

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1100

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-15-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A licensee that:

- (1) promotes or participates in a scheme or plan in the nature of a burial association, burial certificate plan, or burial membership plan;
 - (2) after an individual has died, personally or through an agent solicits, makes, or offers to make a direct or an indirect payment of a commission for the purpose of securing the individual's human remains;
 - (3) fails to promptly surrender possession of human remains after receiving a demand from the person legally entitled to custody of the human remains;
 - (4) transports or disposes of human remains without a permit required by law;
 - (5) takes possession of human remains without authorization from the person legally entitled to custody of the human remains;
 - (6) makes a misleading claim concerning the protective qualities of a casket, an alternative container, or an outer burial container;
- or
- (7) shows a casket, an alternative container, or an outer burial container to a consumer if the casket, alternative container, or

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outer burial container does not have a conspicuously displayed card or brochure that lists the price of the casket, alternative container, or outer burial container and briefly describes the casket, alternative container, or outer burial container; **or**
(8) is found to have accepted payment by assignment of third party life insurance proceeds for at-need funeral services performed for more than the amount of the contracted funeral expenses arranged for by an authorizing agent;

may be disciplined under IC 25-1-11.

(b) Subsection (a)(8) does not apply to funeral trust funds under IC 30-2-10 and IC 30-2-13.

SECTION 2. IC 35-31.5-2-161.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 161.1. "Human remains", for purposes of IC 35-45-19, has the meaning set forth in IC 35-45-19-1.5.**

SECTION 3. IC 35-45-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 1.5. As used in this chapter, "human remains" means any part of the body of a deceased human being in any stage of decomposition or state of preservation.**

SECTION 4. IC 35-45-19-3, AS ADDED BY P.L.68-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 3. A person who:**

(1) discovers or has custody of the body of a deceased person or handles human remains when it appears the deceased person died:

- (A) by violence, suicide, or accident;
- (B) suddenly, while in apparent good health;
- (C) while unattended;
- (D) from poisoning or an overdose of drugs;
- (E) as the result of a disease that may constitute a threat to public health;
- (F) as the result of:
 - (i) a disease;
 - (ii) an injury;
 - (iii) a toxic effect; or
 - (iv) unusual exertion;
 incurred within the scope of the deceased person's employment;
- (G) due to sudden infant death syndrome;
- (H) as the result of a diagnostic or therapeutic procedure; or

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(I) under any other suspicious or unusual circumstances; and
 (2) knowingly or intentionally fails to report the ~~body of the deceased person~~ **discovery or handling of the human remains**
 to a:

- (A) public safety officer;
- (B) coroner;
- (C) funeral director;**
- ~~(D)~~ **(D)** physician; or
- ~~(E)~~ **(E)** 911 telephone call center;

within three (3) hours after finding the ~~body~~; **human remains**;
 commits failure to report a ~~dead body~~ **the discovery or handling of human remains**, a Class A misdemeanor.

SECTION 5. IC 36-2-14-6, AS AMENDED BY P.L.193-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:

- (1) has died from violence;
- (2) has died by casualty;
- (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.~~ **determining the cause, manner, and mechanism of death.** The coroner ~~may~~ **shall** hold the **human** 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

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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.

(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.

(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.

(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 (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.

(f) If:

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- (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.

(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 (f) applies to the death of the child.

(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 6. IC 36-2-14-6.5, AS ADDED BY P.L.157-2007,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6.5. (a) As used in this section, "DNA analysis" means an identification process in which the unique genetic code of an individual that is carried by the individual's deoxyribonucleic acid (DNA) is compared to genetic codes carried in DNA found in bodily substance samples obtained by a law enforcement agency in the exercise of the law enforcement agency's investigative function.

(b) As used in this section, "human remains" has the meaning set forth in IC 35-45-19-1.5.

~~(b)~~ **(c)** As used in this section, "immediate family member" means, with respect to **the human remains of** a particular dead person, an individual who is at least eighteen (18) years of age and who is one (1) of the following:

- (1) The dead person's spouse.
- (2) The dead person's child.
- (3) The dead person's parent.
- (4) The dead person's grandparent.
- (5) The dead person's sibling.

~~(c)~~ **(d)** The coroner shall make a positive identification of ~~a dead person~~ **human remains** unless extraordinary circumstances described in subsection ~~(d)~~ **(e)** exist. In making a positive identification, the coroner shall determine the identity of ~~a dead person~~ **the human remains** by one (1) of the following methods:

- (1) Fingerprint identification.
- (2) DNA analysis.
- (3) Dental record analysis.
- (4) Positive identification by at least one (1) of the dead person's immediate family members if the dead person's body is in a physical condition that would allow for the dead person to be reasonably recognized.

~~(d)~~ **(e)** For the purposes of subsection ~~(e)~~, **(d)**, extraordinary circumstances exist if, after a thorough investigation, the coroner determines that identification of the dead person is not possible under any of the four (4) methods described in subsection ~~(e)~~ **(d)**.

(f) Unless extraordinary circumstances described in subsection (e) exist, the coroner shall notify the decedent's next of kin in a timely manner. The coroner shall retain the information derived from any of the methods described in subsection (d) until the decedent's next of kin has been located.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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