



April 7, 2023

ENGROSSED HOUSE BILL No. 1252

DIGEST OF HB 1252 (Updated April 5, 2023 4:03 pm - DI 140)

Citations Affected: IC 34-13.

Synopsis: Immunity for escort of a banned person. Specifies that under the tort claims act, a governmental entity or employee acting within the scope of employment is not liable for loss resulting from injury to a person or property of a person who is: (1) under supervision of a governmental entity; and (2) subject to a court order requiring the person to be escorted by a county police officer while the person is on or in a government building owned by a county building authority. Provides exceptions to this immunity.

Effective: July 1, 2023.

Hatfield, Torr

(SENATE SPONSOR — BECKER)

January 11, 2023, read first time and referred to Committee on Judiciary.
January 26, 2023, amended, reported — Do Pass.
January 30, 2023, read second time, ordered engrossed.
January 31, 2023, engrossed. Read third time, passed. Yeas 96, nays 1.

SENATE ACTION

February 23, 2023, read first time and referred to Committee on Judiciary.
April 6, 2023, reported favorably — Do Pass.

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April 7, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1252

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 34-13-3-3, AS AMENDED BY P.L.166-2021,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 3. (a) A governmental entity or an employee
4 acting within the scope of the employee's employment is not liable if
5 a loss results from the following:
6 (1) The natural condition of unimproved property.
7 (2) The condition of a reservoir, dam, canal, conduit, drain, or
8 similar structure when used by a person for a purpose that is not
9 foreseeable.
10 (3) The temporary condition of a public thoroughfare or extreme
11 sport area that results from weather.
12 (4) The condition of an unpaved road, trail, or footpath, the
13 purpose of which is to provide access to a recreation or scenic
14 area.
15 (5) The design, construction, control, operation, or normal
16 condition of an extreme sport area, if all entrances to the extreme
17 sport area are marked with:

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- 1 (A) a set of rules governing the use of the extreme sport area;
 2 (B) a warning concerning the hazards and dangers associated
 3 with the use of the extreme sport area; and
 4 (C) a statement that the extreme sport area may be used only
 5 by persons operating extreme sport equipment.
 6 This subdivision shall not be construed to relieve a governmental
 7 entity from liability for the continuing duty to maintain extreme
 8 sports areas in a reasonably safe condition.
 9 (6) The initiation of a judicial or an administrative proceeding.
 10 (7) The performance of a discretionary function; however, the
 11 provision of medical or optical care as provided in IC 34-6-2-38
 12 shall be considered as a ministerial act.
 13 (8) The adoption and enforcement of or failure to adopt or
 14 enforce:
 15 (A) a law (including rules and regulations); or
 16 (B) in the case of a public school or charter school, a policy;
 17 unless the act of enforcement constitutes false arrest or false
 18 imprisonment.
 19 (9) An act or omission performed in good faith and without
 20 malice under the apparent authority of a statute which is invalid
 21 if the employee would not have been liable had the statute been
 22 valid.
 23 (10) The act or omission of anyone other than the governmental
 24 entity or the governmental entity's employee.
 25 (11) The issuance, denial, suspension, or revocation of, or failure
 26 or refusal to issue, deny, suspend, or revoke any permit, license,
 27 certificate, approval, order, or similar authorization, where the
 28 authority is discretionary under the law.
 29 (12) Failure to make an inspection, or making an inadequate or
 30 negligent inspection, of any property, other than the property of
 31 a governmental entity, to determine whether the property
 32 complied with or violates any law or contains a hazard to health
 33 or safety.
 34 (13) Entry upon any property where the entry is expressly or
 35 impliedly authorized by law.
 36 (14) Misrepresentation if unintentional.
 37 (15) Theft by another person of money in the employee's official
 38 custody, unless the loss was sustained because of the employee's
 39 own negligent or wrongful act or omission.
 40 (16) Injury to the property of a person under the jurisdiction and
 41 control of the department of correction if the person has not
 42 exhausted the administrative remedies and procedures provided



- 1 by section 7 of this chapter.
 2 (17) Injury to the person or property of a person under supervision
 3 of a governmental entity and who is:
 4 (A) on probation; ~~or~~
 5 (B) assigned to an alcohol and drug services program under
 6 IC 12-23, a minimum security release program under
 7 IC 11-10-8, a pretrial conditional release program under
 8 IC 35-33-8, or a community corrections program under
 9 IC 11-12; **or**
 10 **(C) subject to a court order requiring the person to be**
 11 **escorted by a county police officer while on or in a**
 12 **government building (as defined in IC 36-9-13-3) owned by**
 13 **a county building authority under IC 36-9-13, unless the**
 14 **injury is the result of an act or omission amounting to:**
 15 **(i) gross negligence;**
 16 **(ii) willful or wanton misconduct; or**
 17 **(iii) intentional misconduct.**
 18 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
 19 project (as defined in IC 8-15-2-4(4)), tollway (as defined in
 20 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
 21 claimed loss occurs at least twenty (20) years after the public
 22 highway, toll road project, tollway, or project was designed or
 23 substantially redesigned; except that this subdivision shall not be
 24 construed to relieve a responsible governmental entity from the
 25 continuing duty to provide and maintain public highways in a
 26 reasonably safe condition.
 27 (19) Development, adoption, implementation, operation,
 28 maintenance, or use of an enhanced emergency communication
 29 system.
 30 (20) Injury to a student or a student's property by an employee of
 31 a school corporation if the employee is acting reasonably under a:
 32 (A) discipline policy adopted under IC 20-33-8-12; or
 33 (B) restraint and seclusion plan adopted under IC 20-20-40-14.
 34 (21) An act or omission performed in good faith under the
 35 apparent authority of a court order described in IC 35-46-1-15.1
 36 or IC 35-46-1-15.3 that is invalid, including an arrest or
 37 imprisonment related to the enforcement of the court order, if the
 38 governmental entity or employee would not have been liable had
 39 the court order been valid.
 40 (22) An act taken to investigate or remediate hazardous
 41 substances, petroleum, or other pollutants associated with a
 42 brownfield (as defined in IC 13-11-2-19.3) unless:



- 1 (A) the loss is a result of reckless conduct; or
 2 (B) the governmental entity was responsible for the initial
 3 placement of the hazardous substances, petroleum, or other
 4 pollutants on the brownfield.
- 5 (23) The operation of an off-road vehicle (as defined in
 6 IC 14-8-2-185) by a nongovernmental employee, or by a
 7 governmental employee not acting within the scope of the
 8 employment of the employee, on a public highway in a county
 9 road system outside the corporate limits of a city or town, unless
 10 the loss is the result of an act or omission amounting to:
- 11 (A) gross negligence;
 12 (B) willful or wanton misconduct; or
 13 (C) intentional misconduct.
- 14 This subdivision shall not be construed to relieve a governmental
 15 entity from liability for the continuing duty to maintain highways
 16 in a reasonably safe condition for the operation of motor vehicles
 17 licensed by the bureau of motor vehicles for operation on public
 18 highways.
- 19 (24) Any act or omission rendered in connection with a request,
 20 investigation, assessment, or opinion provided under
 21 IC 36-9-28.7.
- 22 (b) This subsection applies to a cause of action that accrues during
 23 a period of a state disaster emergency declared under IC 10-14-3-12 to
 24 respond to COVID-19, if the state of disaster emergency was declared
 25 after February 29, 2020, and before April 1, 2022. A governmental
 26 entity or an employee acting within the scope of the employee's
 27 employment is not liable for an act or omission arising from COVID-19
 28 unless the act or omission constitutes gross negligence, willful or
 29 wanton misconduct, or intentional misrepresentation. If a claim
 30 described in this subsection is:
- 31 (1) a claim for injury or death resulting from medical malpractice;
 32 and
 33 (2) not barred by the immunity provided under this subsection;
 34 the claimant is required to comply with all of the provisions of
 35 IC 34-18 (medical malpractice act).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1252, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 13, delete "IC 36-9-13." and insert "**IC 36-9-13, unless the injury is the result of an act or omission amounting to:**

- (i) gross negligence;**
- (ii) willful or wanton misconduct; or**
- (iii) intentional misconduct."**

and when so amended that said bill do pass.

(Reference is to HB 1252 as introduced.)

TORR

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1252, 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 HB 1252 as printed January 26, 2023.)

BROWN L, Chairperson

Committee Vote: Yeas 10, Nays 1

