



February 16, 2018

ENGROSSED SENATE BILL No. 139

DIGEST OF SB 139 (Updated February 14, 2018 4:01 pm - DI 84)

Citations Affected: IC 36-2.

Synopsis: Investigation of overdose deaths. Requires the county coroner to do the following if the county coroner reasonably suspects the cause of a person's death to be accidental or intentional overdose of a controlled substance: (1) Obtain any relevant information about the decedent maintained by the INSPECT program. (2) Extract and test certain bodily fluids of the decedent. (3) Report test results to the state department of health (department). (4) Provide the department notice of the decedent's death, including any information related to the controlled substances involved, if any. Authorizes the department to adopt rules. Makes conforming changes.

Effective: July 1, 2018.

**Merritt, Charbonneau,
Ruckelshaus, Raatz, Breaux, Zakas**

(HOUSE SPONSORS — DAVISSON, BROWN C, ZENT)

January 3, 2018, read first time and referred to Committee on Health and Provider Services.

January 18, 2018, reported favorably — Do Pass.

January 22, 2018, read second time, ordered engrossed. Engrossed.

January 23, 2018, read third time, passed. Yeas 47, nays 2.

HOUSE ACTION

February 6, 2018, read first time and referred to Committee on Public Health.

February 15, 2018, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

ES 139—LS 6457/DI 92



February 16, 2018

Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 139

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-2-14-1.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]: **Sec. 1.8. As used in section 6 of this chapter, "vitreous"**
4 **means the clear gelatinous substance that fills the eyeball between**
5 **the retina and the lens.**
6 SECTION 2. IC 36-2-14-6, AS AMENDED BY P.L.34-2011,
7 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]: Sec. 6. (a) Whenever the coroner is notified that a
9 person in the county:
10 (1) has died from violence;
11 (2) has died by casualty;
12 (3) has died when apparently in good health;
13 (4) has died in an apparently suspicious, unusual, or unnatural
14 manner; or
15 (5) has been found dead;
16 the coroner shall, before the scene of the death is disturbed, notify a
17 law enforcement agency having jurisdiction in that area. The agency

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1 shall assist the coroner in conducting an investigation of how the
 2 person died and a medical investigation of the cause of death. The
 3 coroner may hold the remains of the decedent until the investigation of
 4 how the person died and the medical investigation of the cause of death
 5 are concluded.

6 **(b) If the coroner reasonably suspects the cause of the person's**
 7 **death to be accidental or intentional overdose of a controlled**
 8 **substance (as defined by IC 35-48-1-9), the coroner shall do the**
 9 **following:**

10 **(1) Obtain any relevant information about the decedent**
 11 **maintained by the INSPECT program established by**
 12 **IC 25-1-13-4.**

13 **(2) Extract one (1) or more of the following bodily fluids from**
 14 **the decedent:**

15 **(A) Blood.**

16 **(B) Vitreous.**

17 **(C) Urine.**

18 **(3) Test a bodily fluid extracted under subdivision (2) to**
 19 **determine whether the bodily fluid contained any amount,**
 20 **including a trace amount, of a controlled substance at the time**
 21 **of the decedent's death.**

22 **(4) Report the results of the test conducted under this**
 23 **subsection to the state department of health after completing**
 24 **the medical investigation of the cause of the decedent's death.**

25 **(5) Provide the state department of health notice of the**
 26 **decedent's death, including any information related to the**
 27 **controlled substances involved, if any.**

28 ~~(b)~~ **(c) The coroner:**

29 **(1) shall file a certificate of death with the county health**
 30 **department, or, if applicable, a multiple county health department,**
 31 **of the county in which the individual died, within seventy-two**
 32 **(72) hours after the completion of the death investigation;**

33 **(2) shall complete the certificate of death utilizing all verifiable**
 34 **information establishing the time and date of death; and**

35 **(3) may file a pending investigation certificate of death before**
 36 **completing the certificate of death, if necessary.**

37 ~~(c)~~ **(d) If this section applies, the body and the scene of death may**
 38 **not be disturbed until:**

39 **(1) the coroner has photographed them in the manner that most**
 40 **fully discloses how the person died; and**

41 **(2) law enforcement and the coroner have finished their initial**
 42 **assessment of the scene of death.**



1 However, a coroner or law enforcement officer may order a body to be
 2 moved before photographs are taken if the position or location of the
 3 body unduly interferes with activities carried on where the body is
 4 found, but the body may not be moved from the immediate area and
 5 must be moved without substantially destroying or altering the
 6 evidence present.

7 ~~(d)~~ (e) When acting under this section, if the coroner considers it
 8 necessary to have an autopsy performed, is required to perform an
 9 autopsy under subsection ~~(f)~~; (g), or is requested by the prosecuting
 10 attorney of the county to perform an autopsy, the coroner shall employ
 11 a:

- 12 (1) physician certified by the American Board of Pathology; or
- 13 (2) pathology resident acting under the direct supervision of a
 14 physician certified in anatomic pathology by the American Board
 15 of Pathology;

16 to perform the autopsy. The physician performing the autopsy shall be
 17 paid a fee of at least fifty dollars (\$50) from the county treasury.

18 ~~(e)~~ (f) If:

- 19 (1) at the request of:
 - 20 (A) the decedent's spouse;
 - 21 (B) a child of the decedent, if the decedent does not have a
 22 spouse;
 - 23 (C) a parent of the decedent, if the decedent does not have a
 24 spouse or children;
 - 25 (D) a brother or sister of the decedent, if the decedent does not
 26 have a spouse, children, or parents; or
 - 27 (E) a grandparent of the decedent, if the decedent does not
 28 have a spouse, children, parents, brothers, or sisters;
- 29 (2) in any death, two (2) or more witnesses who corroborate the
 30 circumstances surrounding death are present; and
- 31 (3) two (2) physicians who are licensed to practice medicine in
 32 the state and who have made separate examinations of the
 33 decedent certify the same cause of death in an affidavit within
 34 twenty-four (24) hours after death;

35 an autopsy need not be performed. The affidavits shall be filed with the
 36 circuit court clerk.

37 ~~(f)~~ (g) A county coroner may not certify the cause of death in the
 38 case of the sudden and unexpected death of a child who is less than
 39 three (3) years old unless an autopsy is performed at county expense.
 40 However, a coroner may certify the cause of death of a child described
 41 in this subsection without the performance of an autopsy if subsection
 42 ~~(e)~~ (f) applies to the death of the child.



1 ~~(g)~~ **(h)** After consultation with the law enforcement agency
 2 investigating the death of a decedent, the coroner shall do the
 3 following:

4 (1) Inform a crematory authority if a person is barred under
 5 IC 23-14-31-26(c) from serving as the authorizing agent with
 6 respect to the cremation of the decedent's body because the
 7 coroner made the determination under IC 23-14-31-26(c)(2) in
 8 connection with the death of the decedent.

9 (2) Inform a cemetery owner if a person is barred under
 10 IC 23-14-55-2(c) from authorizing the disposition of the body or
 11 cremated remains of the decedent because the coroner made the
 12 determination under IC 23-14-55-2(c)(2) in connection with the
 13 death of the decedent.

14 (3) Inform a seller of prepaid services or merchandise if a person's
 15 contract is unenforceable under IC 30-2-13-23(b) because the
 16 coroner made the determination under IC 30-2-13-23(b)(4) in
 17 connection with the death of the decedent.

18 SECTION 3. IC 36-2-14-19, AS AMENDED BY P.L.147-2007,
 19 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 19. (a) As used in this section, "cornea" includes
 21 corneal tissue.

22 (b) As used in this section, "decedent" means a person described in
 23 section 6(a)(1) through 6(a)(5) of this chapter.

24 (c) As used in this section, "eye bank" means a nonprofit
 25 corporation:

26 (1) organized under Indiana law;

27 (2) exempt from federal income taxation under Section 501 of the
 28 Internal Revenue Code; and

29 (3) whose purposes include obtaining, storing, and distributing
 30 corneas that are to be used for corneal transplants or for other
 31 medical or medical research purposes.

32 (d) If under section ~~6(d)~~ **6(e)** of this chapter the coroner requires an
 33 autopsy to be performed upon a decedent, the coroner may authorize
 34 the removal of one (1) or both of the decedent's corneas for donation to
 35 an eye bank for transplantation, if the following conditions exist:

36 (1) The decedent's corneas are not necessary for successful
 37 completion of the autopsy.

38 (2) The decedent's corneas are not necessary for use as evidence.

39 (3) Removal of the decedent's corneas will not alter the
 40 postmortem facial appearance of the decedent.

41 (4) A representative of the eye bank, authorized by the trustees of
 42 the eye bank to make requests for corneas, has done the



- 1 following:
- 2 (A) Within six (6) hours after the time of death, made a
- 3 reasonable attempt to:
- 4 (i) contact any of the persons listed in the order of priority
- 5 specified in IC 29-2-16.1-8; and
- 6 (ii) inform the person of the effect of the removal of the
- 7 decedent's corneas on the physical appearance of the
- 8 decedent.
- 9 (B) Submitted to the coroner:
- 10 (i) a written request for the donation by the coroner of
- 11 corneas of the decedent subject to autopsy under section
- 12 ~~6(d)~~ 6(e) of this chapter; and
- 13 (ii) a written certification that corneas donated under this
- 14 section are intended to be used only for cornea transplant.
- 15 (5) The removal of the corneas and their donation to the eye bank
- 16 will not alter a gift made by:
- 17 (A) the decedent when alive; or
- 18 (B) any of the persons listed in the order of priority specified
- 19 in IC 29-2-16.1-8;
- 20 to an agency or organization other than the eye bank making the
- 21 request for the donation.
- 22 (6) The coroner, at the time the removal and donation of a
- 23 decedent's corneas is authorized, does not know of any objection
- 24 to the removal and donation of the decedent's corneas made by:
- 25 (A) the decedent, as evidenced in a written document executed
- 26 by the decedent when alive; or
- 27 (B) any of the persons listed in the order of priority specified
- 28 in IC 29-2-16.1-8.
- 29 (e) A person, including a coroner and an eye bank and the eye
- 30 bank's representatives, who exercises reasonable care in complying
- 31 with subsection (d)(6) is immune from civil liability arising from
- 32 cornea removal and donation allowed under this section.
- 33 (f) A person who authorizes the donation of a decedent's corneas
- 34 may not be charged for the costs related to the donation. The recipient
- 35 of the donation is responsible for the costs related to the donation.
- 36 SECTION 4. IC 36-2-14-20, AS AMENDED BY P.L.225-2007,
- 37 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2018]: Sec. 20. (a) As used in this section, "autopsy" means
- 39 the external and surgical internal examination of all body systems of a
- 40 decedent, including toxicology and histology.
- 41 (b) Except as provided in subsection (b) and IC 4-24-4-1, if an
- 42 Indiana resident:



1 (1) dies in an Indiana county as a result of an incident that
 2 occurred in another Indiana county; and
 3 (2) is the subject of an autopsy performed under the authority and
 4 duties of the county coroner of the county where the death
 5 occurred;
 6 the county coroner shall bill the county in which the incident occurred
 7 for the cost of the autopsy, including the physician fee under section
 8 ~~6(d)~~ **6(e)** of this chapter.
 9 (c) Except as provided in subsection (b) and IC 4-24-4-1, payment
 10 for the costs of an autopsy requested by a party other than the:
 11 (1) county prosecutor; or
 12 (2) county coroner;
 13 of the county in which the individual died must be made by the party
 14 requesting the autopsy.
 15 (d) This section does not preclude the coroner of a county in which
 16 a death occurs from attempting to recover autopsy costs from the
 17 jurisdiction outside Indiana where the incident that caused the death
 18 occurred.
 19 SECTION 5. IC 36-2-14-26 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2018]: **Sec. 26. The state department of health may adopt rules**
 22 **under IC 4-22-2 in carrying out the department's duties under this**
 23 **chapter.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 139, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 139 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 139, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 139 as printed January 19, 2018.)

KIRCHHOFER

Committee Vote: Yeas 11, Nays 0

