

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.

## SENATE ENROLLED ACT No. 139

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AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 4-23-6.5-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 9.3. (a) The board shall use the fund for the costs incurred to perform the duties required by IC 36-2-14-6(b) for an investigation of an accidental or intentional overdose of a controlled substance causing death.**

**(b) This section expires June 30, 2019.**

SECTION 2. IC 4-23-6.5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 11. The state department of health shall contract with a third party for testing services under this chapter.**

SECTION 3. IC 36-2-14-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 1.8. As used in section 6 of this chapter, "vitreous" means the clear gelatinous substance that fills the eyeball between the retina and the lens.**

SECTION 4. IC 36-2-14-6, AS AMENDED BY P.L.34-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 6. (a) Whenever the coroner is notified that a person in the county:**

- (1) has died from violence;
- (2) has died by casualty;

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- (3) has died when apparently in good health;
- (4) has died in an apparently suspicious, unusual, or unnatural manner; or
- (5) has been found dead;

the coroner shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death. The coroner may hold the remains of the decedent until the investigation of how the person died and the medical investigation of the cause of death are concluded.

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

- (1) Obtain any relevant information about the decedent maintained by the INSPECT program established by IC 25-1-13-4.**
- (2) Extract one (1) or more of the following bodily fluids from the decedent:**
  - (A) Blood.**
  - (B) Vitreous.**
  - (C) Urine.**
- (3) Test a bodily fluid extracted under subdivision (2) to determine whether the bodily fluid contained any amount, including a trace amount, of a controlled substance at the time of the decedent's death.**
- (4) Report the results of the test conducted under this subsection to the state department of health after completing the medical investigation of the cause of the decedent's death.**
- (5) Provide the state department of health notice of the decedent's death, including any information related to the controlled substances involved, if any.**

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

- (1) shall file a certificate of death with the county health department, or, if applicable, a multiple county health department, of the county in which the individual died, within seventy-two (72) hours after the completion of the death investigation;
- (2) shall complete the certificate of death utilizing all verifiable information establishing the time and date of death; and
- (3) may file a pending investigation certificate of death before completing the certificate of death, if necessary.



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

- (1) the coroner has photographed them in the manner that most fully discloses how the person died; and
- (2) law enforcement and the coroner have finished their initial assessment of the scene of death.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. IC 36-2-14-19, AS AMENDED BY P.L.147-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 19. (a) As used in this section, "cornea" includes corneal tissue.

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

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

- (1) organized under Indiana law;
- (2) exempt from federal income taxation under Section 501 of the Internal Revenue Code; and
- (3) whose purposes include obtaining, storing, and distributing corneas that are to be used for corneal transplants or for other medical or medical research purposes.

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

- (1) The decedent's corneas are not necessary for successful

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completion of the autopsy.

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

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

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

(A) Within six (6) hours after the time of death, made a reasonable attempt to:

(i) contact any of the persons listed in the order of priority specified in IC 29-2-16.1-8; and

(ii) inform the person of the effect of the removal of the decedent's corneas on the physical appearance of the decedent.

(B) Submitted to the coroner:

(i) a written request for the donation by the coroner of corneas of the decedent subject to autopsy under section ~~6(d)~~ 6(e) of this chapter; and

(ii) a written certification that corneas donated under this section are intended to be used only for cornea transplant.

(5) The removal of the corneas and their donation to the eye bank will not alter a gift made by:

(A) the decedent when alive; or

(B) any of the persons listed in the order of priority specified in IC 29-2-16.1-8;

to an agency or organization other than the eye bank making the request for the donation.

(6) The coroner, at the time the removal and donation of a decedent's corneas is authorized, does not know of any objection to the removal and donation of the decedent's corneas made by:

(A) the decedent, as evidenced in a written document executed by the decedent when alive; or

(B) any of the persons listed in the order of priority specified in IC 29-2-16.1-8.

(e) A person, including a coroner and an eye bank and the eye bank's representatives, who exercises reasonable care in complying with subsection (d)(6) is immune from civil liability arising from cornea removal and donation allowed under this section.

(f) A person who authorizes the donation of a decedent's corneas may not be charged for the costs related to the donation. The recipient of the donation is responsible for the costs related to the donation.

SECTION 6. IC 36-2-14-20, AS AMENDED BY P.L.225-2007,

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SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 20. (a) As used in this section, "autopsy" means the external and surgical internal examination of all body systems of a decedent, including toxicology and histology.

(b) Except as provided in subsection (b) and IC 4-24-4-1, if an Indiana resident:

- (1) dies in an Indiana county as a result of an incident that occurred in another Indiana county; and
- (2) is the subject of an autopsy performed under the authority and duties of the county coroner of the county where the death occurred;

the county coroner shall bill the county in which the incident occurred for the cost of the autopsy, including the physician fee under section ~~6(d)~~ **6(e)** of this chapter.

(c) Except as provided in subsection (b) and IC 4-24-4-1, payment for the costs of an autopsy requested by a party other than the:

- (1) county prosecutor; or
- (2) county coroner;

of the county in which the individual died must be made by the party requesting the autopsy.

(d) This section does not preclude the coroner of a county in which a death occurs from attempting to recover autopsy costs from the jurisdiction outside Indiana where the incident that caused the death occurred.

SECTION 7. IC 36-2-14-26 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 26. The state department of health may adopt rules under IC 4-22-2 in carrying out the department's duties under this chapter.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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