

SENATE BILL No. 177

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11-12; IC 35-31.5-2; IC 35-40.

Synopsis: Victim's rights and investigations. Requires the state police department, upon the written request of an immediate family member of the deceased, to conduct a new and independent investigation into the cause of death if a local law enforcement agency has determined that the death was not the result of a criminal act committed by a third person.

Effective: July 1, 2021.

Messmer

January 5, 2021, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 177

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 10-11-12 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:

4 **Chapter 12. Independent Investigations Concerning Uncharged**
5 **Deaths**

6 **Sec. 1. The department shall conduct a new and independent**
7 **investigation concerning an uncharged death in accordance with**
8 **IC 35-40-15.**

9 SECTION 2. IC 35-31.5-2-164.5 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2021]: **Sec. 164.5. "Immediate family**
12 **member", for purposes of IC 35-40, has the meaning set forth in**
13 **IC 35-40-4-4.5.**

14 SECTION 3. IC 35-31.5-2-189.5 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2021]: **Sec. 189.5. "Local law enforcement**
17 **agency", for purposes of IC 35-40, has the meaning set forth in**



1 **IC 35-40-4-4.7.**

2 SECTION 4. IC 35-31.5-2-339.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2021]: **Sec. 339.5. "Uncharged death", for**
5 **purposes of IC 35-40, has the meaning set forth in IC 35-40-4-7.5.**

6 SECTION 5. IC 35-40-4-4.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2021]: **Sec. 4.5. "Immediate family member" means a spouse,**
9 **child, parent, or sibling.**

10 SECTION 6. IC 35-40-4-4.7 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2021]: **Sec. 4.7. "Local law enforcement agency" means a law**
13 **enforcement agency other than the state police department.**

14 SECTION 7. IC 35-40-4-7.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2021]: **Sec. 7.5. "Uncharged death" means the death of a person**
17 **that a local law enforcement agency has determined was not the**
18 **result of a criminal act committed by a third person.**

19 SECTION 8. IC 35-40-15 IS ADDED TO THE INDIANA CODE
20 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2021]:

22 **Chapter 15. Right to a New and Independent Investigation**

23 **Sec. 1. The immediate family member of a person whose death**
24 **is an uncharged death has the right to a new and independent**
25 **investigation, conducted by the state police department, to**
26 **determine whether the death was the result of a criminal act**
27 **committed by a third person. An immediate family member has the**
28 **right to a new investigation even if the state police department**
29 **assisted the local law enforcement agency in the earlier**
30 **investigation of the uncharged death.**

31 **Sec. 2. (a) An immediate family member who wishes the state**
32 **police department to conduct a new and independent investigation**
33 **as described in section 1 of this chapter must:**

- 34 (1) **request the investigation in writing;**
35 (2) **describe the immediate family member's relationship to**
36 **the deceased;**
37 (3) **concisely describe the determination made by the local law**
38 **enforcement agency, the reason that the immediate family**
39 **member believes that this determination may be incorrect,**
40 **and any other relevant facts and circumstances that relate to**
41 **the uncharged death; and**
42 (4) **notify the local law enforcement agency and the**



1 prosecuting attorney that the immediate family member has
2 requested a new investigation.

3 (b) An immediate family member is entitled to a new and
4 independent investigation under this chapter even if another
5 immediate family member objects to the investigation.

6 Sec. 3. (a) Upon receipt of a request for a new and independent
7 investigation, the state police department shall, as soon as
8 practicable, initiate a new investigation into the cause of the
9 uncharged death.

10 (b) If the state police department assisted the local law
11 enforcement agency in the earlier investigation, the state police
12 department shall assign an officer to lead the new investigation
13 who did not participate in the earlier investigation, unless assigning
14 a new officer is impracticable.

15 (c) A new investigation conducted under this chapter shall be
16 conducted without regard to the results of the earlier investigation.
17 However, an officer conducting the new investigation may rely on
18 forensic and other evidence collected during the earlier
19 investigation.

20 (d) At the conclusion of the new investigation, the state police
21 department shall provide the immediate family member who
22 requested the investigation with a concise written summary of the
23 results.

24 Sec. 4. A local law enforcement agency shall, upon request by
25 the state police department, exchange information with, cooperate
26 with, and assist the state police department in conducting the new
27 and independent investigation.

28 Sec. 5. (a) An immediate family member is only entitled to a new
29 and independent investigation under this chapter if the earlier
30 investigation resulted in an uncharged death. An immediate family
31 member is not entitled to a new investigation under this chapter
32 because the family member is dissatisfied with any other aspect of
33 the earlier investigation, including:

- 34 (1) the failure to identify a suspect, or the identification or
35 exclusion of a particular person as a criminal suspect; and
36 (2) a conclusion concerning which criminal offense resulting
37 in death was committed.

38 (b) The state police department is only required to conduct one
39 (1) new investigation, regardless of the number of immediate
40 family members who request a new investigation.

