC.45.

IC 34-49-1-3

Examination of surety

Sec. 3. Every court and officer authorized to take any bail or surety has authority to examine, on oath, the person offering to become a bail or surety, concerning the person's property, and sufficiency as a bail or surety.

As added by P.L.1-1998, SEC.45.

IC 34-49-1-4

Money instead of bail

Sec. 4. Any person required to give bail may deposit with the clerk the amount of money for which the person is required to give bail, and immediately be discharged from arrest.

As added by P.L.1-1998, SEC.45.

IC 34-49-2

Chapter 2. Defective Bonds

IC 34-49-2-1

Bond not void for want of form or substance, recital, or condition

Sec. 1. An official bond entered into by any officer, or any bond, recognizance, or written undertaking taken by any officer in the discharge of the duties of the officer's office, is not void for want of form or substance, recital, or condition.

As added by P.L.1-1998, SEC.45.

IC 34-49-2-2

Principal or surety not discharged for defects

Sec. 2. The principal or surety will not be discharged because of any defects listed in section 1 of this chapter. The principal and surety shall be bound by the bond, recognizance, or written undertaking, to the full extent contemplated by the law requiring the bond, recognizance, or written undertaking. The sureties shall be bound to the amount specified in the bond or recognizance.

As added by P.L.1-1998, SEC.45.

IC 34-49-2-3

Actions on defective bond

Sec. 3. In all actions on a defective bond, recognizance, or written undertaking, the plaintiff or relator may suggest the defect in the plaintiff's or relator's complaint, and recover to the same extent as if the bond, recognizance, or written undertaking were perfect in all respects.

As added by P.L.1-1998, SEC.45.

IC 34-49-3

Chapter 3. Bond for Officer Making Levy in Replevin

IC 34-49-3-1

Bond to indemnify officer in replevin suit

Sec. 1. If a suit is brought:

(1) in replevin; and

(2) against an officer who issued a writ of attachment or execution under IC 32-35-2-26 (or IC 34-21-6-1 or IC 34-2-4-1 before their repeal);

the officer may demand a bond from the attachment or execution plaintiff to indemnify the officer in the replevin suit.

As added by P.L.1-1998, SEC.45. Amended by P.L.2-2002, SEC.101.

IC 34-49-4

Chapter 4. Delivery Bonds Executed by Defendant for Personal Property

IC 34-49-4-1

Bond to secure return of personal property taken in execution of judgment

Sec. 1. When personal property is taken in an execution of judgment, the execution defendant may, under IC 34-55-5-1, deliver to the sheriff a written undertaking, payable to the execution plaintiff, with sufficient surety, to obtain the return of the personal property.

As added by P.L.1-1998, SEC.45.

IC 34-49-5

Chapter 5. Appeal Bonds

IC 34-49-5-1

Appeal bonds governed by IC 34-56-2

Sec. 1. Appeal bonds for appeals taken to circuit courts are governed by IC 34-56-2.

As added by P.L.1-1998, SEC.45.

IC 34-49-5-2

Federal agencies exempt from appeal bond requirements

Sec. 2. Federal agencies are exempt from appeal bond requirements under IC 34-56-3.

As added by P.L.1-1998, SEC.45.

IC 34-49-5-3

Amount of appeal bond

Sec. 3. (a) An appeal bond that an appellant must post to stay execution on a judgment while an appeal is pending may not exceed twenty-five million dollars ($25,000,000) regardless of the total amount of the judgment.

(b) Notwithstanding subsection (a), if an appellee proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid payment of a judgment, a court may enter orders that:

(1) are necessary to protect the appellee; and

(2) require the appellant to post a bond that is equal to the total amount of the judgment.

As added by P.L.46-2002, SEC.1.

IC 34-50

ARTICLE 50. SETTLEMENT OF CLAIMS

IC 34-50-1

Chapter 1. Offers of Settlement

IC 34-50-1-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-44.6 (before its repeal, now codified in this chapter) by P.L.278-1995 applies to a cause of action that accrues after June 30, 1995.

As added by P.L.220-2011, SEC.575.

IC 34-50-1-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to actions in tort brought under:

(1) IC 33, including IC 33-1-1.5 before its repeal; or

(2) this title.

(b) This chapter does not apply to small claims actions.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-2

Time of offer

Sec. 2. A qualified settlement offer may be made at any time after a complaint has been filed in a civil action, but may not be made less than thirty (30) days before a trial of the action.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-3

Resolution of issues before acceptance

Sec. 3. A qualified settlement offer must resolve all claims and defenses at issue in the civil action between the offeror and the recipient before the qualified settlement offer may be accepted by the recipient.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-4

Requirements of qualified settlement offer

Sec. 4. A qualified settlement offer must:

(1) be in writing;

(2) be signed by the offeror or the offeror's attorney of record;

(3) be designated on its face as a qualified settlement offer;

(4) be delivered to each recipient or recipient's attorney of record:

(A) by registered or certified mail; or

(B) by any method that verifies the date of receipt;

(5) set forth the complete terms of the settlement proposed by the offeror to the recipient in sufficient detail to allow the recipient to decide whether to accept or reject it;

(6) include the name and address of the offeror and the offeror's attorney of record, if any; and

(7) expressly revoke all prior qualified settlement offers made by the offeror to the recipient.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-5

Acceptance

Sec. 5. An acceptance of a qualified settlement offer must be:

(1) unconditional;

(2) in writing;

(3) signed by the accepting recipient or the accepting recipient's attorney of record; and

(4) delivered:

(A) by registered or certified mail or by a means that verifies the date of receipt;

(B) to the offeror or the offeror's attorney of record; and

(C) not more than thirty (30) days after the recipient receives the qualified settlement offer.

As added by P.L.1-1998, SEC.46.

IC 34-50-1-6

Attorney's fees and costs

Sec. 6. (a) If:

(1) a recipient does not accept a qualified settlement offer; and

(2) the final judgment is less favorable to the recipient than the terms of the qualified settlement offer;

the court shall award attorney's fees, costs, and expenses to the offeror upon the offeror's motion.

(b) An award of attorney's fees, costs, and expenses under this section must consist of attorney's fees at a rate of not more than one hundred dollars ($100) per hour and other costs and expenses incurred by the offeror after the date of the qualified settlement offer. However, the award of attorney's fees, costs, and expenses may not total more than one thousand dollars ($1,000).

(c) A motion for an award of attorney's fees, costs, and expenses under this section must be filed not more than thirty (30) days after entry of judgment. The motion must be accompanied by an affidavit of the offeror or the offeror's attorney establishing the amount of the attorney's fees and other costs and expenses incurred by the offeror after the date of the qualified settlement offer. The affidavit constitutes prima facie proof of the reasonableness of the amount.

(d) Where appropriate, the court may order a judgment entered against the offeror and in favor of the recipient reduced by the amount of attorney's fees, costs, and expenses awarded to the offeror under this section (or IC 34-4-44.6-8 before its repeal).

As added by P.L.1-1998, SEC.46.

IC 34-50-2

Chapter 2. Annuity Structured Settlements

IC 34-50-2-1

"Interested party" defined

Sec. 1. As used in this chapter, "interested party" refers to:

(1) the payee;

(2) the annuity issuer;

(3) the structured settlement agreement obligor;

(4) the payee's counsel who assisted in the establishment of the structured settlement;

(5) a dependent of the payee; or

(6) a family member or relative who is acting as a caregiver for the payee.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-2

"Structured settlement" defined

Sec. 2. As used in this chapter, "structured settlement" means periodic payments of damages established by a settlement or a court judgment in resolution of a tort claim for personal injury.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-3

"Transfer" defined

Sec. 3. As used in this chapter, "transfer" means a:

(1) sale;

(2) assignment;

(3) pledge;

(4) hypothecation; or

(5) any other form of alienation or encumbrance;

of structured settlement payment rights made by a payee for consideration.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-4

"Transferee" defined

Sec. 4. As used in this chapter, "transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer agreement.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-5

Court approval of transfers required

Sec. 5. A direct or indirect transfer of structured settlement payment rights is not effective, and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee, unless an Indiana court of competent jurisdiction has approved the transfer in a final order in accordance with sections 7 and 8 of this chapter.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-6
Disclosure statements

Sec. 6. Not less than ten (10) days before the date on which a payee becomes obligated under a transfer agreement, the transferee shall provide to the payee and other interested parties a disclosure statement, in boldface type of not less than fourteen (14) points in size, that includes the following:

(1) The amounts and due dates of the structured settlement payments to be transferred under the transfer agreement.

(2) The aggregate amount of the payments disclosed under subdivision (1).

(3) An estimate of the present fair market value of the future periodic payments under the structured settlement agreement.

(4) The gross amount payable to the payee as consideration for the transfer of the structured settlement payments disclosed under subdivision (1).

(5) An itemized list of all:

(A) commissions;

(B) fees;

(C) costs;

(D) expenses; and

(E) charges;

payable by the payee or deductible from the gross amount payable to the payee, as disclosed under subdivision (4).

(6) The net amount payable to the payee after any deduction is made from the gross amount payable to the payee, as described in subdivision (5).

(7) The quotient, expressed as a percentage, obtained by dividing the net amount payable to the payee, as disclosed under subdivision (6), by the estimate of the present fair market value of the future periodic payments, as disclosed under subdivision (3).

(8) The amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of a breach of the transfer agreement by the payee.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-7
Final orders; findings

Sec. 7. An Indiana court of competent jurisdiction may approve a transfer of structured settlement payment rights only in a final order that is based on the express findings of the court. The express findings must include all of the following:

(1) The consideration that the payee will receive for the transfer reasonably reflects the present fair market value of the future periodic payments under the structured settlement agreement.

(2) The transfer is in the best interest of the payee.

(3) The transfer will not materially impair the payee's ability to

discharge the payee's obligations to the payee's dependents.

(4) If the transferee is the applicant, the transferee has provided to the payee a disclosure statement in accordance with section 6 of this chapter.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-8

Applications for approval of transfers

Sec. 8. (a) An application under this chapter for approval of a transfer of structured settlement payment rights must be filed in:

(1) the Indiana court in which the underlying tort action was pending; or

(2) the court of general jurisdiction in the Indiana county in which the payee resides.

(b) The following apply to an application filed under subsection (a):

(1) Upon filing of the application, the court shall set a date and time for a hearing on the application not earlier than twenty (20) days after the application is filed and shall notify the applicant of the date, time, and place of the hearing. The court shall give precedence to a hearing set under this section in accordance with Indiana Trial Rule 40.

(2) The applicant shall file with the court and shall serve on:

(A) all interested parties;

(B) the annuity issuer; and

(C) the structured settlement obligor;

in the manner prescribed in the rules of civil procedure for the service of process, a notice of the proposed transfer.

(3) The notice required under subdivision (2) shall include:

(A) a copy of the application;

(B) a copy of the proposed transfer agreement, including the transferee's:

(i) name;

(ii) address; and

(iii) taxpayer identification number;

(C) a copy of the disclosure statement provided by the transferee under section 6 of this chapter whenever the application is filed by a person other than the payee;

(D) notification of the date, time, and place of the hearing on the application; and

(E) notification that an interested party may support, oppose, or otherwise respond to the application, either in person or by counsel, by:

(i) submitting to the court a written response containing the interested party's support of, opposition to, or comments on the application; or

(ii) participating in the hearing.

(4) At the conclusion of the hearing on an application filed under subsection (a), the court may enter an order:

(A) granting approval with or without modification; or

(B) denying approval;

of the transfer. If the court grants approval of the transfer, the court shall include in the order all of the express findings required under section 7 of this chapter. If the court denies the approval of the transfer, the court shall include in the order the reasons for the denial.

(5) An order of the court made under subdivision (4) is a final and appealable order.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-9

Effect of disapproval of transfers; waiver prohibited; unlawful transfers

Sec. 9. (a) A payee who proposes to make a transfer of structured settlement payment rights does not:

(1) incur a penalty;

(2) forfeit an application fee or other payment; or

(3) otherwise incur a liability to the proposed transferee;

if the transfer is not approved by a court under section 7 of this chapter.

(b) A provision of this chapter may not be waived.

(c) This chapter does not:

(1) authorize a transfer of structured settlement payment rights in contravention of applicable law; or

(2) give effect to a transfer of structured settlement payment rights that is void under applicable law.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-10

Immunity

Sec. 10. After a transfer that has been approved in accordance with this chapter, a structured settlement obligor and an annuity issuer are immune from liability to a payee, or to a party other than a transferee who is claiming through the payee, for paying structured settlement payments to a transferee.

As added by P.L.219-2001, SEC.6.

IC 34-50-2-11

Failure to provide disclosure statement as incurable deceptive act

Sec. 11. Failure of a transferee of structured settlement payment rights to timely provide a true and complete disclosure statement to a payee under this chapter in connection with a direct or indirect transfer of structured settlement payment rights is an incurable deceptive act under IC 24-5-0.5.

As added by P.L.219-2001, SEC.6.

IC 34-51

ARTICLE 51. DAMAGES

IC 34-51-1

Chapter 1. Damages Generally

IC 34-51-1-1

Collateral source payments

Sec. 1. Evidence of collateral source payments is governed by IC 34-44-1.

As added by P.L.1-1998, SEC.47.

IC 34-51-1-2

Advance payments in personal injury and property damage cases

Sec. 2. Evidence of advance payments in personal injury and property damage cases is governed by IC 34-44-2.

As added by P.L.1-1998, SEC.47.

IC 34-51-1-3

Treble damages

Sec. 3. Treble damages in certain civil actions by crime victims are governed by IC 34-24-3.

As added by P.L.1-1998, SEC.47.

IC 34-51-2

Chapter 2. Compensatory Damages: Comparative Fault

IC 34-51-2-1

Applicability of chapter

Sec. 1. (a) This chapter governs any action based on fault that is brought to recover damages for injury or death to a person or harm to property, except as provided in subsection (b).

(b) This chapter does not apply to an action:

(1) brought against a qualified health care provider under IC 16-9.5 (before its repeal), IC 27-12 (before its repeal), or IC 34-18 for medical malpractice; or

(2) that accrued before January 1, 1985.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-2

Governmental entities and public employees excepted

Sec. 2. This chapter does not apply in any manner to tort claims against governmental entities or public employees under IC 34-13-3 (or IC 34-4-16.5 before its repeal).

As added by P.L.1-1998, SEC.47.

IC 34-51-2-3

Causation

Sec. 3. In an action brought under this chapter (or IC 34-4-33 before its repeal), legal requirements of causal relation apply to:

(1) fault as the basis for liability; and

(2) contributory fault.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-4

Defendant as single party

Sec. 4. For purposes of sections 6 through 10 of this chapter, a defendant may be treated along with another defendant as a single party where recovery is sought against that defendant not based upon the defendant's own alleged act or omission but upon the defendant's relationship to the other defendant.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-5

Effect of contributory fault

Sec. 5. In an action based on fault, any contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for an injury attributable to the claimant's contributory fault, but does not bar recovery except as provided in section 6 of this chapter.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-6

Barring of recovery; degree of contributory fault

Sec. 6. (a) In an action based on fault that is brought against:

(1) one (1) defendant; or

(2) two (2) or more defendants who may be treated as a single party;

the claimant is barred from recovery if the claimant's contributory fault is greater than the fault of all persons whose fault proximately contributed to the claimant's damages.

(b) In an action based on fault that is brought against two (2) or more defendants, the claimant is barred from recovery if the claimant's contributory fault is greater than the fault of all persons whose fault proximately contributed to the claimant's damages.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-7

Jury instructions; single party defendant

Sec. 7. (a) This section applies to an action based on fault that is:

(1) brought against one (1) defendant or two (2) or more defendants who may be treated as a single party; and

(2) tried to a jury.

(b) The court, unless all the parties agree otherwise, shall instruct the jury to determine its verdict in the following manner:

(1) The jury shall determine the percentage of fault of the claimant, of the defendant, and of any person who is a nonparty. The jury may not be informed of any immunity defense that is available to a nonparty. In assessing percentage of fault, the jury shall consider the fault of all persons who caused or contributed to cause the alleged injury, death, or damage to property, tangible or intangible, regardless of whether the person was or could have been named as a party. The percentage of fault of parties to the action may total less than one hundred percent (100%) if the jury finds that fault contributing to cause the claimant's loss has also come from a nonparty or nonparties.

(2) If the percentage of fault of the claimant is greater than fifty percent (50%) of the total fault involved in the incident which caused the claimant's death, injury, or property damage, the jury shall return a verdict for the defendant and no further deliberation of the jury is required.

(3) If the percentage of fault of the claimant is not greater than fifty percent (50%) of the total fault, the jury then shall determine the total amount of damages the claimant would be entitled to recover if contributory fault were disregarded.

(4) The jury next shall multiply the percentage of fault of the defendant by the amount of damages determined under subdivision (3) and shall then enter a verdict for the claimant in the amount of the product of that multiplication.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-8

Jury instructions; multiple defendants

Sec. 8. (a) This section applies to an action based on fault that:

(1) is brought against two (2) or more defendants; and
(2) is tried to a jury.

(b) The court, unless all the parties agree otherwise, shall instruct the jury to determine its verdict in the following manner:

(1) The jury shall determine the percentage of fault of the claimant, of the defendants, and of any person who is a nonparty. The jury may not be informed of any immunity defense that might be available to a nonparty. In assessing percentage of fault, the jury shall consider the fault of all persons who caused or contributed to cause the alleged injury, death, or damage to property, tangible or intangible, regardless of whether the person was or could have been named as a party. The percentage of fault of parties to the action may total less than one hundred percent (100%) if the jury finds that fault contributing to cause the claimant's loss has also come from a nonparty or nonparties.

(2) If the percentage of fault of the claimant is greater than fifty percent (50%) of the total fault involved in the incident which caused the claimant's death, injury, or property damage, the jury shall return a verdict for the defendants and no further deliberation of the jury is required.

(3) If the percentage of fault of the claimant is not greater than fifty percent (50%) of the total fault, the jury shall then determine the total amount of damages the claimant would be entitled to recover if contributory fault were disregarded.

(4) The jury next shall multiply the percentage of fault of each defendant by the amount of damages determined under subdivision (3) and shall enter a verdict against each defendant (and such other defendants as are liable with the defendant by reason of their relationship to a defendant) in the amount of the product of the multiplication of each defendant's percentage of fault times the amount of damages as determined under subdivision (3).

As added by P.L.1-1998, SEC.47.

IC 34-51-2-9

Trial without jury; award of damages

Sec. 9. In an action based on fault that is tried by the court without a jury, the court shall make its award of damages according to the principles specified for juries in sections 7 and 8 of this chapter.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-10

Intentional torts; full recovery of damages from convicted defendant

Sec. 10. In the case of an intentional tort, the plaintiff may recover one hundred percent (100%) of the compensatory damages in a civil action for intentional tort from a defendant who was convicted after a prosecution based on the same evidence.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-11
Forms of verdicts; disclosure requirements

Sec. 11. The court shall furnish to the jury forms of verdicts that require only the disclosure of:

(1) the percentage of fault charged against each party and nonparty; and

(2) the amount of the verdict against each defendant.

If the evidence in the action is sufficient to support the charging of fault to a nonparty, the form of verdict also shall require a disclosure of the name of the nonparty and the percentage of fault charged to the nonparty.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-12
Contribution; indemnity

Sec. 12. In an action under this chapter (or IC 34-4-33 before its repeal), there is no right of contribution among tortfeasors. However, this section does not affect any rights of indemnity.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-13
Inconsistent verdicts

Sec. 13. In actions brought under this chapter (or IC 34-4-33 before its repeal), whenever a jury returns verdicts in which the ultimate amounts awarded are inconsistent with its determinations of total damages and percentages of fault, the trial court shall:

(1) inform the jury of such inconsistencies;

(2) order the jury to resume deliberations to correct the inconsistencies; and

(3) instruct the jury that the jury is at liberty to change any portion or portions of the verdicts to correct the inconsistencies.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-14
Nonparty defense; assertion

Sec. 14. In an action based on fault, a defendant may assert as a defense that the damages of the claimant were caused in full or in part by a nonparty. This defense is referred to in this chapter as a nonparty defense.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-15
Nonparty defense; burden of proof

Sec. 15. The burden of proof of a nonparty defense is upon the defendant, who must affirmatively plead the defense. However, this chapter does not relieve the claimant of the burden of proving that fault on the part of the defendant or defendants caused, in whole or in part, the damages of the claimant.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-16
Nonparty defense; pleadings

Sec. 16. A nonparty defense that is known by the defendant when the defendant files the defendant's first answer shall be pleaded as a part of the first answer. A defendant who gains actual knowledge of a nonparty defense after the filing of an answer may plead the defense with reasonable promptness. However, if the defendant was served with a complaint and summons more than one hundred fifty (150) days before the expiration of the limitation of action applicable to the claimant's claim against the nonparty, the defendant shall plead any nonparty defense not later than forty-five (45) days before the expiration of that limitation of action. The trial court may alter these time limitations or make other suitable time limitations in any manner that is consistent with:

(1) giving the defendant a reasonable opportunity to discover the existence of a nonparty defense; and

(2) giving the claimant a reasonable opportunity to add the nonparty as an additional defendant to the action before the expiration of the period of limitation applicable to the claim.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-17
Nonparty defense; medical malpractice claims

Sec. 17. This section applies to a claim filed with the insurance commissioner under IC 16-9.5 (before its repeal), IC 27-12 (before its repeal), or IC 34-18 against a qualified health care provider, with the exception that the pleading of a nonparty defense, as required by sections 15 and 16 of this chapter must occur not later than ninety (90) days after the filing of the claim with the insurance commissioner. However, this time limitation may be enlarged or shortened by a court having jurisdiction over the claim in such matter as will give:

(1) the qualified health care provider reasonable opportunity to discover the existence of a nonparty defense; and

(2) the claimant reasonable opportunity to assert a claim against the nonparty before the expiration of the period of limitation applicable to the claim.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-18
Actions against defendants who are qualified health care providers and who are not qualified health care providers; delay; joinder

Sec. 18. (a) This section applies to an action based on fault that is brought by the claimant against:

(1) one (1) or more defendants who are qualified health care providers under IC 34-18; and

(2) one (1) or more defendants who are not qualified health care providers.

(b) Upon application of the claimant, the trial court shall grant reasonable delays in the action brought against those defendants who

are not qualified health care providers until the medical review panel procedure can be completed as to the qualified health care providers.

(c) When an action is permitted to be filed against the qualified health care providers, the trial court shall permit a joinder of the qualified health care providers as additional defendants in the action on file against the nonhealth care providers.

As added by P.L.1-1998, SEC.47.

IC 34-51-2-19

Liens or claims to diminish in same proportion as claimant's recovery is diminished

Sec. 19. If a subrogation claim or other lien or claim that arose out of the payment of medical expenses or other benefits exists in respect to a claim for personal injuries or death and the claimant's recovery is diminished:

(1) by comparative fault; or

(2) by reason of the uncollectibility of the full value of the claim for personal injuries or death resulting from limited liability insurance or from any other cause;

the lien or claim shall be diminished in the same proportion as the claimant's recovery is diminished. The party holding the lien or claim shall bear a pro rata share of the claimant's attorney's fees and litigation expenses.

As added by P.L.1-1998, SEC.47.

IC 34-51-3

Chapter 3. Punitive Damages

IC 34-51-3-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-34-3, IC 34-4-34-4, IC 34-4-34-5, and IC 34-4-34-6 (before their repeal, now codified in this chapter) by P.L.278-1995 applies to a cause of action that accrues after June 30, 1995.

As added by P.L.220-2011, SEC.576.

IC 34-51-3-1

Applicability of chapter

Sec. 1. This chapter applies to all cases in which a party requests the recovery of punitive damages in a civil action.

As added by P.L.1-1998, SEC.47.

IC 34-51-3-2

Necessity of evidence of facts

Sec. 2. Before a person may recover punitive damages in any civil action, that person must establish, by clear and convincing evidence, all of the facts that are relied upon by that person to support the recovery of punitive damages.

As added by P.L.1-1998, SEC.47.

IC 34-51-3-3

Restrictions on jury instructions

Sec. 3. A jury in a case subject to this chapter may not be advised of:

(1) the limitation on the amount of a punitive damage award under section 4 of this chapter; or

(2) the requirement under section 6 of this chapter concerning allocation of money received in payment of a punitive damage award.

As added by P.L.1-1998, SEC.47.

IC 34-51-3-4

Maximum award of damages

Sec. 4. A punitive damage award may not be more than the greater of:

(1) three (3) times the amount of compensatory damages awarded in the action; or

(2) fifty thousand dollars ($50,000).

As added by P.L.1-1998, SEC.47.

IC 34-51-3-5

Reduction of excessive damage award

Sec. 5. If a trier of fact awards punitive damages that exceed the limitation under section 4 of this chapter, the court shall reduce the punitive damage award to not more than the greater of:

(1) three (3) times the amount of compensatory damages awarded in the action; or

(2) fifty thousand dollars ($50,000).

As added by P.L.1-1998, SEC.47.

IC 34-51-3-6

Payment and allocation of damages; notification; negotiation of award; state's interest in award

Sec. 6. (a) Except as provided in IC 13-25-4-10, when a finder of fact announces a verdict that includes a punitive damage award in a civil action, the party against whom the judgment was entered shall notify the office of the attorney general of the punitive damage award.

(b) When a punitive damage award is paid, the party against whom the judgment was entered shall pay the punitive damage award to the clerk of the court where the action is pending.

(c) Upon receiving the payment described in subsection (b), the clerk of the court shall:

(1) pay the person to whom punitive damages were awarded twenty-five percent (25%) of the punitive damage award; and

(2) pay the remaining seventy-five percent (75%) of the punitive damage award to the treasurer of state, who shall deposit the funds into the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) The office of the attorney general may negotiate and compromise a punitive damage award described in subsection (c)(2).

(e) The state's interest in a punitive damage award described in subsection (c)(2) is effective when a finder of fact announces a verdict that includes punitive damages.

As added by P.L.1-1998, SEC.47. Amended by P.L.105-2006, SEC.2; P.L.1-2007, SEC.224.

IC 34-51-4

Chapter 4. Prejudgment Interest

IC 34-51-4-1

Applicability of chapter to tort actions

Sec. 1. This chapter applies to any civil action arising out of tortious conduct.

As added by P.L.1-1998, SEC.47.

IC 34-51-4-2

Applicability of chapter to claims against patient's compensation fund

Sec. 2. This chapter does not apply to a claim against the patient's compensation fund under IC 34-18-6, IC 27-12-6 (before its repeal), or IC 16-9.5-4 (before its repeal).

As added by P.L.1-1998, SEC.47.

IC 34-51-4-3

Applicability of chapter to punitive damages claims

Sec. 3. This chapter does not impose liability for prejudgment interest on any part of a judgment that is awarded as punitive damages.

As added by P.L.1-1998, SEC.47.

IC 34-51-4-4

Liability of state or political subdivision

Sec. 4. This chapter does not impose liability for prejudgment interest on the state or any political subdivision (as those terms are defined in IC 34-6-2-140 and IC 34-6-2-110).

As added by P.L.1-1998, SEC.47.

IC 34-51-4-5

Applicability of chapter upon timely offer of settlement by defendants

Sec. 5. This chapter does not apply if:

(1) within nine (9) months after a claim is filed in the court, or any longer period determined by the court to be necessary upon a showing of good cause, one (1) or more of the parties against whom the claim is filed makes a written offer of settlement to the party receiving a judgment;

(2) the terms of the offer include payment within sixty (60) days after the offer is accepted; and

(3) the amount of the offer is at least two-thirds (2/3) of the amount of the judgment award.

As added by P.L.1-1998, SEC.47.

IC 34-51-4-6

Applicability of chapter upon timely offer of settlement by plaintiffs

Sec. 6. This chapter does not apply if:

(1) within one (1) year after a claim is filed in the court, or any longer period determined by the court to be necessary upon a showing of good cause, the party who filed the claim fails to make a written offer of settlement to the party or parties against whom the claim is filed;

(2) the terms of the offer fail to provide for payment of the settlement offer within sixty (60) days after the offer is accepted; or

(3) the amount of the offer exceeds one and one-third (1 1/3) of the amount of the judgment awarded.

As added by P.L.1-1998, SEC.47.

IC 34-51-4-7

Award of prejudgment interest as part of judgment

Sec. 7. The court may award prejudgment interest as part of a judgment.

As added by P.L.1-1998, SEC.47.

IC 34-51-4-8

Time of accrual of prejudgment interest

Sec. 8. (a) If the court awards prejudgment interest, the court shall determine the period during which prejudgment interest accrues. However, the period may not exceed forty-eight (48) months. Prejudgment interest begins to accrue on the latest of the following dates:

(1) Fifteen (15) months after the cause of action accrued.

(2) Six (6) months after the claim is filed in the court if IC 34-18-8 and IC 34-18-9 do not apply.

(3) One hundred eighty (180) days after a medical review panel is formed to review the claim under IC 34-18-10 (or IC 27-12-10 before its repeal).

(b) The court shall exclude from the period in which prejudgment interest accrues any period of delay that the court determines is caused by the party petitioning for prejudgment interest.

As added by P.L.1-1998, SEC.47.

IC 34-51-4-9

Rate of prejudgment interest

Sec. 9. The court shall compute the prejudgment interest at the simple rate of interest determined by the court. The rate set by the court may not be less than six percent (6%) per year and not more than ten percent (10%) per year.

As added by P.L.1-1998, SEC.47.

IC 34-51-5

Chapter 5. Tax Consequences of Verdict in Tort Action; Jury Instructions

IC 34-51-5-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-35-1 (before its repeal, now codified in section 1 of this chapter) by P.L.201-1986 does not apply to actions accruing before September 1, 1986.

As added by P.L.220-2011, SEC.577.

IC 34-51-5-1

Tax consequences of verdict

Sec. 1. In a tort action for personal injuries tried by a jury, the court shall, if requested, instruct the jury that the jury may not consider the tax consequences, if any, of its verdict.

As added by P.L.1-1998, SEC.47.

IC 34-52

ARTICLE 52. COSTS

IC 34-52-1

Chapter 1. Recovery of Costs by a Party

IC 34-52-1-1

General recovery rule

Sec. 1. (a) In all civil actions, the party recovering judgment shall recover costs, except in those cases in which a different provision is made by law.

(b) In any civil action, the court may award attorney's fees as part of the cost to the prevailing party, if the court finds that either party:

(1) brought the action or defense on a claim or defense that is frivolous, unreasonable, or groundless;

(2) continued to litigate the action or defense after the party's claim or defense clearly became frivolous, unreasonable, or groundless; or

(3) litigated the action in bad faith.

(c) The award of fees under subsection (b) does not prevent a prevailing party from bringing an action against another party for abuse of process arising in any part on the same facts. However, the prevailing party may not recover the same attorney's fees twice.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-2

Actions for money demands on contract; recoveries less than $50

Sec. 2. (a) This section applies to actions for money demands on contract, commenced in the circuit or superior courts.

(b) Except as provided in subsection (d), if the plaintiff recovers less than fifty dollars ($50) exclusive of costs, the plaintiff shall pay costs, unless the judgment has been reduced below fifty dollars ($50) by a set-off, or counter-claim, pleaded and proved by the defendant, in which case the party recovering judgment shall recover costs.

(c) Except as provided in subsection (d), if the judgment is reduced below fifty dollars ($50) by proof of payments, the defendant shall recover costs.

(d) If one (1) or more defendants, necessary to a full determination of the cause:

(1) are nonresidents of the county in which the suit is brought but are residents of the state of Indiana; and

(2) have been served with process in the action;

the plaintiff shall recover costs even though the judgment recovered by plaintiff is less than fifty dollars ($50).

As added by P.L.1-1998, SEC.48.

IC 34-52-1-3

Actions for damages; recoveries less than $5

Sec. 3. In all actions for damages solely, not arising out of contract, if the plaintiff does not recover five dollars ($5) in damages,

the plaintiff shall not recover more costs than damages, except:

(1) in actions for injuries to character and false imprisonment; and

(2) where the title to real estate is in question.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-4

Relators and persons for whom action is brought; sharing in costs

Sec. 4. (a) Except as provided in subsections (b) and (c), relators, persons, and corporations for whose use an action is brought, whether such use is shown by the pleadings of the plaintiff or defendant, are liable for costs jointly with the actual parties to the action.

(b) Except as provided in subsection (c), when the state is plaintiff, the relator only is liable, and judgment for costs shall be rendered accordingly.

(c) When a state officer or prosecuting attorney, by virtue of his or her office, is a relator for the state of Indiana, the relator is not liable for costs.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-5

Apportionment of cost among several plaintiffs or several defendants

Sec. 5. In actions where there are several plaintiffs or several defendants, the costs shall be apportioned according to the judgment rendered. Where there are several causes of action embraced in the same complaint, or several issues, the plaintiff shall recover costs upon the issues determined in the plaintiff's favor, and the defendant shall recover costs upon the issues determined in the defendant's favor.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-6

Splitting cause of actions; one recovery for costs

Sec. 6. When the plaintiff, at the same court, brings several actions against the defendant upon demands which could have been joined in one (1) action, the plaintiff shall recover costs only in one (1) action, unless:

(1) it appears to the court that the actions affect different rights or interests; or

(2) other sufficient reasons exist why the several demands should not have been joined in one (1) action.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-7

Judgment for cost before final judgment

Sec. 7. Whenever, in any action an order is made for the payment of costs, at any time before final judgment, the court shall, upon motion of any interested person, render judgment for the costs in favor of the party entitled to receive costs.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-8
Fee bills and executions for collection of costs

Sec. 8. Fee bills and executions may issue for the collection of costs in the proper cases against:

(1) parties to the action;
(2) relators;
(3) persons for whose use an action is brought; and
(4) sureties on undertakings for the payment of costs.

As added by P.L.1-1998, SEC.48.

IC 34-52-1-9
Attachment of lands; recoveries less than $50

Sec. 9. In all cases where lands are attached and judgment rendered in favor of the plaintiff in the circuit court, in which the sum claimed, or the judgment rendered is less than fifty dollars ($50), the plaintiff shall recover costs if the attachment against the land is sustained by the court.

As added by P.L.1-1998, SEC.48.

IC 34-52-2

Chapter 2. Awarding Fees and Other Expenses in Actions Involving the State

IC 34-52-2-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-2-36 (before its repeal, now codified in this chapter) by P.L.196-1986 does not apply to civil actions accruing before January 1, 1987.

As added by P.L.220-2011, SEC.578.

IC 34-52-2-1

Applicability of chapter

Sec. 1. (a) Subject to any other statute governing reimbursement of fees and other expenses, this chapter applies to the reimbursement of the fees and other expenses incurred in preparing for or prosecuting:

(1) a proceeding under IC 4-21.5-5 to judicially review a final order made by a state agency;

(2) an appeal from a final determination made by the worker's compensation board;

(3) an appeal of a final determination made by the department of state revenue; or

(4) an appeal of a final determination made by the department of workforce development or the department of workforce development unemployment insurance review board.

(b) However, this chapter does not apply to an order or other determination:

(1) under:

(A) IC 16-27-1;

(B) IC 16-28;

(C) IC 16-30;

(D) IC 12-28-4; or

(E) IC 12-28-5;

(2) by an agency described in IC 25-0.5-9; or

(3) by the board of podiatric medicine.

As added by P.L.1-1998, SEC.48. Amended by P.L.1-2010, SEC.140; P.L.3-2014, SEC.29.

IC 34-52-2-2

Order for payment; findings

Sec. 2. In addition to any other compensation awarded in a civil action involving an agency as a party, the court having jurisdiction in the case may enter an order against the agency for the payment of the reasonable fees and other expenses of a party, if the court finds that:

(1) the party files a written notice of the party's intent to seek reimbursement under this chapter (or IC 34-2-36 before its repeal) not later than thirty (30) days after the party files any pleading or other paper with the court;

(2) the party obtained final judgment in its favor;
(3) the party has obtained substantive relief that makes it probable that the party will prevail on the merits after remand of the case to the agency, if remand is necessary;
(4) the party is:
(A) a commercial or business entity (including a sole proprietorship or a partnership) with fewer than fifty (50) employees at the time of the:
(i) civil action; or
(ii) the agency action (as defined in IC 4-21.5-1-4) giving rise to the civil action;
but is not a subsidiary or affiliate of another entity that does not qualify as a small business under this clause; or
(B) an organization exempt from federal income taxation under Section 501 of the Internal Revenue Code;
(5) to the extent that the fees and other expenses of the party are for attorney's fees or expert witness fees, the fees are based upon the number of actual hours of service performed multiplied by a reasonable fee for the service rendered not to exceed seventy-five dollars ($75) per hour;
(6) the party filed a claim not later than thirty (30) days after a final judgment was rendered; and
(7) section 3 of this chapter does not apply.
As added by P.L.1-1998, SEC.48.

IC 34-52-2-3
Award unauthorized; grounds
Sec. 3. The court may not award fees or other expenses against an agency if:
(1) the agency's only involvement in the case resulted from the agency's role as an arbiter of the legal rights, duties, immunities, privileges, or other legal interests of two (2) or more other parties;
(2) the agency as a party had a reasonable basis for its position;
(3) the position of the agency as a party became unjustified as a result of an intervening change in applicable law; or
(4) the fees or other expenses claimed were incurred to reimburse salaries or attorney's fees paid by a political subdivision, a state, the United States government, or a foreign province or country.
As added by P.L.1-1998, SEC.48.

IC 34-52-2-4
Maximum amount; multiple parties
Sec. 4. A party may be awarded an amount under this chapter not exceeding ten thousand dollars ($10,000). However, if more than three (3) parties in a case are eligible for an award under this chapter, the total award made to all parties in the case may not exceed thirty

thousand dollars ($30,000).
As added by P.L.1-1998, SEC.48.

IC 34-52-2-5
Payment from appropriations; warrant

Sec. 5. The agency against which an order is entered under this chapter shall pay the award from any money appropriated to the agency. The court may order the auditor of state to draw a warrant upon the funds of the agency. The treasurer of state shall pay the warrant when any appropriated and unencumbered funds are available to the agency.
As added by P.L.1-1998, SEC.48.

IC 34-52-2-6
Report of agency

Sec. 6. (a) Each agency subject to an order to pay fees or expenses or that pays fees or other expenses under this chapter shall report annually in an electronic format under IC 5-14-6 to the general assembly the amount of fees and other expenses ordered or paid during the preceding fiscal year by that agency.

(b) In its report, the agency shall describe:

(1) the number, nature, and amount of the awards;

(2) the claims involved in the controversy; and

(3) any other relevant information to aid the general assembly in evaluating the scope and impact of these awards.

As added by P.L.1-1998, SEC.48. Amended by P.L.28-2004, SEC.174.

IC 34-52-3

Chapter 3. Cost of Transcripts and Certifying the Record

IC 34-52-3-1

Taxation of costs

Sec. 1. When in any suit pending in any court in this state it is necessary to procure a transcript of any judgment or proceeding, or exemplification of any record, as evidence in the action, the necessary expense of procuring the transcript or exemplification shall be taxed with the other costs in the cause, and recovered as in other cases.

As added by P.L.1-1998, SEC.48.

IC 34-52-4

Chapter 4. Stamp Tax

IC 34-52-4-1

Manner of taxation and collection

Sec. 1. In all actions, when United States Government stamps are required and used in original process, certificates, bonds, appraisements, deed of conveyance by sheriffs, and other instruments, the value of the stamp duties shall be taxed and collected as other costs in the action.

As added by P.L.1-1998, SEC.48.

IC 34-53

ARTICLE 53. SUBROGATION

IC 34-53-1

Chapter 1. Subrogation of Insurers in Personal Injury Actions

IC 34-53-1-0.2

Application of prior law

Sec. 0.2. The addition of IC 34-4-39 (before its repeal, later codified in IC 34-4-41 and now in this chapter) by P.L.212-1991 only applies to settlements reached and judgments entered after July 1, 1991.

As added by P.L.220-2011, SEC.579.

IC 34-53-1-1

Applicability of chapter

Sec. 1. This chapter applies to an insurer claiming subrogation or reimbursement rights to the proceeds of a settlement or judgment resulting from a legal proceeding commenced by an insured against a third party legally responsible for personal injury for which payment is made by the insurer.

As added by P.L.1-1998, SEC.49.

IC 34-53-1-2

Costs and expenses of asserting third party claim; payment by insurer out of amount received from insured

Sec. 2. An insurer claiming subrogation or reimbursement rights under this chapter shall pay, out of the amount received from the insured, the insurer's pro rata share of the reasonable and necessary costs and expenses of asserting the third party claim. These reasonable and necessary costs and expenses include and are not limited to the following:

(1) The cost of depositions.

(2) Witness fees.

(3) Attorney's fees to the lesser of:

(A) the amount contracted by the insured for the insured's portion of the claim; or

(B) thirty-three and one-third percent (33 1/3%) of the amount of the settlement.

As added by P.L.1-1998, SEC.49.

IC 34-53-1-3

Effect on insurer's right to settle subrogation claim separately

Sec. 3. This chapter does not prohibit an insurer with a subrogated property damage claim from settling the insurer's subrogation claim separately by arbitration, agreement, or suit in the insurer's own name.

As added by P.L.1-1998, SEC.49.

IC 34-53-1-4

Limitation on subrogation and reimbursement rights of insurers against fund

Sec. 4. An insurer may not claim subrogation or reimbursement rights to the proceeds of a distribution paid from the supplemental state fair relief fund under IC 34-13-8 to an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2).

As added by P.L.160-2012, SEC.63.

IC 34-53-1-5

Limitation on subrogation and reimbursement rights of persons paying benefits or compensation against fund; appeal

Sec. 5. (a) Notwithstanding any statutory right, common law right, or agreement to the contrary, a person who pays benefits or compensation to or on behalf of an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2) does not have a subrogation or other right, including any rights otherwise provided under this chapter, to recover those benefits or compensation paid from the supplemental state fair relief fund by making a claim against the state, or by making a claim, or recovering from payments made to an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2) under IC 34-13-8.

(b) Not later than forty (40) days after a distribution under IC 34-13-8 is paid, a person who believes that the state cannot constitutionally prohibit assertion of a subrogation or other claim described in subsection (a), and who claims the subrogation or other interest against the state, or against a distribution paid from the supplemental state fair relief fund to an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2) under IC 34-13-8 must provide written notice to the attorney general and the eligible person of the person's intent to assert that interest. Failure to provide timely written notice to the attorney general under this section constitutes a waiver of the claims described in this section.

As added by P.L.160-2012, SEC.64.

IC 34-54

ARTICLE 54. JUDGMENTS

IC 34-54-1

Chapter 1. Judgments Generally

IC 34-54-1-1

Execution

Sec. 1. When a judgment is to be executed without relief from appraisement laws, it shall be so ordered in the judgment.

As added by P.L.1-1998, SEC.50.

IC 34-54-1-2

Appraisement laws; separate judgments

Sec. 2. When a plaintiff has included in one (1) action demands subject to the appraisement laws, with demands made payable without any relief from appraisement laws, the court may render separate judgments upon each demand.

As added by P.L.1-1998, SEC.50.

IC 34-54-1-3

Fiduciaries; stay of execution; valuation or appraisement

Sec. 3. A judgment recovered against a sheriff, constable, other public officer, administrator, executor, or other person or corporation, or the sureties of any or all of those persons:

(1) for money collected or received in a fiduciary capacity;

(2) for a breach of any official duty; or

(3) for money or other articles of value held in trust for another;

is collectible without stay of execution or benefit of the valuation or appraisement laws of Indiana.

As added by P.L.1-1998, SEC.50.

IC 34-54-2

Chapter 2. Confession of Judgment

IC 34-54-2-1

Personal appearance to confess judgment

Sec. 1. Any person indebted or against whom a cause of action exists may personally appear in a court of competent jurisdiction, and, with the consent of the creditor or person having the cause of action, confess judgment in the action. Judgment shall be entered accordingly.

As added by P.L.1-1998, SEC.50.

IC 34-54-2-2

Stating cause of action; release of errors

Sec. 2. The debt or cause of action shall be briefly stated in a writing to be filed and copied into the judgment. The confession shall operate as a release of errors.

As added by P.L.1-1998, SEC.50.

IC 34-54-2-3

Confession of judgment by power of attorney; procedure

Sec. 3. Whenever a confession of judgment is made by power of attorney or otherwise, the party confessing shall, at the time the party confessing executes the power of attorney or confesses judgment, make affidavit stating that:

(1) the debt is just and owing; and

(2) the confession is not made for the purpose of defrauding the person's creditors.

The affidavit shall be filed with the court.

As added by P.L.1-1998, SEC.50.

IC 34-54-3

Chapter 3. Limitations on Confession of Judgment Under Power of Attorney

IC 34-54-3-1

Applicability of chapter

Sec. 1. This chapter applies to a contract, agreement, provision, or stipulation that:

(1) gives a person a power of attorney or authority as attorney for the maker or endorser of the instrument in the name of the debtor to:

(A) appear in any court of record; and

(B) waive the service of process in an action to enforce payment of money claimed to be due on the instrument;

(2) authorizes or purports to authorize an attorney or agent, however designated, to confess judgment on the instrument for a sum of money to be ascertained in a manner other than by action of the court upon a hearing after notice to the debtor, whether with or without an attorney fee; or

(3) authorizes or purports to authorize an attorney described in subdivision (1) or (2) to:

(A) release errors and the right of appealing from a judgment described in subdivision (1) or (2); or

(B) consent to the issue of execution on the judgment.

As added by P.L.1-1998, SEC.50.

IC 34-54-3-2

Certain agreements not to be executed

Sec. 2. A person shall not execute or procure to be executed any contract, agreement, provision, or stipulation described in section 1 of this chapter:

(1) as part of or in connection with the execution of any negotiable instrument or other written contract to pay money; and

(2) before a cause of action on the instrument or contract has accrued.

As added by P.L.1-1998, SEC.50.

IC 34-54-3-3

Certain agreements void

Sec. 3. A:

(1) contract;

(2) stipulation; or

(3) power of attorney;

given or entered into before a cause of action accrues on a promise to pay is void.

As added by P.L.1-1998, SEC.50.

IC 34-54-3-4

Certain foreign judgments unenforceable

Sec. 4. (a) This section applies to all cases in which the court rendering a foreign judgment obtains or attempts to obtain jurisdiction of a judgment debtor, in whole or in part, by virtue of a contract, agreement, or stipulation that is prohibited and declared void by this chapter.

(b) An Indiana court shall not issue an execution or other process to aid or enforce the collection of any judgment that may be rendered upon a judgment that:

(1) is taken in another state or foreign country; and

(2) was founded or based upon a negotiable instrument or contract containing an agreement, stipulation, or provision that is prohibited and declared void by.

(c) A judgment described in this section may not become a lien upon real estate.

As added by P.L.1-1998, SEC.50.

IC 34-54-4

Chapter 4. Cognovit Note Prohibited as a Means of Confessing Judgment or Authorizing Payment

IC 34-54-4-1

Violations

Sec. 1. A person who knowingly:

(1) procures another to:

(A) execute as maker; or

(B) endorse or assign;

a cognovit note;

(2) being the payee, endorsee, or assignee of the cognovit note, retains possession of the cognovit note; or

(3) attempts to recover upon or enforce within Indiana a judgment obtained in any other jurisdiction based upon a cognovit note;

commits a Class B misdemeanor.

As added by P.L.1-1998, SEC.50.

IC 34-54-5

Chapter 5. Judgments in Agreed Cases

IC 34-54-5-1

Submission of controversy to court; affidavit

Sec. 1. Parties may, either with or without process, by agreement, submit any matter of controversy between the parties to a court that would otherwise have jurisdiction of the cause, upon an agreed statement of facts to be made out and signed by the parties. However, it must appear by affidavit that:

(1) the controversy is real; and

(2) the proceedings are a good faith effort to determine the rights of the parties.

The court shall then proceed to try the cause and render judgment as in other cases.

As added by P.L.1-1998, SEC.50.

IC 34-54-5-2

Record

Sec. 2. The record consists of the following:

(1) The statement of the case.

(2) The submission.

(3) The judgment.

As added by P.L.1-1998, SEC.50.

IC 34-54-5-3

Enforcement of judgment; costs

Sec. 3. The judgment may be enforced in the same manner as if it had been rendered in an action. Costs may be enforced in the same manner as if the judgment had been rendered in an action. The judgment is subject to an appeal, unless otherwise provided in the submission.

As added by P.L.1-1998, SEC.50.

IC 34-54-6

Chapter 6. Satisfaction of Judgments

IC 34-54-6-1

Satisfaction or release of judgments; recording

Sec. 1. (a) This section applies to every endorsement of payment, satisfaction, or release, in whole or in part, that is noted:

(1) on the record or margin of any judgment or decree; or

(2) on an execution or order of sale issued on a judgment and signed by the:

(A) judgment plaintiff;

(B) judgment plaintiff's attorney of record or attorney in fact; or

(C) assignee of the judgment plaintiff (whose assignment is noted on or annexed to the record of the judgment or decree and attested by the clerk);

(3) on the record of the judgment or decree; or

(4) by the sheriff upon the execution or order of sale.

(b) An endorsement of payment, satisfaction, or release described in subsection (a) operates as a satisfaction or release of the judgment or decree, or of the part of the judgment or decree so endorsed as paid, satisfied, or released, in favor of subsequent purchasers or lienholders in good faith.

(c) When the satisfaction, payment, or release is entered by an attorney in fact, that fact shall be noted on the margin of the record or the execution.

(d) The power of attorney described in subsection (c) shall be recorded in the miscellaneous records of the recorder's office.

As added by P.L.1-1998, SEC.50.

IC 34-54-6-2

Judgments recovered on bond; relief from valuation or appraisement laws

Sec. 2. All judgments recovered upon bonds, written undertakings, or recognizances executed in any legal proceeding, civil or criminal, are collectible without relief from valuation or appraisements laws of the state of Indiana.

As added by P.L.1-1998, SEC.50.

IC 34-54-7

Chapter 7. Assignment of Judgments

IC 34-54-7-1

Vesting of title in assignee

Sec. 1. (a) Judgments and decrees of a court of record for the recovery of money may be assigned by the plaintiff or complainant.

(b) The assignees successively on or attached to the entry of the judgment or decree and the assignment, when attested by the clerk of the court, vests the title to the judgment or decree in each assignee successively.

As added by P.L.1-1998, SEC.50.

IC 34-54-7-2

Payments or satisfaction before notice of assignment

Sec. 2. Payments or satisfaction on a judgment or decree to the assignor are valid only if made before notice of assignment to the judgment debtor.

As added by P.L.1-1998, SEC.50.

IC 34-54-7-3

Execution

Sec. 3. In case of assignment, execution shall issue in the name of the original plaintiff or complainant, but shall be endorsed by the clerk for the use of the assignee.

As added by P.L.1-1998, SEC.50.

IC 34-54-7-4

Assignee's right to maintain actions

Sec. 4. Any action that the plaintiff or complainant has on the judgment or decree may be maintained in the name of the assignee.

As added by P.L.1-1998, SEC.50.

IC 34-54-8

Chapter 8. Interest on Judgments

IC 34-54-8-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 34-2-22-1 (before its repeal, now codified in this chapter) by P.L.149-1988 apply to the accrual of interest after June 30, 1988, on any part of a judgment that is unpaid after June 30, 1988, even if the judgment was rendered before July 1, 1988.

(b) The amendments made to IC 34-2-22-1 (before its repeal, now codified at sections 2, 3, and 5 of this chapter) by P.L.208-1993 apply to the accrual of interest after December 31, 1993, on any part of a judgment that is unpaid after December 31, 1993, even if the judgment was rendered before January 1, 1994.

As added by P.L.220-2011, SEC.580.

IC 34-54-8-1

Inapplicability of chapter to tax refunds

Sec. 1. This chapter does not apply to IC 6-8.1-9 concerning the rate of interest.

As added by P.L.1-1998, SEC.50.

IC 34-54-8-2

Inapplicability of chapter to judgments rendered against state

Sec. 2. This chapter does not apply to judgments rendered against the state in actions or proceedings duly authorized to be brought against the state in the court of claims for the payment of which no appropriation has been previously made.

As added by P.L.1-1998, SEC.50.

IC 34-54-8-3

Actions against state

Sec. 3. This chapter does not authorize actions or proceedings against the state or any agency of the state.

As added by P.L.1-1998, SEC.50.

IC 34-54-8-4

Prejudgment interest

Sec. 4. Prejudgment interest is governed by IC 34-51-4.

As added by P.L.1-1998, SEC.50.

IC 34-54-8-5

Interest on final judgments

Sec. 5. (a) This section applies to actions or proceedings in which:

(1) the state, a board, a commission, an agency, or an official is authorized by law to sue or be sued; and

(2) a money judgment is authorized by law to be entered and to be paid out of state funds in the custody of the state or in the custody of the board, commission, agency, or official.

(b) Interest attaches to a final judgment entered in an action or proceeding described in subsection (a):

(1) at the annual rate of six percent (6%); and

(2) beginning with the forty-fifth day after the rendition of the judgment.

As added by P.L.1-1998, SEC.50.

IC 34-54-9

Chapter 9. Effect of Refusal of Money Tender

IC 34-54-9-1

Applicability of chapter

Sec. 1. This chapter applies when:

(1) money is tendered in settlement of a demand;

(2) the settlement is refused; and

(3) the money is brought into court to keep the tender good.

As added by P.L.1-1998, SEC.50.

IC 34-54-9-2

Effect of refusal on judgment

Sec. 2. If the court or jury trying the case finds that a less sum is due on the demand than the amount tendered and brought into court, the person refusing the tender shall receive no more of the sum paid into court than the court or jury trying the case finds is due on the demand.

As added by P.L.1-1998, SEC.50.

IC 34-54-10

Chapter 10. Judgments Concerning Property

IC 34-54-10-1

Recovery of personal property

Sec. 1. Judgments in actions concerning the recovery of the possession of personal property are governed by IC 32-35-2-33 and IC 32-35-2-34.

As added by P.L.1-1998, SEC.50. Amended by P.L.2-2002, SEC.102.

IC 34-54-10-2

Mortgage actions

Sec. 2. Judgments in mortgage actions are governed under IC 32-30-12.

As added by P.L.1-1998, SEC.50. Amended by P.L.2-2002, SEC.103.

IC 34-54-10-3

Purchase of property

Sec. 3. The purchase of property subject to judgment is governed by IC 32-30-13.

As added by P.L.1-1998, SEC.50. Amended by P.L.2-2002, SEC.104.

IC 34-54-11

Chapter 11. Enforcement of Foreign Judgments

IC 34-54-11-1

Filing of foreign judgment

Sec. 1. (a) A copy of any foreign judgment authenticated in accordance with 28 U.S.C. 1963 or the statutes of this state may be filed in the office of the clerk of any court of record in a county in Indiana.

(b) The clerk of the court in which the copy is filed shall treat the foreign judgment in the same manner as a judgment of an Indiana court.

(c) A foreign judgment filed under subsection (a) has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment entered by an Indiana court.

As added by P.L.40-2003, SEC.2. Amended by P.L.63-2010, SEC.2.

IC 34-54-11-2

Requirements

Sec. 2. (a) At the time of the filing of a foreign judgment, the judgment creditor filing a foreign judgment under this chapter must file an affidavit with the clerk of the court in which the foreign judgment is filed at the time the foreign judgment is filed. The affidavit must set forth:

(1) the name and last known address of the judgment debtor; and

(2) the name and last known address of the judgment creditor.

(b) Promptly after the filing of the foreign judgment and affidavit, the clerk must send notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make an entry of the mailing in the docket.

(c) The notice described in subsection (b) must contain:

(1) the name and address of the judgment creditor; and

(2) the name and address of the judgment creditor's attorney, if any.

(d) The judgment creditor shall:

(1) mail a notice of the filing of the judgment to the judgment debtor; and

(2) file proof of mailing with the clerk.

(e) Lack of mailing notice by the clerk does not affect the enforcement of proceedings if proof of mailing by the judgment creditor has been filed.

(f) Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

As added by P.L.40-2003, SEC.2. Amended by P.L.238-2005, SEC.62; P.L.63-2010, SEC.3.

IC 34-54-11-3

Filing fee

Sec. 3. (a) The filing fee for a foreign judgment is the same as the fee for filing a cause of action with the clerk of the court in which the foreign judgment is filed.

(b) All filing fees are due and payable at the time of filing.

As added by P.L.40-2003, SEC.2.

IC 34-54-11-4

Staying enforcement of a foreign judgment

Sec. 4. (a) If the judgment debtor shows the court with whose clerk the foreign judgment is filed:

(1) that:

(A) an appeal from the foreign judgment is pending;

(B) an appeal from the foreign judgment will be taken; or

(C) a stay of execution of the foreign judgment has been granted; and

(2) that the judgment debtor has furnished the security, if any, for the judgment required under the jurisdiction in which the foreign judgment was rendered;

the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

(b) If:

(1) the judgment debtor shows the court grounds upon which enforcement of a judgment of a court of Indiana would be stayed; and

(2) the judgment debtor gives the court security for the judgment debt;

the court shall stay enforcement of the foreign judgment for the same period as would be appropriate to stay enforcement for a similar judgment by an Indiana court.

As added by P.L.40-2003, SEC.2.

IC 34-54-11-5

Alternative action to enforce a foreign judgment not impaired

Sec. 5. This chapter does not impair a judgment creditor's right to bring an action to enforce a foreign judgment by other means.

As added by P.L.40-2003, SEC.2.

IC 34-54-11-6

Purpose

Sec. 6. This chapter shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states that enact the uniform enforcement of foreign judgments act.

As added by P.L.63-2010, SEC.4.

IC 34-54-11-7

Citation

Sec. 7. This chapter may be cited as the "Uniform Enforcement of Foreign Judgments Act".

As added by P.L.63-2010, SEC.5.

IC 34-54-12

Chapter 12. Uniform Act for the Recognition of Foreign Country Money Judgments

IC 34-54-12-1

Application; burden of proof

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to a foreign country judgment to the extent that the judgment:

(1) grants or denies recovery of a sum of money; and

(2) under the law of the foreign country where rendered, is final, conclusive, and enforceable.

(b) This chapter does not apply to a foreign country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

(1) a judgment for taxes;

(2) a fine or other penalty; or

(3) a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(c) A party seeking recognition of a foreign country judgment has the burden of establishing that this chapter applies to the foreign country judgment.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-2

Definitions

Sec. 2. The following definitions apply throughout this chapter:

(1) "Foreign country" means a government other than:

(A) the United States;

(B) a state, district, commonwealth, territory, or insular possession of the United States; or

(C) any other government with regard to which the decision in Indiana as to whether to recognize a judgment of that government's courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(2) "Foreign country judgment" means a judgment of a court of a foreign country.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-3

Recognition of a foreign country judgment

Sec. 3. (a) Except as provided in subsections (b) and (c), a court shall recognize a foreign country judgment to which this chapter applies.

(b) A court may not recognize a foreign country judgment if:

(1) the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant; or

(3) the foreign court did not have jurisdiction over the subject matter.

(c) A court is not required to recognize a foreign country judgment if:

(1) the defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;

(2) the judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;

(3) the judgment or the cause of action on which the judgment is based is repugnant to the public policy of Indiana or of the United States;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(7) the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

(8) the specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(d) A party resisting recognition of a foreign country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (b) or (c) exists.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-4

Personal jurisdiction

Sec. 4. (a) A foreign country judgment may not be refused recognition for lack of personal jurisdiction if:

(1) the defendant was served with process personally in the foreign country;

(2) the defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(3) the defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

(5) the defendant had a business office in the foreign country

and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country; or

(6) the defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

(b) The list of bases for personal jurisdiction in subsection (a) is not exclusive. A court may recognize bases of personal jurisdiction other than those listed in subsection (a) as sufficient to support a foreign country judgment.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-5

Manner of seeking recognition of a foreign country judgment

Sec. 5. (a) If recognition of a foreign country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign country judgment.

(b) If recognition of a foreign country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-6

Effect of recognizing a foreign country judgment

Sec. 6. If the court in a proceeding under section 5 of this chapter finds that the foreign country judgment is entitled to recognition under this chapter then, to the extent that the foreign country judgment grants or denies recovery of a sum of money, the foreign country judgment is:

(1) conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in Indiana would be conclusive; and

(2) enforceable in the same manner and to the same extent as a judgment rendered in Indiana.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-7

Stay pending appeal

Sec. 7. If a party establishes that an appeal from a foreign country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign country judgment in accordance with the Indiana rules of trial procedure.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-8

Construction

Sec. 8. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

As added by P.L.213-2011, SEC.2.

IC 34-54-12-9

Other grounds for recognizing foreign country judgments not precluded

Sec. 9. This chapter does not prevent the recognition under principles of comity or otherwise of a foreign country judgment not within the scope of this chapter.

As added by P.L.213-2011, SEC.2.

IC 34-55

ARTICLE 55. EXECUTION OF JUDGMENTS

IC 34-55-1

Chapter 1. Execution of Judgments Generally

IC 34-55-1-1

Enforcement of judgments requiring payments of money or delivery of real or personal property

Sec. 1. When a judgment requires the payment of money or delivery of real or personal property, the judgment may be enforced by execution as provided in this chapter. When the judgment requires the performance of any other act, a certified copy of the judgment may be served upon:

(1) the party against whom the judgment is given; or

(2) the person or officer who is required by the judgment or by law to obey the judgment;

and the person's obedience to the judgment may be enforced. If the person refuses to obey the judgment, the person may be punished by the court as for contempt.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-2

Issuance after lapse of ten years

Sec. 2. (a) After the lapse of ten (10) years after:

(1) the entry of judgment; or

(2) issuing of an execution;

an execution can be issued only on leave of court, upon motion, after ten (10) days personal notice to the adverse party, unless the adverse party is absent or a nonresident, or cannot be found.

(b) When an execution is issued on leave of court under subsection (a), service of notice may be made by publication, as in an original action, or in a manner as the court directs. Leave shall not be given unless it is established by the oath of the party or other satisfactory proof that the judgment or part of the judgment remains unsatisfied and due.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-3

Three kinds of executions

Sec. 3. There are three (3) kinds of executions:

(1) Execution against the property of the judgment debtor.

(2) Execution against the person of the judgment debtor.

(3) Execution for the delivery of the possession of real or personal property, or such delivery with damages for withholding real or personal property.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-4

Executions issued to sheriffs

Sec. 4. Executions may be issued to the sheriffs of different counties at the same time. However, the plaintiff shall pay the costs upon all executions not necessary to the collection of the plaintiff's judgment.
As added by P.L.1-1998, SEC.51.

IC 34-55-1-5
Form of execution
Sec. 5. The execution must:
(1) issue in the name of the state;
(2) be directed to the sheriff of the county;
(3) be sealed with the seal of the court; and
(4) attested by the clerk of the court.
As added by P.L.1-1998, SEC.51.

IC 34-55-1-6
Reference to judgment in execution
Sec. 6. The execution must intelligibly refer to the judgment, stating:
(1) the court where and the time when rendered;
(2) the names of the parties;
(3) the amount, if the judgment is for money; and
(4) the amount actually due on the judgment.
As added by P.L.1-1998, SEC.51.

IC 34-55-1-7
Requirements of sheriff in execution
Sec. 7. The execution must require the sheriff to do the following:
(1) If the execution is against the property of the judgment debtor, the execution must require the sheriff to satisfy the judgment out of the property of the debtor, subject to execution.
(2) If the execution is against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, the execution must require the sheriff to satisfy the judgment out of that property.
(3) If the execution is against the body of the judgment debtor, the execution must require the sheriff to arrest the debtor and commit the debtor to the jail of the county until the debtor pays the judgment or is discharged according to law.
(4) If the execution is for the delivery of the possession of real or personal property, the execution:
(A) must require the sheriff to deliver the possession of the property, particularly describing the property to the party entitled to the property; and
(B) may at the same time require the sheriff to satisfy any costs, damages, rents, or profits recovered by the judgment out of the property of the party against whom the judgment was rendered, subject to execution.
The value of the property for which the judgment was recovered must be specified in the execution if a delivery cannot be made,

and shall, in that respect, be considered an execution against property.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-8

Executions against body; when issued

Sec. 8. An execution against the body shall not be issued while an execution against the property remains unreturned.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-9

Executions against property; when issued

Sec. 9. An execution against the property shall not be issued while there is an execution against the body unreturned.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-10

Execution against body or property; issuance to sheriff

Sec. 10. (a) When the execution is against the property or body of the judgment debtor, the execution may be issued to the sheriff of any county in Indiana.

(b) When the execution requires the delivery of real or personal property, the execution must be issued to the sheriff of the county where the property or part of the property is located.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-11

Return of execution

Sec. 11. (a) Except as provided in subsection (b), the execution shall be returned not later than ninety (90) days after the date of the execution.

(b) The judgment creditor, at the time of filing praecipe for execution, may designate any other time less than ninety (90) days for the return of the execution. In that case, the execution shall be returned within the time fixed by the judgment creditor.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-12

Execution against goods and chattels; priorities

Sec. 12. (a) When an execution against the property of any person is delivered to an officer to be executed, the goods and chattels of the person within the jurisdiction of the officer is bound from the time of the delivery.

(b) If there are several executions against the same defendant in the hands of different officers, that execution, without regard to the time of its delivery under which the first levy is made, has the preference, and all liens created by the prior delivery of any other execution are divested in favor of the execution first levied.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-13
Endorsement by sheriff

Sec. 13. The sheriff receiving an execution shall endorse on the execution the year, month, day, and hour when the sheriff received the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-14
Executions against principal and surety; principal's property first

Sec. 14. If it appears upon the face of an execution or by the endorsement of the clerk that of those persons against whom the execution is issued, any one (1) person is surety for another, the property of the principal shall be first sold, unless the surety directs otherwise.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-15
Issuance on Sunday

Sec. 15. An execution may be issued and executed on Sunday whenever an affidavit is filed by the plaintiff or another person on the plaintiff's behalf, stating that the plaintiff has reason to fear and believe that the plaintiff will lose the judgment unless process is issued on Sunday.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-16
Clerk's endorsement on Sunday service

Sec. 16. The clerk shall endorse on the execution that the defendants are not privileged from service on Sunday.

As added by P.L.1-1998, SEC.51.

IC 34-55-1-17
Sheriff; death or vacancy in office

Sec. 17. If the sheriff dies or leaves office before the return of an execution, the sheriff's successor or other officer authorized to discharge the duties of the office shall proceed in the same manner that the sheriff should have done.

As added by P.L.1-1998, SEC.51.

IC 34-55-2

Chapter 2. Stay of Execution

IC 34-55-2-1

Bail for stay of executions; entry on record

Sec. 1. The bail for stay of execution may be taken and approved by the clerk and the recognizance entered of record at any time before the stay of execution expires. The undertaking in the recognizance is for the payment of the judgment, interest, and costs that may accrue at or before the expiration of the stay of execution. The recognizance shall be written immediately following the entry of the judgment and signed by the bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-2

Return of execution upon entry of bail

Sec. 2. When bail is entered after execution is issued, the clerk shall immediately notify the sheriff of the stay of execution. The sheriff shall immediately return the execution, noting the sheriff's actions on the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-3

Execution issued for want of bail; clerk's endorsement

Sec. 3. When execution issues for want of bail before the stay of execution expires, the clerk shall endorse on the execution:

(1) the date of the judgment; and

(2) that the execution is repleviable.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-4

Stay of execution for remainder of term

Sec. 4. In a case described in section 3 of this chapter, the defendant may have a stay of execution for the remainder of the term of the stay of execution by putting in bail, approved by the sheriff, and endorsed on the stay and signed by the surety.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-5

Return of execution by sheriff; copy of recognizance on execution docket

Sec. 5. The sheriff, having taken the bail, shall immediately return the execution, with the sheriff's actions noted on the execution to the clerk's office. The clerk shall copy the recognizance in the execution docket. The recognizance has the same force as if taken by the clerk.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-6

Relinquishment of property levied before stay of execution

Sec. 6. All:

(1) property levied on before stay of execution; and
(2) written undertakings for the delivery of personal property to the sheriff;

shall be relinquished by the officer upon bail for the stay of execution being entered.
As added by P.L.1-1998, SEC.51.

IC 34-55-2-7
Recognizance of bail; effect of judgment confessed

Sec. 7. Every recognizance of bail, taken as provided in this chapter, has the effect of a judgment confessed, from the date of the recognizance, against the person and property of the bail.
As added by P.L.1-1998, SEC.51.

IC 34-55-2-8
Praecipe and fee bill

Sec. 8. (a) An execution shall not be issued in any cause except on the written praecipe of:
(1) a party to the suit;
(2) the party's representatives or assigns; or
(3) the party's attorney of record.

(b) A fee bill shall not be issued unless the fee bill is ordered by the person to whom the fees or a part of the fees are due. However, the clerk shall receive nothing for any fee bill issued for the clerk's own fees.
As added by P.L.1-1998, SEC.51.

IC 34-55-2-9
Joint executions

Sec. 9. At the expiration of the stay, the clerk shall issue a joint execution against the property of all the judgment debtors and replevin bail. The sheriff shall first levy upon the property of the judgment defendants, if sufficient property can be found. If not, the sheriff shall, without delay, levy the execution upon the property of the bail. However, no property of the bail shall be sold while property of the original judgment debtor, subject to the execution, can be found in the county.
As added by P.L.1-1998, SEC.51.

IC 34-55-2-10
When stays not allowed

Sec. 10. (a) A stay of execution is not allowed upon any judgment recovered against any officer, person, or corporation, or the sureties of an officer, person, or corporation, for money received in a fiduciary capacity, or for a breach of any official duty.

(b) The clerk shall immediately issue executions upon judgments described in subsection (a), returnable in ninety (90) days, and endorsed "not repleviable". It shall be so ordered in the judgment.
As added by P.L.1-1998, SEC.51.

IC 34-55-2-11
Sureties' objections to stay

Sec. 11. When any court renders judgment against two (2) or more persons, any of whom are sureties for any other or others in the contract on which the judgment is founded, there shall be no stay of execution on the judgment if the sureties object at the time of rendering the judgment. It shall be so ordered by the court unless surety for the stay of execution will undertake specially to pay the judgment, in case the amount of the judgment cannot be levied of the principal defendant.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-12
Surety for stay; request for immediate execution

Sec. 12. A surety for the stay of execution may file with the clerk an affidavit, stating that the surety truly believes that the surety will be liable for the judgment, interest, and costs unless execution issues immediately. The clerk shall immediately issue execution unless other sufficient bail is entered before the clerk or sheriff as in other cases.

As added by P.L.1-1998, SEC.51.

IC 34-55-2-13
Entry of other bail; effect

Sec. 13. If other sufficient bail is entered, it shall have the force of the original bail entered before the filing of the affidavit and shall discharge the original bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-3

Chapter 3. Levy of Execution

IC 34-55-3-1

Service by sheriff and offer to sell

Sec. 1. When an execution against the property of any person is issued to the sheriff, the sheriff shall:

(1) serve the execution upon the defendants in the county and levy the execution, if not paid, upon property; and

(2) make at least one (1) offer to sell property levied upon within sixty (60) days after the execution comes to the sheriff, if property can be found, unless otherwise directed by the plaintiff or the plaintiff's agents.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-2

Currency and bank notes

Sec. 2. Current coin and lawful money, and bank notes the plaintiff is willing to receive as money, may be levied upon and returned on execution, without sale, as so much money collected.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-3

Bills, notes, drafts, and checks

Sec. 3. Bills, notes, drafts, checks, or other evidences of debt, issued by any monied corporation or bank, or by Indiana or the United States, and circulating as money, may be levied upon as personal property and sold on execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-4

Goods and chattels pledged, assigned, or mortgaged

Sec. 4. Goods and chattels pledged, assigned, or mortgaged as security for any debt or contract may be levied upon and sold on execution against the person making the pledge, assignment, or mortgage. The purchaser is entitled to the possession upon complying with the conditions of the pledge, assignment, or mortgage.

As added by P.L.1-1998, SEC.51.

IC 34-55-3-5

Shares of stock

Sec. 5. (a) Shares of stock in any corporation or company may be levied upon and sold in the county where the office and books, showing the shares of stock and stockholders of the corporation or company, are kept.

(b) The sheriff shall transfer the stock, subject to the rights of the corporation or company.

(c) The sheriff is entitled to access to the books of any corporation or company in the sheriff's county for the purpose of making the levy. If refused access, the court shall enforce the right.

(d) The shares of stock subject to be levied upon are bound by the execution from the time of the levy. When the levy is made, the sheriff shall leave the notice of the levy with the officers of the company. The levy constitutes a lien upon the stock from the time of the levy.
As added by P.L.1-1998, SEC.51.

IC 34-55-3-6
Debt or cause of action
Sec. 6. Any debt or cause of action, which is assignable, may be levied upon, when given up by the defendant, and sold on execution, in the same manner as other personal property.
As added by P.L.1-1998, SEC.51.

IC 34-55-3-7
Debt or thing in action; assignment and delivery to purchaser
Sec. 7. The sheriff making the sale of any debt or thing in action shall assign and deliver the debt or thing in action to the purchaser. The assignment has the same effect as if made by the execution defendant at the time of making the levy.
As added by P.L.1-1998, SEC.51.

IC 34-55-3-8
Actions involving assignments; pleading
Sec. 8. In any action in which the assignment is declared upon or stated, it is not necessary to plead or prove any judgment or execution, by virtue of which the sale was made, nor to prove the execution of the assignment, unless the assignment is denied under oath.
As added by P.L.1-1998, SEC.51.

IC 34-55-3-9
Designated and undesignated property
Sec. 9. (a) When an execution issues against the real or personal property of any person, the sheriff shall levy the execution, first upon that part of the property designated by the person, if there is no reasonable doubt that the person is the owner of the property and if designated in time to enable the sheriff to levy and sell without unnecessary delay.
(b) If no property is designated as described in subsection (a), the sheriff shall levy the execution upon any property of the debtor that can be found, subject to execution.
(c) If the designated property is insufficient to satisfy the execution, the sheriff shall levy the execution upon other property, subject to execution, as can be most readily found, sufficient, in addition to the property designated, to satisfy the execution.
As added by P.L.1-1998, SEC.51.

IC 34-55-3-10
Personalty and real estate; order of levy and sale

Sec. 10. In all cases where the personal estate of the debtor, subject to execution, is insufficient to satisfy the execution, the real estate is exempt from levy and sale until the personal estate is levied upon and sold, unless the debtor directs otherwise. The principal messuage, lands, or tenements of the debtor, or upon which the debtor may reside, shall not be levied upon unless other property cannot be found sufficient to satisfy the execution in the hands of the sheriff.

As added by P.L.1-1998, SEC.51.

IC 34-55-4

Chapter 4. Appraisement

IC 34-55-4-1

Sales for less than two-thirds appraised value prohibited

Sec. 1. Property shall not be sold on any execution or order of sale issued out of any court for less than two-thirds (2/3) of the appraised cash value of the property, exclusive of liens and encumbrances, except where otherwise provided by law.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-2

Sheriff to ascertain cash value

Sec. 2. The sheriff, immediately upon levying an execution, shall proceed to ascertain the cash value of the property levied upon.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-3

Appraisers; selection; duties

Sec. 3. (a) For the purpose of appraising the cash value of property:

(1) two (2) disinterested householders of the neighborhood where the levy is made shall be selected as appraisers, one (1) of whom shall be selected by each of the parties or their agents; or

(2) in the absence of either party or the party's agent, or upon the failure or refusal of either party after three (3) days notice by the sheriff, to make the selection, the sheriff shall proceed to select the appraisers.

(b) The appraisers shall immediately proceed to appraise the property according to its cash value at the time, deducting liens and encumbrances. In case of their disagreement as to the value, the sheriff shall select a like disinterested appraiser, and, with the disinterested appraiser's assistance, shall complete the valuation. The appraisement of any two (2) of them shall be considered the cash value.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-4

Failure of appraiser to act; successor

Sec. 4. If an appraiser fails to act or to complete the valuation, another appraiser shall be chosen, as provided in this chapter.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-5

Lists of liens and encumbrances

Sec. 5. It is not the duty of the sheriff or the appraisers to ascertain the amount of liens and encumbrances. However, either party may furnish the sheriff with a list of liens and encumbrances, with the amount and nature of each.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-6
Schedule of property levied on

Sec. 6. The sheriff shall furnish the appraisers a schedule of the property levied on, with the encumbrances made known to the sheriff. The appraisers shall proceed to fix and set down opposite to each tract, lot, or parcel of real estate, and of the several articles of personal property, the cash value, deducting liens and encumbrances. The appraisers shall return the schedule to the sheriff.
As added by P.L.1-1998, SEC.51.

IC 34-55-4-7
Oath of appraisers

Sec. 7. (a) The appraisers shall take and subscribe an oath, annexed to the appraisement, to the effect that:

(1) the property mentioned in the schedule is, to the best of their judgment, worth the sums specified in the appraisement; and
(2) the appraisement is the fair cash value of the property at the time, exclusive of liens and encumbrances.

(b) The sheriff may administer and attest the oath described in subsection (a).
As added by P.L.1-1998, SEC.51.

IC 34-55-4-8
Purchaser's rights regarding encumbered property

Sec. 8. (a) Subject to subsection (b), where any property is sold subject to liens and encumbrances, the purchaser may:

(1) pay the liens and encumbrances and hold the property discharged from all claims of the execution defendant; or
(2) hold the property subject to be redeemed by the execution defendant, or the execution defendant's heirs, or assigns, by paying to the purchaser, or the purchaser's heirs or assigns, the purchase money, with interest.

When redeemed, the purchaser shall have the growing crops and shall not be accountable for rents and profits, but the purchaser shall account for waste.

(b) This section does not deprive a party from the right to redeem when authorized by statute.
As added by P.L.1-1998, SEC.51.

IC 34-55-4-9
Unsold property; sheriff's duty

Sec. 9. When any property levied on remains unsold, the sheriff shall, when the sheriff returns the execution, return the appraisement with the execution, stating in the sheriff's return the failure to sell and the cause of the failure.
As added by P.L.1-1998, SEC.51.

IC 34-55-4-10

Continuance of lien on unsold property

Sec. 10. (a) The lien of the levy upon the property shall continue, and the clerk, when directed by the plaintiff, shall immediately issue another execution:

(1) reciting the return of the former execution and the levy and failure to sell; and

(2) directing the sheriff to satisfy the judgment out of the unsold property, if the unsold property is sufficient.

(b) If the property is not sufficient, the sheriff shall satisfy the judgment out of any other property of the debtor subject to execution. However, the lien as to personal property continues only for thirty (30) days (unless a second execution is issued) from the time of the return. At that time, the property shall be released to bona fide purchasers for value and to the levies of writs on other judgments. The levy shall, as between the parties, be considered vacated. As to real property, the levy of the writ shall be discharged after six (6) months.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-11

Unsold property; revaluation and reoffer

Sec. 11. Whenever any property levied upon remains unsold for want of buyers, the plaintiff may cause the property to be reoffered at any time before the return day of the execution, at the plaintiff's costs, as often as the plaintiff may direct. In case of the sale of the property, the costs of the offer and sale shall be taxed against the defendant. Either party may have a revaluation of the property, at that party's costs, after any offer to sell.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-12

Fraudulent transfers or conveyances

Sec. 12. Property conveyed by a debtor with intent to hinder, delay, or defraud creditors shall be sold without appraisement.

As added by P.L.1-1998, SEC.51.

IC 34-55-5

Chapter 5. Personal Property Taken in Execution of Judgment

IC 34-55-5-1

Return of property to execution defendant

Sec. 1. (a) Any personal property taken in execution may be returned to the execution defendant by the sheriff, upon the delivery by the defendant to the sheriff of a written undertaking described in subsection (b).

(b) The written undertaking must be:

(1) payable to the execution plaintiff, with sufficient surety to be approved by the sheriff; and

(2) to the effect that the property shall be delivered to the sheriff at a time and place named in the undertaking, to be sold:

(A) according to law; or

(B) for the payment to the sheriff of:

(i) the appraised value of the property; or

(ii) if the property has not been appraised, the fair value of the property.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-2

Appraisal of property

Sec. 2. (a) Before the sheriff delivers any part of the property to the defendant, the sheriff shall cause the property to be appraised in the manner prescribed by law when an appraisement of the property is required.

(b) The defendant may sell or dispose of the property, paying the officer the full appraised value of the property.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-3

Nondelivery of property; duty of sheriff to levy and sell

Sec. 3. In case of the nondelivery of the property according to the undertaking, the sheriff shall levy upon and sell the property, or any other property of the defendant, as soon as practicable, at any time before the return day of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-4

Forfeiture of undertaking; endorsement

Sec. 4. Upon the forfeiture of the written undertaking, the officer shall immediately return it endorsed "forfeited" to the clerk's office for the use of the plaintiff.

As added by P.L.1-1998, SEC.51.

IC 34-55-5-5

Actions on undertakings; damages

Sec. 5. The written undertaking is valid in law. An action may be brought on the written undertaking, whenever the condition of the

written undertaking is broken, and on recovery. The value of the property so taken, with damages not exceeding ten percent (10%) on the value, shall be assessed in favor of the plaintiff. However, the recovery may not exceed the amount due on the execution, and ten percent (10%) on the principal.
As added by P.L.1-1998, SEC.51.

IC 34-55-5-6
Execution without stay

Sec. 6. On judgment obtained on the written undertaking, execution shall issue immediately, without stay, returnable in thirty (30) days, and the sheriff shall not return to the execution defendant any property levied on, except upon payment of the judgment.
As added by P.L.1-1998, SEC.51.

IC 34-55-6

Chapter 6. Sale of Property on Execution

IC 34-55-6-1

Real estate; rents and profits to be first offered for sale

Sec. 1. The estate or interest of the judgment debtor in any real estate shall not be sold on execution until the rents and profits of the real estate has been first offered for sale at public auction for a period not exceeding seven (7) years. However, if the real estate does not sell for a sum sufficient to satisfy the execution, the estate or interest of the judgment debtor shall be sold by virtue of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-2

Manner of sale

Sec. 2. A sheriff shall sell property on execution in a manner that is reasonably likely to bring the highest net proceeds from the sale after deducting the expenses of the offer to sell and sale.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-3

Auctions

Sec. 3. Upon prior petition of the debtor, any creditor involved in the execution proceedings, or, in the case of a partition action, any party having an interest in the property, the court in its order of execution shall order the property sold by the sheriff through the services of an auctioneer if the court determines that:

(1) a sale is economically feasible; or

(2) all the creditors in the proceedings agree to both that method of sale and the compensation to be paid the auctioneer.

As added by P.L.1-1998, SEC.51. Amended by P.L.94-2014, SEC.8.

IC 34-55-6-4

Auctioneer's conduct; advertising

Sec. 4. An auctioneer engaged by a sheriff under this chapter shall conduct the auctioneer's activities as appropriate to bring the highest bid for the property on execution. The advertising conducted by the auctioneer is in addition to any other notice required by law.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-5

Auctioneer's fee and expenses

Sec. 5. (a) The auctioneer's fee shall be a reasonable amount stated in the court's order.

(b) This subsection does not apply to a partition action. If the sale by use of an auctioneer has not been agreed to by the creditors in the proceedings and the sale price is less than the sale price described in IC 34-6-2-35, the auctioneer is entitled only to the auctioneer's advertising expenses plus one hundred dollars ($100).

(c) The amount due the auctioneer for the auctioneer's expenses

and fee, if any, shall be paid as a cost of the sale from the sale proceeds before the payment of any other payment from the sale proceeds.
As added by P.L.1-1998, SEC.51. Amended by P.L.94-2014, SEC.9.

IC 34-55-6-6
Rents and profits; sale and appraisal
Sec. 6. Rents and profits may be sold as other property, the appraisers setting down the value of each year separately.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-7
Rents and profits; maximum term of lease
Sec. 7. If rents and profits are sold under section 6 of this chapter (or IC 34-1-39-2 before its repeal), only the number of years of rents and profits not exceeding seven (7) years shall be sold as will satisfy the execution, and no more. The sheriff shall execute a lease to the purchaser for the term sold.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-8
Real estate; sale at public auction
Sec. 8. (a) Real estate, including chattels real, taken by virtue of an execution, shall be sold at public auction at:
(1) the courthouse of the county in which the real estate is located; or
(2) another location that is reasonably likely to draw higher bids for the real property.
(b) If the estate consists of several lots, tracts, and parcels, each lot, tract, or parcel shall be offered for sale separately. No more of any real estate shall be offered for sale than is necessary to satisfy the execution, unless the real estate is not susceptible of division.
(c) When real estate which is not susceptible of division is ordered to be sold on any decree or judgment, and the real estate is traversed by the line between two (2) counties, the real estate may be advertised and sold in either county.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-9
Real estate; notice requirements for sale
Sec. 9. (a) A sale of real estate, on execution, shall be advertised by the sheriff for at least twenty (20) days successively, next before the day of sale, by:
(1) posting written or printed notices of the sale in three (3) public places in the township in which the real estate is located;
(2) posting a like advertisement at the door of the courthouse of the county; and
(3) advertising the sale for three (3) weeks successively in a newspaper:
(A) of general circulation;

(B) printed in the English language; and

(C) published in the county where the real estate is located.

(b) However, if the sheriff is not able to procure the publication of the notice in a newspaper of general circulation, published within the sheriff's county, the sheriff may dispense with the publication of the notice. The land may be sold without the required publication, but the sheriff shall, in the sheriff's return of the writ, state the sheriff's inability to procure the publication. The return has the same effect in evidence as the official returns of sheriffs in other cases.

(c) In a notice under this section, the sheriff must include the following:

(1) A statement of the date, time, and place of the sale.

(2) A description of the location of the property that includes, for informational purposes only, the location of each property by street address, if any, or other common description of the property other than legal description. However, a misstatement in the informational statement under this subdivision does not invalidate an otherwise valid sale.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-10

Personal property; notice requirements for sale

Sec. 10. Previous notice of the time and place of the sale of any personal property on execution shall be given for ten (10) days successively by posting written notices of the sale in at least three (3) of the most public places in the township where the sale is to be made.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-11

Personal property; sale at public auction

Sec. 11. (a) Personal property shall not be sold unless the personal property is present and subject to the view of those persons attending the sale.

(b) Personal property shall be sold at public auction, in such lots and parcels as calculated to bring the highest price.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-12

Insufficient levy; further levy and sale

Sec. 12. If the property levied on does not sell for a sum sufficient to satisfy the execution, the sheriff shall:

(1) make a further and sufficient levy, if sufficient property can be found;

(2) proceed as upon the first levy; and

(3) return the sheriff's actions on the further levy.

As added by P.L.1-1998, SEC.51.

IC 34-55-6-13

Unsatisfied execution; issuance of new execution

Sec. 13. The clerk, upon the return of an execution unsatisfied, shall issue another execution upon the judgment, and endorse on the execution the amount of money, if any, levied by the former execution.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-14
Real estate; sheriff's deed

Sec. 14. (a) Upon the sale of real estate, by virtue of an execution, and the payment of the purchase money, the sheriff making the sale (or in case of the sheriff's death or going out of office, the sheriff's successor) or any officer authorized to discharge the duties of the office shall execute and deliver to the purchaser a deed of conveyance for the premises.

(b) A deed of conveyance delivered under subsection (a) is valid and effectual to convey all the right, title, and interest of the execution debtor to the purchaser, except any right of redemption, as provided by law.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-15
Real estate; conveyance of land to heirs or devisees of deceased purchaser

Sec. 15. If the purchaser of real estate upon execution, who has paid the purchase money for the real estate, dies before a deed of conveyance is executed to the purchaser, the sheriff shall convey the real estate to the heirs or devisees of the deceased person.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-16
Procedural violations by sheriff; penalties

Sec. 16. (a) A sheriff who:

(1) sells any real estate without giving the previous notice required by this chapter (or IC 34-1-39 before its repeal); or

(2) sells the real estate otherwise than in the manner prescribed by this chapter;

shall forfeit and pay to the injured party not less than ten dollars ($10) nor more than two hundred dollars ($200) in addition to other damages the party may have sustained.

(b) Damages under subsection (a) may be recovered from the sheriff or from the sheriff and the sheriff's sureties in an action on the sheriff's official bond.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-17
Purchase of property by sheriff or deputies; sale void

Sec. 17. If a sheriff or the sheriff's agent making sale of property on execution directly or indirectly purchases the property, the sale is void.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-18
Failure of purchaser to pay for property; damages

Sec. 18. Whenever the purchaser of property sold on execution fails or refuses to pay the purchase money, the purchaser is liable, on motion made by the sheriff or the execution plaintiff or defendant in the proper court on five (5) days notice, to a judgment for the amount of:

(1) the purchase money;
(2) damages not exceeding ten percent (10%);
(3) interest; and
(4) costs.

No stay of execution shall be allowed upon the judgment.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-19
Failure of purchaser to pay for property; resale of property; damages

Sec. 19. (a) As an alternative to the procedure set forth in section 18 of this chapter, the sheriff may reexpose and sell the property on the same or any subsequent day according to law. If the amount bid at the second sale does not equal the amount bid at the first sale and the costs of the second sale, the first purchaser is liable for:

(1) the deficiency;
(2) damages not exceeding ten percent (10%);
(3) interest; and
(4) costs;

to be recovered by a like notice and motion as provided in section 18 of this chapter.

(b) If the sheriff sells on a subsequent day, the sheriff shall readvertise as in other cases.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-20
Limitation on use of mail

Sec. 20. When an execution is issued to any county other than the county in which the judgment is rendered, return may be made by mail. However, money may not be sent by mail, except by the direction of the party entitled to the money or that party's attorney.
As added by P.L.1-1998, SEC.51.

IC 34-55-6-21
Surplus of execution sale; disposition

Sec. 21. When property is sold on execution for more than will satisfy the execution, including interest and costs, the sheriff shall pay the overplus to the execution debtor on whom it was levied, or to the execution debtor's assigns, unless the execution debtor is notified of the existence of liens to the payment of which the overplus should be applied. In that event, the execution debtor shall return the money, which is to be disposed of as the court directs.
As added by P.L.1-1998, SEC.51.

IC 34-55-7

Chapter 7. Liability of Sheriff to Pay Money Collected on Execution

IC 34-55-7-1

Time of paying over money

Sec. 1. When the sheriff has collected any money on execution, the sheriff shall pay over the money at the earliest opportunity, unless enjoined.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-2

Neglect or refusal of sheriff to levy or sell; liability

Sec. 2. If a sheriff neglects or refuses to levy upon or sell any property justly liable to execution when the levy or sale might have been done, the sheriff is liable for the value of the property, not to exceed the amount necessary to satisfy the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-3

Neglect or refusal of sheriff to return execution; liability

Sec. 3. If a sheriff neglects or refuses to return any execution as required by law, or makes a false return on the execution, the sheriff is liable for the amount the sheriff might and should have levied by virtue of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-4

Neglect or refusal of sheriff to pay over money collected on execution; liability

Sec. 4. If a sheriff neglects or refuses on demand to pay over any money collected on execution to the execution creditor, the execution creditor's agent or attorney, or the execution debtor when entitled, the sheriff is liable for the amount withheld.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-5

Additional damages

Sec. 5. In all cases described in sections 2, 3, and 4 of this chapter, the plaintiff shall, in addition to the amount of liability, recover from the sheriff:

(1) legal interest; and

(2) damages not exceeding ten percent (10%) on the principal sum recovered.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-6

Actions against sheriff; procedure

Sec. 6. (a) Recovery under section 5 of this chapter may be made by:

(1) motion against the officer in the proper court upon ten (10) days notice; or

(2) action on the bond of the sheriff.

(b) The proceedings in this section may be commenced immediately upon the default of the sheriff, either before or after the return day of the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-7

Return of execution

Sec. 7. (a) Every execution shall be returned immediately upon being satisfied by the collection of the money or upon order of the plaintiff or the plaintiff's agent endorsed on the execution.

(b) When the return day of an execution falls on Sunday, the execution shall be returned on the following Monday.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-8

Failure to give notice of sale to defendant; plaintiff required to submit refunding bond

Sec. 8. If:

(1) the sheriff sells the property of a nonresident or other person upon an execution issued on a judgment recovered against the person in a case where publication has been provided; and

(2) no personal notice of the pendency of the action was given to the defendant;

the plaintiff may not receive any of the proceeds of the sale until the plaintiff has filed in the clerk's office a written undertaking, with surety, to be approved by the clerk, to the effect that the plaintiff will refund the money about to be received by the plaintiff, or so much of the money as is necessary, if the judgment is afterwards annulled or set aside and the defendant shows that the plaintiff's claim is unfounded in whole or in part. However, surety to refund is not required in cases of attachment.

As added by P.L.1-1998, SEC.51.

IC 34-55-7-9

Death of defendant; effect

Sec. 9. The death of a defendant, after the execution is placed in the hands of the sheriff to be executed, does not affect the sheriff's proceedings, except that the amount of property allowed absolutely to the surviving spouse of the decedent is exempt from levy and sale under the execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-8
Chapter 8. Proceedings Supplementary to Execution

IC 34-55-8-1
Unsatisfied execution; order requiring judgment debtor to appear

Sec. 1. If an execution against the property of the judgment debtor or any of several debtors in the same judgment is returned unsatisfied, in whole or in part, the judgment creditor, after the return is made, is entitled to an order to be issued by any circuit, superior, or city court in the jurisdiction to which the execution issued that requires the judgment debtor to appear before the court to answer concerning the judgment debtor's property, income, and profits within the county to which the execution was issued.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-2
Refusal of judgment debtor to apply assets to judgment; order requiring

Sec. 2. (a) If, after the issuing of an execution against property, the execution plaintiff or other person on the execution plaintiff's behalf makes and files with the clerk of any court of record of any city, county, or township an affidavit:

(1) stating to the effect that a judgment debtor, residing in the territorial jurisdiction of the court, has property, income, or profits that the judgment debtor unjustly refuses to apply toward the satisfaction of the judgment; and

(2) describing the property, income, or profits;

the court shall issue a subpoena requiring the judgment debtor to appear immediately before the court, at a specified time and place, to answer concerning the affidavit.

(b) Proceedings described in subsection (a) may subsequently be held for the application of the property, income, or profits of the judgment debtor toward the satisfaction of the judgment as provided upon the return of an execution.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-3
Arrest of debtor authorized

Sec. 3. When the plaintiff or the plaintiff's agent or attorney, at the time of applying for the order or at any time afterwards, makes and files an affidavit with the court, stating that:

(1) there is danger of the debtor leaving the state or concealing himself or herself; and

(2) there is reason to believe the debtor has property, rights, credits, moneys, or effects that the debtor unjustly refuses to apply to the judgment, with intent to defraud the creditor;

the court shall issue to the sheriff of the county an order of arrest and bail.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-4
Arrest of debtor; bond

Sec. 4. The sheriff, after taking the execution debtor into custody upon the order of arrest, shall require the execution debtor to enter into a written undertaking to the plaintiff, with surety, to be approved by the officer, that:

(1) the execution debtor will attend before the court and obey the order made by the court; and

(2) the execution debtor will not, in the meantime, dispose of any part of the execution debtor's property that is not exempt from execution.

If the execution debtor defaults on the written undertaking, the execution debtor shall be committed to prison. Upon breach of the written undertaking, the plaintiff is entitled to the amount of the value of the property unlawfully withheld or disposed of.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-5
Third parties; when required to appear

Sec. 5. (a) Except as provided in subsections (b) and (c):

(1) after the issuing or return of an execution against the property of the judgment debtor or any one (1) of the several debtors in the same judgment; and

(2) upon an affidavit that any person, corporation (municipal or otherwise), the state, or any subdivision or agency of the state:

(A) has property of the judgment debtor; or

(B) is or will be periodically indebted to the judgment debtor in any amount (although the amount shall be determined periodically as it becomes due and payable, which together with other property claimed by the judgment debtor as exempt from execution, exceeds the amount of property exempt by law);

such person, corporation, any member of the corporation, the auditor of state, or auditing officer of the municipal corporations, subdivisions, or agencies of the state may be required to appear and answer concerning the affidavit, as provided by this chapter.

(b) The persons described in this section shall not be required to appear personally in court unless the judge of the court orders their personal appearance.

(c) The court may order interrogatories to be submitted and the interrogatories to be answered by the persons described in subsection (a). The interrogatories shall be submitted by the parties. The clerk of the court shall transmit by registered mail a copy of:

(1) the interrogatories, with blanks for answer; and

(2) the order of the court ordering the interrogatories answered;

to the person, corporation, member of the corporation, the auditor of state, or the auditing officer of the municipal corporations, subdivisions, or agencies of the state required to answer the interrogatories. On receipt of the interrogatories and order, the

person, corporation, member of the corporation, auditor of state, or the auditing officer of the municipal corporations, subdivisions, or agencies of the state shall answer the interrogatories and return the interrogatories to the clerk by registered mail or personally. The court may compel answers to the interrogatories.
As added by P.L.1-1998, SEC.51.

IC 34-55-8-6
Witnesses

Sec. 6. (a) Witnesses may be required to appear and testify in the proceeding provided for in this chapter.

(b) Either party may examine the other as a witness in the same manner as upon the trial of an issue, or the plaintiff may waive the answer of the debtor and rely upon other testimony.

(c) All examinations and answers under this section shall be made on the oath of the party. However, when a corporation answers, the answers shall be on the oath of an officer of the corporation.
As added by P.L.1-1998, SEC.51.

IC 34-55-8-7
Order requiring application of property to debt and forbidding transfer; liens; order for placing hold on deposit account; hearing; order releasing hold

Sec. 7. (a) Except as provided in subsection (b), after a hearing of which the judgment debtor has been notified, the court may order:

(1) any property, income, or profits of the judgment debtor not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or

(2) any debt due to the judgment debtor;

to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

(b) If the judgment debtor has failed to comply with an agreed order in the action, after a hearing of which the judgment debtor has been notified, the court shall order:

(1) any property, income, or profits of the judgment debtor not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or

(2) any debt due to the judgment debtor;

to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

(c) The judge shall order that:

(1) the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person, governmental officer, or corporation from the date the order is served upon the person, governmental officer, or corporation indebted to the judgment debtor to the extent that the lien, together with all similar liens, is permitted under IC 24-4.5-5-105; and

(2) the court may enforce all orders and decrees in the premises, by attachment or otherwise.

(d) A court in an action for proceedings supplementary to execution shall issue an order directing a depository financial institution (as defined in IC 28-9-2) to place a hold on a deposit account in which the judgment debtor has an interest, either individually or jointly with another person, whenever the conditions prescribed under IC 28-9-3-4(d)(1) through IC 28-9-3-4(d)(3) are met. An order issued under this subsection:

(1) is subject to the limitations as to duration of the restriction and the amount to be restricted as specified under IC 28-9-4-2; and

(2) may be terminated or modified to reflect valid exemptions of a depositor that the court has considered.

(e) If an order for the placing of a hold on a deposit account is issued under subsection (d), a person whose deposit account is affected may request a hearing from the court on the matter of:

(1) the person's right to claim certain funds in the person's deposit account as exempt from garnishment; and

(2) whether the hold should be removed by the court.

(f) If a court receives a request for a hearing under subsection (e), the court shall hold a hearing on the matter within five (5) days (excluding Saturdays, Sundays, and legal holidays) after the court receives the request.

(g) If a person whose deposit account is affected by the order issued under subsection (d) files an affidavit with the court stating that the funds in the account are exempt from garnishment, the court may issue an order releasing the hold on the account without first conducting a hearing.

(h) If a court has issued a garnishment order to a third party and the garnishment order no longer applies to the third party due to a change in circumstances, the court may cancel the garnishment order and issue a new garnishment order to an appropriate third party, if all of the following conditions are met:

(1) The court has issued a garnishment order under subsection (a) or (b) with respect to a judgment debtor's income or profits in the hands of a third party.

(2) The judgment constitutes a continuing lien under subsection (c).

(3) Due to a change in circumstances, including a change of employment, the judgment debtor's income or profits are in the hands of a new third party not named in the garnishment order.

(4) The judgment creditor files a petition:

(A) notifying the court of the matters described in subdivisions (1) through (3); and

(B) informing the court of the name, address, and other relevant information concerning the new third party holding the judgment debtor's income and profits.

A court may issue a new garnishment order under this subsection without holding a hearing.

As added by P.L.1-1998, SEC.51. Amended by P.L.1-1999, SEC.76; P.L.78-2014, SEC.22.

IC 34-55-8-8
Cost of proceedings

Sec. 8. Costs shall be awarded and taxed in a proceeding under this chapter as in other cases.

As added by P.L.1-1998, SEC.51.

IC 34-55-8-9
Proceedings to be summary

Sec. 9. All proceedings under this chapter, after the order has been made requiring parties to appear and answer, shall be summary, without further pleadings, upon the oral examination and testimony of parties and witnesses. However, the sufficiency of the order and of the affidavit first filed by the plaintiff may be tested by:

(1) demurrer;
(2) motion to dismiss; or
(3) motion to strike.

As added by P.L.1-1998, SEC.51.

IC 34-55-9

Chapter 9. Real Estate Subject to Judgment and Execution

IC 34-55-9-1

Real estate liable to judgment and attachment enumerated

Sec. 1. The following real estate is liable to all judgments and attachments and to be sold on execution against the debtor owing the real estate or for whose use the real estate is held:

(1) All lands of the judgment debtor, whether in possession, remainder, or reversion.

(2) All rights of redeeming mortgaged lands and all lands held by virtue of any land office certificate.

(3) Lands or any estate or interest in land held by anyone in trust for or to the use of another.

(4) All chattels real of the judgment debtor.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-2

Liens upon real estate and chattels real

Sec. 2. All final judgments for the recovery of money or costs in the circuit court and other courts of record of general original jurisdiction in Indiana, whether state or federal, constitute a lien upon real estate and chattels real liable to execution in the county where the judgment has been duly entered and indexed in the judgment docket as provided by law:

(1) after the time the judgment was entered and indexed; and

(2) until the expiration of ten (10) years after the rendition of the judgment;

exclusive of any time during which the party was restrained from proceeding on the lien by an appeal, an injunction, the death of the defendant, or the agreement of the parties entered of record.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-3

Judgments on bonds payable to state

Sec. 3. Judgments on bonds payable to the state of Indiana bind the real estate of the debtor from the commencement of the action.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-4

Recognizance binding upon real estate

Sec. 4. A recognizance binds the real estate of the principal from the time it is taken. A recognizance only binds the real estate of the surety, however, from the time judgment of forfeiture is rendered.

As added by P.L.1-1998, SEC.51.

IC 34-55-9-5

Executions issued to another county binding upon real estate

Sec. 5. An execution against property issued to another county binds the real estate of the defendant from the time of the levy.

As added by P.L.1-1998, SEC.51.

IC 34-55-10

Chapter 10. Sales and Execution of Real Estate: Exemptions

IC 34-55-10-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 34-2-28 (before its repeal, now codified in this chapter) by P.L.182-1986 do not apply to causes of action in tort that accrue before September 1, 1986.

(b) The amendments made to IC 34-2-28-1 (before its repeal, now codified at section 2 of this chapter) by P.L.290-1989 apply to judgments obtained after June 30, 1989.

As added by P.L.220-2011, SEC.581.

IC 34-55-10-1

Bankruptcy exemptions

Sec. 1. In accordance with Section 522(b) of the Bankruptcy Code of 1978 (11 U.S.C. 522(b)), in any bankruptcy proceeding, an individual debtor domiciled in Indiana is not entitled to the federal exemptions as provided by Section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)).

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.9.

IC 34-55-10-2

Bankruptcy exemptions; limitations

Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

(1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars ($15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of eight thousand dollars ($8,000).

(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars ($300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

(9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision (10) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all accounts

under this subdivision and qualified tuition programs under subdivision (9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

(11) The debtor's interest in a refund or a credit received or to be received under the following:

(A) Section 32 of the Internal Revenue Code of 1986 (the federal earned income tax credit).

(B) IC 6-3.1-21-6 (the Indiana earned income tax credit).

(12) A disability benefit awarded to a veteran for a service connected disability under 38 U.S.C. 1101 et seq. This subdivision does not apply to a service connected disability benefit that is subject to child and spousal support enforcement under 42 U.S.C. 659(h)(1)(A)(ii)(V).

(13) Compensation distributed from the supplemental state fair relief fund under IC 34-13-8 to an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2). This subdivision applies even if a debtor is not domiciled in Indiana.

(d) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entireties does not result in a severance of the tenancy by the entireties.

(e) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.10; P.L.145-2008, SEC.33; P.L.44-2010, SEC.1; P.L.53-2010, SEC.1; P.L.42-2011, SEC.73; P.L.160-2012, SEC.65.

IC 34-55-10-2.5

Exemption amounts; adoption of rules

Sec. 2.5. (a) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing the amount for each exemption under section 2(c)(1) through 2(c)(3) of this chapter to take effect not earlier than January 1, 2010, and not later than March 1, 2010.

(b) The department of financial institutions shall adopt a rule under IC 4-22-2 establishing new amounts for each exemption under section 2(c)(1) through 2(c)(3) of this chapter every six (6) years after exemption amounts are established under subsection (a). The rule establishing new exemption amounts under this subsection must take effect not earlier than January 1 and not later than March 1 of the sixth calendar year immediately following the most recent adjustments to the exemption amounts.

(c) The department of financial institutions shall determine the amount of each exemption under subsections (a) and (b) based on changes in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, for the most recent six (6) year period.

(d) The department of financial institutions shall round the amount of an exemption determined under subsections (a) and (b) to the nearest fifty dollars ($50).

(e) A rule establishing amounts for exemptions under this section may not reduce an exemption amount below the exemption amount on July 1, 2005.

(f) The department of financial institutions may adopt a rule under subsection (a) or subsection (b) as an emergency rule under IC 4-22-2-37.1.

(g) An emergency rule adopted by the department of financial institutions under this section expires on the earlier of the following dates:

(1) The expiration date stated in the emergency rule.

(2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-24 through IC 4-22-2-36 or under IC 4-22-2-37.1.

As added by P.L.179-2005, SEC.11. Amended by P.L.140-2013, SEC.21.

IC 34-55-10-3

Designation of exempt property by debtor

Sec. 3. The debtor may designate real property, personal property, or both, as the exempted property.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.12.

IC 34-55-10-4

Appraisal of exempt property; selection of appraisers

Sec. 4. For the appraisal of any property to be exempted under this chapter, two (2) appraisers shall be chosen, one (1) by the plaintiff or the plaintiff's agent or attorney, and one (1) by the debtor. These two (2), in case of disagreement, shall select a third. If either party fails to select an appraiser, one (1) shall be selected by the officer holding the execution.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.13.

IC 34-55-10-5

Schedule of exempt property; affidavit of appraisers

Sec. 5. The appraisers shall make a schedule of the real and personal property selected by the debtor, describing the real estate by metes and bounds, and the personal property by separate items, affixing to each the value they agree upon. The appraisers, or a majority, shall affix to the schedule an affidavit in substance as follows: "We, the undersigned, swear that, in our opinion, the

property described in the schedule above is valued justly.".
As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.14.

IC 34-55-10-6
Delivery of schedule of exempt property; second or subsequent appraisals

Sec. 6. The schedule of real and personal property shall be delivered to the officer holding the execution or other process. The officer shall return the schedule with the execution or other process and make the schedule a part of the return. However, all second or subsequent appraisals under this chapter are at the cost of the party or parties asking for the reappraisal, unless the property of the debtor at the time of the reappraisal is appraised at enough over and above the legal exemption to meet the costs.
As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.15.

IC 34-55-10-7
Repealed

(Repealed by P.L.179-2005, SEC.20.)

IC 34-55-10-8
Personal property only claimed as exemption; procedure

Sec. 8. If the debtor claims as exempt from execution personal property only, the officer holding the execution shall cause the property to be appraised and set apart to the debtor, and shall proceed to sell such other property, if any, that is subject to execution according to law.
As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.16.

IC 34-55-10-9
Personal and real property claimed as exemption; procedure

Sec. 9. (a) If the value of a debtor's interest in property for which an exemption is claimed exceeds the amount of the exemption, the property may be sold. However, the debtor must be paid an amount equal to the debtor's exemption in the property from the proceeds of the sale.

(b) In making the sale under subsection (a), the officer may not accept a bid unless the bid exceeds the exempt value of the property. If indebtedness secured by a valid lien is chargeable against the proceeds of the sale, a bid may not be accepted if the bid is less than the sum of the amount of the indebtedness secured by the lien and the exempt value of the property.
As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.17.

IC 34-55-10-10
Repealed

(Repealed by P.L.179-2005, SEC.20.)

IC 34-55-10-11
Division of real property claimed as exemption; exemption of homestead

Sec. 11. In all cases in which real property is claimed as exempt from sale on execution, if the real property is susceptible of division by metes and bounds without material injury, the real property shall be divided to exempt the principal dwelling house or homestead of the debtor.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.18.

IC 34-55-10-12
Debtor's schedule required

Sec. 12. Before a debtor receives the benefit of the exemption provided by this chapter, the debtor shall deliver to the officer holding the execution a schedule of all the debtor's property, as required by law, if an exemption from sale on execution is claimed.

As added by P.L.1-1998, SEC.51. Amended by P.L.179-2005, SEC.19.

IC 34-55-10-13
Absence of execution defendant; rights of spouse

Sec. 13. In any case when the execution defendant is absent from Indiana, or is absent himself or herself from home, and an attachment or execution is directed against the execution defendant's property, the spouse may:

(1) make out and verify the schedule of the absent spouse's property, and claim and receive for the absent spouse the exemption provided in this chapter; and

(2) claim and exercise all the rights that would belong to the absent spouse if the absent spouse were present.

As added by P.L.1-1998, SEC.51.

IC 34-55-10-14
Certain lands and taxes unaffected

Sec. 14. The exemption under this chapter does not:

(1) affect any laborer's or mechanic's lien or lien for the purchase money of the real property exempted; or

(2) exempt any property from taxation or from sale for taxes.

As added by P.L.1-1998, SEC.51.

IC 34-55-11

Chapter 11. Sale and Execution of Real Estate: Payment of Taxes and Assessments

IC 34-55-11-1

Liability of purchaser and redemptioner

Sec. 1. (a) Whenever real estate is sold on execution or by virtue of a decretal order at judicial sale, the owner of the certificate of purchase may, during the year of redemption, pay to the clerk of the court in whose office the certificate of purchase is required to be recorded the amount of taxes and assessments becoming due and payable against the real estate during the year of redemption.

(b) The clerk shall pay and discharge the taxes and assessments, and, upon the redemption of the real estate, the amount so paid shall be paid by the redemptioner and collected by the clerk as a part of the amount necessary to redeem the real estate from sale.

As added by P.L.1-1998, SEC.51.

IC 34-55-12

Chapter 12. Collection of Judgments Against City or County

IC 34-55-12-1

Judgments against county or city; appropriations; appeal

Sec. 1. (a) A judgment against a county or city may be enforced only from appropriations made for that purpose.

(b) The proper officers of the county or city may be compelled by mandamus proceedings to make the necessary provisions for appropriating, levying, and collecting by taxation the sum necessary for the payment of a judgment. In the mandamus proceedings:

(1) the respective bodies and officers may be sued collectively by their legal names;

(2) service of process may be made on any member of the respective bodies; and

(3) all members of the respective bodies are bound by the judgment.

(c) If a city is entitled to an appeal, the appeal shall be granted without bond. A judgment against a city may not be enforced pending an appeal.

As added by P.L.1-1998, SEC.51.

IC 34-55-12-2

Restrictions on remedies; inapplicabilty to certain actions

Sec. 2. (a) This section does not apply to judgments and awards arising out of actions between municipalities or in which the state may have an interest.

(b) Execution may not be made upon a judgment or award of a court or board against real or personal property owned by a city or town, or on the interest of a city or town in such property.

(c) A mandate or injunction may not be issued by a court against a city or town or the officers of a city or town concerning a judgment or award unless the judgment or award arises from or out of an action in tort or on an express contract.

As added by P.L.1-1998, SEC.51.

IC 34-55-13

Chapter 13. Collection of Judgments Against Railroad Companies

IC 34-55-13-1

Unpaid judgment; writs directed to agent or employee

Sec. 1. (a) Whenever any judgment rendered in any court against any railroad company owning or operating a line of railroad in or running into or through Indiana remains unpaid for one (1) year after the rendition of the judgment, exclusive of the time execution of the judgment is stayed by appeal or supersedeas, the owner of the judgment may file a complaint against the railroad company alleging such facts and cause summons to be issued on the complaint as in other civil cases.

(b) When summons has been served on the railroad company defendant at least ten (10) days before the first day of the term of court at which the complaint is to be heard, the court shall order a writ to issue, directed to the sheriff of the proper county, for any agent, conductor, or employee of the railroad company, or of the lessee, receiver, or assignee of the company, named in the motion, to:

(1) appear immediately or at such time as the court may direct; and

(2) answer upon oath as to the:

(A) amount of money in the person's hands, if any, belonging to the company or to the assignee, lessee, or receiver; and

(B) probable amount of money receivable by the agent, conductor, or employee belonging to the railroad company, lessee, assignee, or receiver.

(c) If the agent, conductor, or employee answers that one (1) or more of them have any money belonging to the company or to the assignee, lessee, or receiver or that they are in the constant receipt of money as agent, conductor, or employee, the court shall order the agent, conductor, or employee to pay into the clerk's office of the court, at such times as named by the court, the portions of the money so held or receivable, not exceeding fifty percent (50%) of the amount, as may be determined just by the court until the judgment and costs are fully paid and satisfied.

(d) This section does not affect the liens of laborers or the priority of claims and judgments of laborers, employees, and materialmen.

As added by P.L.1-1998, SEC.51.

IC 34-55-13-2

Certain laws unaffected

Sec. 2. This chapter (and IC 34-2-23 before its repeal) are not intended to repeal any law or part of law in effect on April 27, 1899, in relation to the collection of judgments against railroad companies.

As added by P.L.1-1998, SEC.51.

IC 34-56

ARTICLE 56. APPEALS

IC 34-56-1

Chapter 1. Judgments From Which Appeals May Be Taken

IC 34-56-1-1

Appeals for circuit and superior courts

Sec. 1. Appeals may be taken by either party from all final judgments in circuit courts and superior courts.

As added by P.L.1-1998, SEC.52.

IC 34-56-1-2

Appeals prohibited after receiving money paid or collecting on judgment

Sec. 2. The party obtaining a judgment shall not take an appeal after receiving any money paid or collected on a judgment.

As added by P.L.1-1998, SEC.52.

IC 34-56-1-3

New trial motions

Sec. 3. A ruling or order of the court granting a motion for a new trial shall be treated as a final judgment. An appeal may be taken on the ruling or order.

As added by P.L.1-1998, SEC.52.

IC 34-56-2

Chapter 2. Appeal Bonds in Circuit Courts

IC 34-56-2-1

Defective appeal bond

Sec. 1. This chapter applies to all cases in which:

(1) an appeal is taken from:

(A) a board of county commissioners, viewers, or commissioners to assess damages; or

(B) any other person or tribunal;

to the circuit court; and

(2) the appeal bond filed in the case is defective:

(A) in substance or form; or

(B) for want of proper approval.

As added by P.L.1-1998, SEC.52.

IC 34-56-2-2

Effect of defective appeal bond

Sec. 2. The circuit court shall not dismiss a case on account of the defect or informality of the appeal bond if the appellant, when required by the court to which the appeal is taken, files in the court a sufficient bond, with surety to the acceptance of the court, in the sum required by the court.

As added by P.L.1-1998, SEC.52.

IC 34-56-2-3

Additional bond requirement

Sec. 3. In all appealed cases described in section 1 of this chapter, when costs have accrued so as to render the sum named in the appeal bond insufficient to secure the costs, the court in which the appeal is pending shall require the appellant to give an additional bond in such sum as the court considers sufficient, with surety to the acceptance of the court. If the appellant fails or refuses to comply with this section, the court shall dismiss the appeal.

As added by P.L.1-1998, SEC.52.

IC 34-56-3

Chapter 3. Federal Agencies Exempt From Appeal Bond Requirements

IC 34-56-3-1

Applicability of chapter

Sec. 1.This chapter does not apply to and does not affect in any way the status of any:

(1) national bank or banking institution;

(2) federal building and savings association; or

(3) savings association;

whether organized under federal or state laws.

As added by P.L.1-1998, SEC.52. Amended by P.L.79-1998, SEC.103.

IC 34-56-3-2

Exemptions

Sec. 2. (a) This section applies to all actions in which:

(1) an agency or instrumentality of the United States of America; or

(2) persons representing an agency or instrumentality described in subdivision (1) in any official capacity;

are entitled to take an appeal of any kind.

(b) An appeal described in subsection (a) shall be granted or taken as to the agency or instrumentality of the United States of America, or persons representing the agency or instrumentality, without bond.

(c) A proceeding may not be brought to enforce any judgment against the agency or instrumentality of the United States of America, or persons representing the agency or instrumentality, and execution of the judgment shall be stayed pending the appeal.

(d) A bond or undertaking may not be required of any agency or instrumentality of the United States of America, or persons representing the agency or instrumentality in any official capacity, in any proceeding or action by or against the agency or instrumentality or persons representing the agency or instrumentality in which any bonds or undertakings are required generally of any parties.

As added by P.L.1-1998, SEC.52.

IC 34-56-4

Chapter 4. Bill of Exceptions

IC 34-56-4-1

Applicability of chapter

Sec. 1. This chapter applies when the record does not show the decision or grounds of an objection to the decision.

As added by P.L.1-1998, SEC.52.

IC 34-56-4-2

Bill of exceptions

Sec. 2. The party objecting must, within the time allowed, present to the judge a proper bill of exceptions.

As added by P.L.1-1998, SEC.52.

IC 34-56-4-3

Actions by judge after presentation of bill

Sec. 3. If the bill of exceptions is true, the judge shall promptly:

(1) sign the bill of exceptions; and

(2) cause it to be filed in the cause.

As added by P.L.1-1998, SEC.52.

IC 34-56-4-4

Filing

Sec. 4. If the bill of exceptions is not true, the judge shall correct, sign, and cause the bill of exceptions to be filed without delay.

As added by P.L.1-1998, SEC.52.

IC 34-56-4-5

Bill becomes part of record upon signing and filing

Sec. 5. When signed by the judge and filed, the bill of exceptions becomes a part of the record. Delay of the judge in signing and filing the bill of exceptions does not deprive the party objecting of the benefit of the bill of exceptions.

As added by P.L.1-1998, SEC.52.

IC 34-56-4-6

Date of presentation

Sec. 6. The date of the presentation must be stated in the bill of exceptions, and the entry must show the time granted, if beyond the time, for presenting the same.

As added by P.L.1-1998, SEC.52.

IC 34-57

ARTICLE 57. ARBITRATION AND ALTERNATIVE DISPUTE RESOLUTION

IC 34-57-1

Chapter 1. Arbitration: Generally

IC 34-57-1-1

Applicability of chapter

Sec. 1. This chapter applies to:

(1) any controversy existing between two (2) or more parties which might be the subject of a suit at law, except as otherwise provided in section 2 of this chapter; and

(2) arbitration under IC 36-4-3-21.1 concerning services provided by a municipal utility to properties located outside the corporate boundaries of the municipality.

As added by P.L.1-1998, SEC.53. Amended by P.L.196-2014, SEC.3.

IC 34-57-1-2

Real estate claims

Sec. 2. (a) Except as provided in subsection (b), no submission to arbitration shall be made respecting the claim of any person to any estate in fee or for life to any real estate.

(b) The following controversies may be submitted to arbitration:

(1) A claim to an interest in a term for years, or for one (1) year or less, in real estate.

(2) Respecting the partition of lands between joint-tenants or tenants-in-common.

(3) Concerning the boundaries of lands.

(4) Concerning the assignment of dower.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-3

Persons who may agree to arbitrate

Sec. 3. All persons, except minors and mentally incompetent persons, may, by an instrument in writing, submit a controversy for arbitration by one (1) or more persons.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-4

Arbitrators mutually chosen

Sec. 4. The arbitrator is mutually chosen by the parties to the controversy.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-5

Submissions

Sec. 5. The parties may agree that each submission be made by a rule of any court of record designated in the instrument.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-6
Execution of bonds; conditions

Sec. 6. When an agreement is made according to sections 1 through 5 of this chapter, the parties shall execute bonds. The bonds must contain:

(1) a condition to abide and faithfully perform the award or umpirage;
(2) the name of the arbitrator or arbitrators;
(3) the matters submitted to arbitration for determination; and
(4) an agreement to make the submission a rule of the court designated in the agreement of submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-7
Time and place of arbitration; notice

Sec. 7. As soon as the bonds are delivered, either party may appoint a time and place for the arbitrator to meet, by giving the opposite party and the arbitrator not less than ten (10) days written notice.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-8
Arbitrator's oath

Sec. 8. Before hearing any testimony, the arbitrator or arbitrators shall swear faithfully and fairly to:

(1) hear and examine the matters in controversy; and
(2) make a just award according to the best of the arbitrator's understanding.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-9
Administration of oath

Sec. 9. The oath may be administered to the arbitrator and witnesses by any person authorized to administer oaths.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-10
Hearing

Sec. 10. As soon as the arbitrator is ready to proceed, the parties may exhibit their proofs. All the arbitrators must meet together, and hear the allegations of the parties, but the award of a majority is valid, unless otherwise required by the submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-11
Award

Sec. 11. The award must be:

(1) in writing;
(2) signed by the arbitrator or arbitrators who agreed to it; and
(3) attested by a subscribing witness.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-12
Copy of award and costs; delivery to parties

Sec. 12. One (1) of the arbitrators shall deliver a true copy of the award and of the costs to:

(1) each of the parties; or

(2) the last usual place of residence of a party;

not later than fifteen (15) days after the award is signed.
As added by P.L.1-1998, SEC.53.

IC 34-57-1-13
Refusal to comply with award

Sec. 13. If either of the parties fails or refuses to comply with the award, the other party may file the award, together with the agreement of submission, in the court named in the submission.
As added by P.L.1-1998, SEC.53.

IC 34-57-1-14
Entry of submission agreement and award on record; rule against adverse party

Sec. 14. (a) If the party seeking compliance proves the submission, the award, and that a copy of the award was duly served on the party against whom the rule is asked, the court shall:

(1) enter the submission and the award as matters of record; and

(2) grant a rule on the record against the adverse party, to show cause why judgment should not be rendered by the court upon the award.

(b) The submission may be proved by:

(1) a subscribing witness to the submission; or

(2) in case of death, insanity, or absence out of the state of the subscribing witness, as in other cases of a written instrument.

(c) The award may be proved:

(1) as a submission is proved under subsection (b); or

(2) by one (1) or more of the arbitrators.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-15
Confirmation of award by court

Sec. 15. Upon the return of the rule the court shall confirm the award and render judgment upon it, unless the award is vacated, modified, or postponed, as provided in this chapter. The judgment has the same force and effect as judgments in other cases.
As added by P.L.1-1998, SEC.53.

IC 34-57-1-16
Hearing and determination on court rule against adverse party

Sec. 16. (a) If the rule has been served ten (10) days or more on the adverse party before the time set for showing cause against the award, the court may proceed to examine and determine the rule in

the adverse party's absence.

(b) If the adverse party appears, the court shall proceed to hear and determine the grounds alleged against the award, if there are any.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-17

Grounds against rendition of judgment on award

Sec. 17. In all cases where an award is presented to any court of record for a judgment to be entered upon the award, whether the reference was made by submission of parties, or by rule of court, the adverse party may show cause against the rendition of the judgment on any of the following grounds:

(1) The award or umpirage was obtained by fraud, corruption, partiality, or other undue means, or the arbitrator showed evidence of partiality or corruption.

(2) The arbitrator was guilty of misconduct in:

(A) refusing to postpone the hearing upon sufficient cause shown;

(B) refusing to hear evidence material and pertinent to the controversy; or

(C) any other misbehavior by which the rights of any party were prejudiced.

(3) The arbitrator exceeded the arbitrator's powers, or so imperfectly executed them that a mutual, final, and definite award on the subject-matter submitted was not made.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-18

Modification or correction of award

Sec. 18. Any party to a submission may move the court to modify or correct the award in the following cases:

(1) When there is an evident miscalculation of figures, or an evident mistake in the description of any person, thing, or property referred to or mentioned in the award.

(2) When the arbitrator has awarded upon a matter that was not submitted, and does not affect the merits of the decision upon the matters which were submitted.

(3) When the award is imperfect in some matter of form, that:

(A) does not affect the controversy; and

(B) if it had been a verdict, the defect could have been properly amended or disregarded by the court.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-19

Hearing on motion to invalidate or sustain award

Sec. 19. (a) The court shall hear the proofs and allegations of the parties, to invalidate and sustain the award.

(b) The court shall:

(1) confirm the award;

(2) modify and correct the award in the cases prescribed in

section 18 of this chapter so as to:

(A) effect the intent of the award; and

(B) promote justice between the parties; or

(3) vacate the award for any of the causes specified in this chapter at the costs of the parties seeking to enforce the award.

(c) If the award is confirmed under subsection (b)(1), or modified under subsection (b)(2), the court shall render judgment on the original or corrected award.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-20

Judgments confirming awards

Sec. 20. If the award is confirmed, judgment shall be given in favor of any party to whom any sum of money or damages has been awarded that the party recover the amount awarded. If the award orders any act to be done by either party; judgment shall be entered that the act be done according to the award.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-21

Taxation of costs

Sec. 21. (a) The costs of the proceedings in court shall be taxed as in suits.

(b) If no provision for the fees and expenses of the arbitration is made in the award, the court shall make allowances for costs.

(c) However, if:

(1) there was a suit pending before the submission; and

(2) the costs of the suit were not noticed by the arbitrator;

the court shall not allow or tax any of the costs of the suit incurred before the submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-22

Judgment requiring performance of act; enforcement

Sec. 22. When the court enters a judgment on award that requires any party to perform any act other than the payment of money, the court has authority to enforce the performance by attachment, until the terms of the judgment have been complied with.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-23

Pending litigation; consent to arbitrate

Sec. 23. If the subject matter of any suit pending in any court, could originally have been submitted to arbitration, the parties to the suit, their agent, or attorney may consent, by rule of court, to refer the matter in controversy to certain persons mutually chosen by the parties in an open court.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-24

Referees

Sec. 24. The referees, if required by the parties, shall:

(1) be sworn in open court or before any officer authorized to administer oaths, faithfully and impartially to investigate, adjust, and report the matters submitted;

(2) proceed to investigate matters according to the submission of the parties; and

(3) report to the court at a time agreed to by the parties in the rule of reference.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-25

Referee's report

Sec. 25. When the report is returned under the signatures of a majority of the referees, the report shall be entered on the order book, and shall have the same effect as the verdict of a jury.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-26

Judgment on referee's report

Sec. 26. Either party may move the court for judgment on the report. If no sufficient cause is shown to the contrary, judgment shall be rendered on the report in like manner and with like force and effect as if rendered upon the verdict of a jury.

As added by P.L.1-1998, SEC.53.

IC 34-57-2

Chapter 2. Arbitration: Uniform Arbitration Act

IC 34-57-2-1

Written agreement to arbitrate; enforceability; exemptions from chapter

Sec. 1. (a) A written agreement to submit to arbitration is valid, and enforceable, an existing controversy or a controversy thereafter arising is valid and enforceable, except upon such grounds as exist at law or in equity for the revocation of any contract. If the parties to such an agreement stipulate in writing, the agreement may be enforced by designated third persons, who shall in such instances have the same rights as a party under this chapter. This chapter also applies to arbitration agreement between employers and employees or between their respective representatives (unless otherwise provided in the agreement).

(b) This chapter specifically exempts from its coverage all consumer leases, sales, and loan contracts, as these terms are defined in the Uniform Consumer Credit Code (IC 24-4.5).

As added by P.L.1-1998, SEC.53.

IC 34-57-2-2

Commencement of arbitration; procedure; tolling statute of limitations

Sec. 2. Arbitration shall be initiated by a written notice by either party, mailed by registered or certified mail, or delivered to the other party, briefly stating a claim, the grounds for the claim and the amount or amounts. Issues shall be joined by written notice of admissions or denials and any counterclaims or set-offs so mailed or delivered. The statutes of limitations ceases to run from the time of any notice of claim or counterclaim.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-3

Order to commence arbitration; stay of arbitration proceedings; procedure

Sec. 3. (a) On application of a party showing an agreement described in section 1 of this chapter, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration. Ten (10) days notice in writing of the hearing of such application shall be served personally upon the party in default. If the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue raised without further pleading and shall order arbitration if found for the moving party; otherwise, the application shall be denied.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Ten (10) days notice in writing of the hearing of the application shall be served personally upon the party in default. Such an issue, when in substantial and bona fide dispute, shall be forthwith

summarily determined without further pleadings and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under subsection (a), the application shall be made in that action or proceeding. Otherwise and subject to section 17 of this chapter, the application may be made in any court with jurisdiction.

(d) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for an order for arbitration has been made under this section (or IC 34-4-2-3 before its repeal), or, if the issue is severable, the stay may be with respect to the issue only. When the application is made in such an action or proceeding, the order for arbitration must include such a stay.

(e) An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

(f) If the court determines that there are other issues between the parties that are not subject to arbitration and that are the subject of a pending action or special proceeding between the parties and that a determination of such issues is likely to make the arbitration unnecessary, the court may delay its order to arbitrate until the determination of such other issues or until such earlier time as the court specifies.

(g) On application the court may stay an arbitration proceeding on a showing that the method of appointment of arbitrators is likely to or has resulted in the appointment of a majority of arbitrators who are partial or biased in some relevant respect. The court shall then appoint one (1) or more arbitrators as provided in section 4 of this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-4

Appointment of arbitrators by agreement or by court

Sec. 4. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence of such an agreement, any method of appointment of arbitrators agreed upon by the parties to the contract shall be followed. When an arbitrator appointed fails or is unable to act, a successor shall be appointed in the same manner as the original appointment. If the method of appointment of arbitrators is not specified in the agreement and can not be agreed upon by the parties, or if agreed method fails or for any reason can not be followed, or if an arbitrator appointed fails or is unable to act and a successor has not been appointed within a reasonable time, the court on application of a party shall appoint one (1) or more arbitrators, who have all the powers of an arbitrator appointed according to the agreement.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-5
Powers of arbitrators exercised by majority

Sec. 5. The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-6
Hearings; time and place; notice; procedure

Sec. 6. Unless otherwise provided by the agreement:

(a) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than thirty (30) days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy. Any party may require that the hearing be recorded in a manner sufficient for appeal.

(b) The parties are entitled to be heard and to present any and all evidence material to the controversy regardless of its admissibility under judicial rules of evidence.

(c) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining neutral arbitrator or neutral arbitrators may continue with the hearing and determination of the controversy.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-7
Right to representation by attorney

Sec. 7. A party is entitled to be represented by an attorney at any proceeding or hearing under this chapter. A waiver of the right to representation before the proceeding or hearing is ineffective.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-8
Subpoenas for witnesses or documents; depositions; witness fees

Sec. 8. (a) The arbitrators may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and have authority to administer oaths. In matters subject to arbitration between labor and management, neither party may subpoena or obtain an order for the production of the financial books, financial records, or documents pertaining to the income or financial condition of the other party. Subpoenas so issued shall be

served, and upon application to the court by a party or the arbitrators, enforced, in manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party, the arbitrators may order the deposition of a witness to be taken for use as evidence, and not for discovery, if the witness can not be subpoenaed or is unable to attend the hearing. The deposition shall be taken in the manner prescribed by law for the taking of depositions in civil actions.

(c) All provisions of law compelling a person under subpoena to testify are applicable and enforceable upon application to the court.

(d) Fees for attendance as a witness are the same as for a witness in the superior court.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-9

Award; form and copies

Sec. 9. (a) The award must be in writing and signed by the arbitrators concurring therein. It must include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement or, if not fixed, or, if not agreed upon, within a reasonable time. The parties may extend the time in writing either before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of his objection before service of a signed copy of the award on the party.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-10

Modification or correction of award; procedure

Sec. 10. On written application of a party or, if an application to the court is pending under section 12, 13, or 14 of this chapter (or IC 34-4-2-12, IC 34-4-2-13, or IC 34-4-2-14 before their repeal), on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in section 14(a)(1) and 14(a)(3) of this chapter, or for the purpose of clarifying the award. The application shall be made within twenty (20) days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that the opposing party must serve his objections thereto, if any, within ten (10) days from the notice. The award so modified or corrected is subject to sections 12, 13, and 14 of this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-11

Fees and expenses of arbitration

Sec. 11. The arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-12
Confirmation of award by court

Sec. 12. Upon application of a party, but not before ninety (90) days after the mailing of a copy of the award to the parties, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in sections 13 and 14 of this chapter. Upon confirmation, the court shall enter a judgment consistent with the award and cause such entry to be docketed as if rendered in an action in the court.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-13
Vacation of award by court; procedure

Sec. 13. (a) Upon application of a party, the court shall vacate an award where:

(1) the award was procured by corruption or fraud;

(2) there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;

(3) the arbitrators exceeded their powers and the award can not be corrected without affecting the merits of the decision upon the controversy submitted;

(4) the arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 6 of this chapter, as to prejudice substantially the rights of a party; or

(5) there was no arbitration agreement and the issue was not adversely determined in proceedings under section 3 of this chapter (or IC 34-4-2-3 before its repeal), and the party did not participate in the arbitration hearing without raising the objection;

but the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(b) An application under this section shall be made within ninety (90) days after the mailing of a copy of the award to the applicant, except that, if predicated upon corruption or fraud or other undue means, it shall be made within ninety (90) days after such grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in subsection (a)(5), the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with section 4 of this chapter, or,

if the award is vacated on grounds set forth in subsection (a)(3) or (a)(4), the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 4 of this chapter. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(d) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-14
Modification or correction of award by court; procedure

Sec. 14. (a) Upon application made within ninety (90) days after mailing of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) there was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award;

(2) the arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) the award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-15
Entry of judgment or decree confirming, modifying, or correcting award; costs

Sec. 15. Upon the granting of an order confirming, modifying, or correcting an award, judgment, or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-16
Applications to court

Sec. 16. Except as otherwise provided, an application to the court under this chapter shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in civil cases.

As added by P.L.1-1998, SEC.53.

IC 34-57-2-17
"Court" defined; jurisdiction

Sec. 17. The term "court" means any circuit or superior court. The making of an agreement described in section 1 of this chapter providing for arbitration in Indiana confers jurisdiction on the court to enforce the agreement under and to enter judgment on an award thereunder.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-18
Application; proper court

Sec. 18. An application, as provided for in section 3(a) of this chapter, shall be made to the court in the county where the adverse party resides or has a place of business or, if the adverse party has no residence or place of business in this state, to the court of any county. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-19
Appeals authorized; procedure

Sec. 19. (a) An appeal may be taken from:

(1) an order denying an application to compel arbitration made under section 3 of this chapter (or IC 34-4-2-3 before its repeal);
(2) an order granting an application to stay arbitration made under section 3(b) of this chapter (or IC 34-4-2-3(b) before its repeal);
(3) an order confirming or denying confirmation of an award;
(4) an order modifying or correcting an award;
(5) an order vacating an award without directing a rehearing; or
(6) a judgment or decree entered pursuant to the provisions of this chapter (or IC 34-4-2 before its repeal).

(b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-20
Applicability of chapter

Sec. 20. This chapter applies only to agreements made after August 18, 1969.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-21
Construction of chapter

Sec. 21. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact similar arbitration statutes.
As added by P.L.1-1998, SEC.53.

IC 34-57-2-22
Short title

Sec. 22. This chapter may be cited as the Uniform Arbitration Act.

As added by P.L.1-1998, SEC.53.

IC 34-57-3

Chapter 3. Community Dispute Resolution

IC 34-57-3-1

Applicability of chapter

Sec. 1. This chapter applies to the following disputes:

(1) A criminal offense that a prosecuting attorney has referred to a community dispute resolution center under a diversion program under IC 33-39-1-8.

(2) A civil action that has been filed and referred by the court to a dispute resolution program for alternative dispute resolution under IC 34-57-4 (or IC 34-4-2 before its repeal).

(3) Civil disputes that do not involve an insurance claim, in which the parties voluntarily submit to community dispute resolution without filing an action in court.

As added by P.L.1-1998, SEC.53. Amended by P.L.98-2004, SEC.138.

IC 34-57-3-2

Centers program; establishment; powers and duties of chief justice; annual contribution from attorneys

Sec. 2. (a) The community dispute resolution centers program is established.

(b) The chief justice of Indiana shall do the following to the extent that sufficient funds are available:

(1) Administer and supervise the program.

(2) Select centers to receive funding from applications that are submitted under this chapter.

(3) Distribute funds for the establishment and continuance of centers on the basis of need in the community.

(4) Adopt rules that are necessary to carry out the purposes of this chapter and IC 34-57-4.

(c) The chief justice of Indiana, subject to the approval of the budget agency, may hire the personnel necessary to administer the program.

(d) The Indiana supreme court may collect an annual voluntary contribution in the amount of twenty-five dollars ($25) from each attorney admitted to practice before the Indiana supreme court. The money collected from the voluntary contributions shall be used for the program.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-3

Applications for funding; required information

Sec. 3. Applications submitted for funding under this chapter must include the following information:

(1) The cost of operating each of the proposed centers, including the proposed compensation of employees.

(2) A description of the proposed area of service and the number of participants expected to be served.

(3) A description of available dispute resolution services and facilities within the proposed geographical area.
(4) A description of the applicant's proposed services, including a description of the following:
(A) Support of civic groups, social service agencies, and criminal justice agencies to accept and make referrals.
(B) The present availability of resources.
(C) The applicant's administrative capacity.
(5) Additional information required by the chief justice of Indiana.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-4
Eligibility of centers for funds; requirements

Sec. 4. To be eligible for funds under this chapter, a center must do the following:
(1) Comply with this chapter and the rules adopted by the chief justice of Indiana.
(2) Provide neutral mediators who have received training in conflict resolution techniques as specified under rules adopted by the chief justice of Indiana.
(3) Provide dispute resolution without cost to a participant who is indigent and at nominal or no cost to other participants.
(4) Provide dispute resolution services to the community for parties who participate on a voluntary basis.
(5) Ensure that any arbitration services offered by the center are in compliance with IC 34-57-2.
(6) At the conclusion of the dispute resolution process do the following, if an agreement is reached:
(A) Provide a written agreement or decision setting forth the settlement of the issues and future responsibilities of each participant.
(B) If the matter was referred by the court for dispute resolution after a cause was filed, provide a written agreement or decision to the court that made the referral.
(C) If the matter was referred by a prosecuting attorney for dispute resolution, provide a written agreement or decision to the prosecuting attorney that made the referral.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-5
Operation of center receiving funds; requisites

Sec. 5. Each center that receives funds under this chapter must:
(1) be operated by a grant recipient;
(2) be operated under a contract with the chief justice of Indiana; and
(3) comply with this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-6

Allocation of funds to centers for services provided

Sec. 6. (a) Funds available for the purposes of this chapter may be allocated for services provided by eligible centers.

(b) A center in existence before July 1, 1992, may apply for funds available under this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-7

Administration of funds

Sec. 7. The chief justice of Indiana may accept, apply for, and disburse public or private funds for the purposes of this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-8

Acceptance of public or private funds by grant recipient; audit; facilities

Sec. 8. (a) A grant recipient may accept funds from public or private sources for the services provided by the grant recipient.

(b) The state board of accounts, the chief justice of Indiana, or an authorized representative of the state board of accounts or the chief justice of Indiana may inspect, examine, and audit the fiscal affairs of local programs or centers.

(c) Centers must, whenever reasonably possible, make use of public facilities free or at nominal cost.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-9

Center not a state agency

Sec. 9. A center operated under this chapter is not a state agency or an instrumentality of the state. Employees and volunteers of a center are not employees of the state.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-10

Applicability of IC 34-57-2

Sec. 10. IC 34-57-2 applies to arbitration conducted under this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-11

Subpoena or discovery powers or admissible evidence in proceedings; limitations

Sec. 11. (a) Except as provided in subsection (c), the following are not subject to subpoena or discovery or admissible in evidence in any judicial or administrative proceeding:

(1) All work product of a mediator.

(2) Any communication relating to the subject matter of the dispute made during the resolution process by a participant, mediator, or other person present at the dispute resolution.

(b) A mediator or a staff member of a center may not be

compelled to testify in a judicial or an administrative proceeding with respect to a dispute that has been referred to a center for dispute resolution.

(c) Subsection (a) does not apply to a written agreement or decision provided to the participants, the court, or a prosecuting attorney under section 4(6) of this chapter (or IC 34-4-2.5-9(b) before its repeal).

As added by P.L.1-1998, SEC.53.

IC 34-57-3-12

Reporting by center to chief justice

Sec. 12. A center that receives funds under the program must annually provide the chief justice of Indiana with statistical data and other information that the chief justice of Indiana requires.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-13

Annual report to governor and general assembly

Sec. 13. The chief justice of Indiana shall prepare and submit an annual report to the governor and the general assembly that evaluates and makes recommendations concerning the operation and success of the centers funded under this chapter. A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.1-1998, SEC.53. Amended by P.L.28-2004, SEC.175.

IC 34-57-3-14

Trial de novo; filing of motion with referring court

Sec. 14. Section 1(2) of this chapter does not prohibit a person who has been referred by the court to a dispute resolution program from filing a motion with the referring court for a trial de novo.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-15

Statute of limitations; applicability

Sec. 15. (a) This section applies to a dispute described in section 1(3) of this chapter.

(b) Except as provided under subsection (c), the running of a statute of limitation ceases to run after the time:

(1) arbitration is initiated under IC 34-57-2-2 (or IC 34-4-2-2 before its repeal); or

(2) the parties sign an agreement to mediate.

(c) The statute of limitation resumes running after the earlier of the following:

(1) The date the parties enter into a written agreement under section 4(6) of this chapter (or IC 34-4-2.5-9(6) before its repeal).

(2) Six (6) months after the date that the statute of limitation was suspended under subsection (b) (or IC 34-4-2.5-20(b)

before its repeal).

As added by P.L.1-1998, SEC.53.

IC 34-57-4

Chapter 4. Alternative Dispute Resolution

IC 34-57-4-1

Applicability of chapter

Sec. 1. This chapter applies to a civil action that is referred by a court to a dispute resolution center under rules adopted by the chief justice of Indiana under IC 34-57-3 (or IC 34-4-2.5 before its repeal) for alternative dispute resolution after the civil action was filed in the court.

As added by P.L.1-1998, SEC.53.

IC 34-57-4-2

Matters covered by supreme court rules excluded

Sec. 2. This chapter does not apply to matters covered by the Indiana Supreme Court Rules for Alternative Dispute Resolution.

As added by P.L.1-1998, SEC.53.

IC 34-57-4-3

Court referral of civil action to dispute resolution center; suspension effect

Sec. 3. When a civil action is referred to a dispute resolution center under section 1 of this chapter, the court shall, except as otherwise provided under the rules adopted under IC 34-57-3 (or IC 34-4-2.5 before its repeal), suspend action on the case until the written agreement or decision from the dispute resolution center is submitted to the court under IC 34-57-3-4(6).

As added by P.L.1-1998, SEC.53.

IC 34-57-5

Chapter 5. Family Law Arbitration

IC 34-57-5-1

Applicability of chapter

Sec. 1. (a) This chapter is applicable only to the family law matters described in section 2 of this chapter and does not apply to any other type of arbitration. An appellate court opinion interpreting or construing this chapter has precedential value only for family law arbitrations and does not apply to any other type of arbitration.

(b) This chapter is applicable only to an action in which each party is:

(1) represented by an attorney; or

(2) pro se.

This chapter does not apply if one (1) party is represented by an attorney and the other party is pro se.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-2

Family law arbitration authorized; family law arbitration procedures

Sec. 2. (a) In an action:

(1) for the dissolution of a marriage;

(2) to establish:

(A) child support;

(B) custody; or

(C) parenting time; or

(3) to modify:

(A) a decree;

(B) a judgment; or

(C) an order;

entered under IC 31;

both parties may agree in writing to submit to arbitration by a family law arbitrator.

(b) If the parties file an agreement with a court to submit to arbitration, the parties shall:

(1) identify an individual to serve as a family law arbitrator; or

(2) indicate to the court that they have not selected a family law arbitrator.

(c) Each court shall maintain a list of attorneys who are:

(1) qualified; and

(2) willing to be appointed by the court;

to serve as family law arbitrators.

(d) If the parties indicate that they have not selected a family law arbitrator under subsection (b)(2), the court shall designate three (3) attorneys from the court's list of attorneys under subsection (c). The party initiating the action shall strike one (1) attorney, the other party shall strike one (1) attorney, and the remaining attorney is the family law arbitrator for the parties.

(e) In a dissolution of marriage case, the written agreement to

submit to arbitration must state that both parties confer jurisdiction on the family law arbitrator to dissolve the marriage and to determine:

(1) child support, if there is a child of both parties to the marriage;

(2) custody, if there is a child of both parties to the marriage;

(3) parenting time, if there is a child of both parties to the marriage; or

(4) any other matter over which a trial court would have jurisdiction concerning family law.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-3

Validity of family law arbitration agreement

Sec. 3. Unless both parties agree in writing to repudiate the agreement, an agreement to submit to arbitration by a family law arbitrator under this chapter is:

(1) valid;

(2) irrevocable; and

(3) enforceable;

until the judgment is entered in the matter in which arbitration has taken place.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-4

Residency requirements

Sec. 4. For arbitration to take place under this chapter, at least one (1) of the parties must have been:

(1) a resident of Indiana; or

(2) stationed at a United States military installation in Indiana;

for at least six (6) months immediately preceding the filing of the petition or cause of action.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-5

Guidelines

Sec. 5. (a) A family law arbitrator shall comply with the:

(1) child support; and

(2) parenting time;

guidelines adopted by the Indiana supreme court in family law arbitration if there is a child of both parties to the marriage.

(b) Before assuming the duties of a family law arbitrator, a family law arbitrator must take an oath to:

(1) faithfully perform the duties of the family law arbitrator; and

(2) support and defend to the best of the family law arbitrator's ability the constitution and laws of Indiana and the United States.

(c) The family law arbitrator shall sign a written copy of the oath described in subsection (b) and submit the signed copy to the court.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-6
Record of proceeding

Sec. 6. (a) A record of the proceeding in family law arbitration may be requested by either party if written notice is given to the family law arbitrator not more than fifteen (15) days after the family law arbitrator has been selected.

(b) Written notice under subsection (a) must specify the requested manner of recording and preserving the transcript.

(c) The family law arbitrator may select a person to record any proceedings and to administer oaths.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-7
Written findings of fact and conclusions of law

Sec. 7. (a) Except as provided in subsection (b), the family law arbitrator shall make written findings of fact and conclusions of law not later than thirty (30) days after the hearing.

(b) If both parties consent, the period for the family law arbitrator to make written findings of fact and conclusions of law may be extended to ninety (90) days after the hearing.

(c) The family law arbitrator shall send a copy of the written findings of fact and conclusions of law to:

(1) all parties participating in the arbitration; and

(2) the court.

(d) After the court has received a copy of the findings of fact and conclusions of law, the court shall enter:

(1) judgment; and

(2) an order for an entry on the docket regarding the judgment.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-8
Division of property in dissolution of marriage

Sec. 8. (a) In a dissolution of marriage case, the family law arbitrator shall:

(1) divide the property of the parties, regardless of whether the property was:

(A) owned by either party before the marriage;

(B) acquired by either party in his or her own right:

(i) after the marriage; and

(ii) before final separation of the parties; or

(C) acquired by their joint efforts; and

(2) divide the property in a just and reasonable manner by:

(A) division of the property in kind;

(B) setting the property or parts of the property over to one (1) of the parties and requiring either party to pay an amount, either in gross or in installments, that is just and proper;

(C) ordering the sale of the property under the conditions the family law arbitrator prescribes and dividing the proceeds of the sale; or

(D) ordering the distribution of benefits described in

IC 31-9-2-98(b)(2) or IC 31-9-2-98(b)(3) that are payable after the dissolution of marriage, by setting aside to either of the parties a percentage of those payments either by assignment or in kind at the time of receipt.

(b) The division of marital property under this section must comply with IC 31-15-7-5.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-9

Summary dissolution decrees in dissolution of marriage

Sec. 9. In a dissolution of marriage case, at least sixty (60) days after the petition or cause of action is filed, the family law arbitrator may enter a summary dissolution decree without holding a hearing if verified pleadings have been filed with the family law arbitrator, signed by both parties, containing:

(1) a written waiver of hearing; and

(2) either:

(A) a statement that there are no contested issues in the action; or

(B) a written agreement made in accordance with IC 31-15-2-7 that settles any contested issues between the parties.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-10

Award modification after written findings of fact and conclusions of law are made

Sec. 10. A family law arbitrator may modify an award after making written findings of fact and conclusions of law if:

(1) a party makes a fraudulent misrepresentation during the arbitration;

(2) the family law arbitrator is ordered to modify the award on remand; or

(3) both parties consent to the modification.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-11

Appeals

Sec. 11. An appeal may be taken after the entry of judgment under section 7(d) of this chapter as may be taken after a judgment in a civil action.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-12

Family law arbitrator fees

Sec. 12. (a) Except as provided in subsection (b), fees for the family law arbitrator shall be shared equally by both parties unless otherwise agreed in writing.

(b) The family law arbitrator may order a party to pay:

(1) a reasonable amount for the cost to the other party of:

(A) maintaining; or
(B) defending;
any proceeding under this chapter; and
(2) attorney's fees, including:
(A) amounts for legal services provided; and
(B) costs incurred:
(i) before the commencement of the proceedings; or
(ii) after entry of judgment.

(c) Fees for the family law arbitrator shall be paid not later than thirty (30) days after the court enters judgment.

As added by P.L.112-2005, SEC.2.

IC 34-57-5-13

Application of Indiana Supreme Court Rules for Alternative Dispute Resolution

Sec. 13. The Indiana Supreme Court Rules for Alternative Dispute Resolution apply to family law arbitration in all matters not covered by this chapter.

As added by P.L.112-2005, SEC.2.

IC 34-58

ARTICLE 58. SCREENING OF OFFENDER LITIGATION

IC 34-58-0.1

Chapter 0.1. Application

IC 34-58-0.1-1

Application of article

Sec. 1. This article applies to a cause of action filed after June 30, 2004.

As added by P.L.220-2011, SEC.582.

IC 34-58-1

Chapter 1. Screening Procedure

IC 34-58-1-1

Action upon receipt of offender complaint

Sec. 1. Upon receipt of a complaint or petition filed by an offender, the court shall docket the case and take no further action until the court has conducted the review required by section 2 of this chapter.

As added by P.L.80-2004, SEC.6.

IC 34-58-1-2

Frivolous, nonjudiciable, or moot claims barred; dismissal of claims by a person falsely claiming indigent status

Sec. 2. (a) A court shall review a complaint or petition filed by an offender and shall determine if the claim may proceed. A claim may not proceed if the court determines that the claim:

(1) is frivolous;

(2) is not a claim upon which relief may be granted; or

(3) seeks monetary relief from a defendant who is immune from liability for such relief.

(b) A claim is frivolous under subsection (a)(1) if the claim:

(1) is made primarily to harass a person; or

(2) lacks an arguable basis either in:

(A) law; or

(B) fact.

(c) A court shall dismiss a complaint or petition if:

(1) the offender who filed the complaint or petition received leave to prosecute the action as an indigent person; and

(2) the court determines that the offender misrepresented the offender's claim not to have sufficient funds to prosecute the action.

As added by P.L.80-2004, SEC.6.

IC 34-58-1-3

Order if claim barred

Sec. 3. If a court determines that a claim may not proceed under section 2 of this chapter, the court shall enter an order:

(1) explaining why the claim may not proceed; and

(2) stating whether there are any remaining claims in the complaint or petition that may proceed.

As added by P.L.80-2004, SEC.6.

IC 34-58-1-4

Duty of the clerk

Sec. 4. The clerk of the court shall send an order entered under section 3 of this chapter to:

(1) the offender;

(2) each defendant or respondent in the action;

(3) the department of correction, if the offender is incarcerated

by the department of correction;

(4) the sheriff of the county in which the inmate is incarcerated, if the inmate is incarcerated in a county or city jail; and

(5) the attorney general.

As added by P.L.80-2004, SEC.6.

IC 34-58-2
Chapter 2. Abusive Litigation

IC 34-58-2-1
Repealed
(Repealed by P.L.128-2009, SEC.4.)

IC 34-59

ARTICLE 59. UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

IC 34-59-1

Chapter 1. Uniform Unsworn Foreign Declarations Act

IC 34-59-1-1

Application

Sec. 1. (a) This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located outside the boundaries of the United States, whether or not the location is subject to the jurisdiction of the United States.

(b) This chapter does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-2

"Boundaries of the United States"

Sec. 2. As used in this chapter, "boundaries of the United States" means the geographic boundaries of:

(1) the United States;
(2) Puerto Rico;
(3) the United States Virgin Islands; and
(4) any territory or insular possession subject to the jurisdiction of the United States.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-3

"Law"

Sec. 3. As used in this chapter, "law" includes the following:

(1) The federal or a state constitution.
(2) A federal or state statute.
(3) A judicial decision or order.
(4) A rule of court.
(5) An executive order.
(6) An administrative rule, regulation, or order.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-4

"Record"

Sec. 4. As used in this chapter, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-5

"Sign"

Sec. 5. As used in this chapter, "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound, or process.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-6

"State"

Sec. 6. As used in this chapter, "state" means any of the following:

(1) A state of the United States.

(2) The District of Columbia.

(3) Puerto Rico.

(4) The United States Virgin Islands.

(5) A federally recognized Indian tribe.

(6) Any territory or insular possession subject to the jurisdiction of the United States.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-7

"Sworn declaration"

Sec. 7. (a) As used in this chapter, "sworn declaration" means a declaration in a signed record given under oath.

(b) The term includes a sworn statement, verification, certificate, and affidavit.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-8

"Unsworn declaration"

Sec. 8. As used in this chapter, "unsworn declaration" means a declaration in a signed record that is not given under oath but is given under penalty of perjury.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-9

Effect of unsworn declaration; application

Sec. 9. (a) Except as provided in subsection (b), if an Indiana law requires or allows the use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.

(b) This chapter does not apply to:

(1) a deposition;

(2) an oath of office;

(3) an oath required to be given before a specified official other than a notary public;

(4) a declaration to be recorded under IC 32; or

(5) an oath required by IC 29-1-5.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-10

Unsworn declaration; type of medium

Sec. 10. If an Indiana law requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-11

Unsworn declaration; form

Sec. 11. An unsworn declaration under this chapter must be in substantially the following form:

I declare and affirm under penalty of perjury under the laws of Indiana that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the _____ day of _____, _____, at
(date) (month) (year)

_____, _____.
(city or other location, and state) (country)

_____
(printed name)

_____
(signature)

As added by P.L.57-2010, SEC.2.

IC 34-59-1-12

Consideration for uniformity of the law

Sec. 12. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Unsworn Foreign Declarations Act.

As added by P.L.57-2010, SEC.2.

IC 34-59-1-13

Electronic signatures; electronic delivery

Sec. 13. This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.) but does not:

(1) modify, limit, or supersede 15 U.S.C. 7001(c); or

(2) authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

As added by P.L.57-2010, SEC.2.

IC 34-60

ARTICLE 60. VICTIM ADVOCATES

IC 34-60-1

Chapter 1. Victim Advocates in Civil Proceedings

IC 34-60-1-1

"Victim"

Sec. 1. As used in this chapter, "victim" means:

(1) an individual against whom an act of:

(A) domestic or family violence;

(B) dating violence;

(C) sexual assault (as defined in IC 5-26.5-1-8);

(D) human and sexual trafficking (IC 35-42-3.5); or

(E) stalking (IC 35-45-10-5);

is committed; or

(2) an individual:

(A) who is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(B) who:

(i) is a member of the family of an individual described in subdivision (1); and

(ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

As added by P.L.150-2014, SEC.5.

IC 34-60-1-2

"Victim advocate"

Sec. 2. (a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for a victim service provider.

(b) The term does not include:

(1) a law enforcement officer;

(2) an employee or agent of a law enforcement officer;

(3) a prosecuting attorney; or

(4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of a:

(1) victim service provider;

(2) domestic violence program;

(3) sexual assault program;

(4) rape crisis center;

(5) battered women's shelter;

(6) transitional housing program for victims of domestic violence; or

(7) program that, as one (1) of its primary purposes, provides services to an individual:

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

As added by P.L.150-2014, SEC.5.

IC 34-60-1-3

"Victim service provider"

Sec. 3. As used in this chapter, "victim service provider" means a person:

(1) that is:

(A) a public agency;

(B) a unit of a public agency; or

(C) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) that is not affiliated with a law enforcement agency; and

(3) that, as one (1) of its primary purposes, provides services for emotional and psychological conditions to an individual:

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8),

human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

As added by P.L.150-2014, SEC.5.

IC 34-60-1-4

"Victim advocate permitted at civil proceedings"

Sec. 4. (a) In any civil proceeding, a court may allow a victim advocate to attend the proceeding, sit with the victim, and confer with the victim as necessary.

(b) A victim advocate is not considered to be practicing law when performing the services described in this section.

As added by P.L.150-2014, SEC.5.