



April 1, 2021

ENGROSSED
SENATE BILL No. 177

DIGEST OF SB 177 (Updated March 31, 2021 11:20 am - DI 131)

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

Synopsis: Victim's rights and investigations. Establishes a procedure permitting an immediate family member of a deceased individual to request the superintendent of the state police department to conduct a new investigation into the death of the individual if: (1) a local law enforcement agency has determined that the death was not the result of a criminal act by a third party; (2) the individual was not under the care of a physician or the victim of medical malpractice; and (3) the family member has a reasonable suspicion that the death was the result of a criminal act by a third party.

Effective: July 1, 2021.

Messmer, Young M,
Randolph Lonnie M
(HOUSE SPONSOR — BARTELS)

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

January 28, 2021, amended, reported favorably — Do Pass.

February 1, 2021, read second time, ordered engrossed. Engrossed.

February 2, 2021, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 1, 2021, read first time and referred to Committee on Courts and Criminal Code.

April 1, 2021, amended, reported — Do Pass.

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April 1, 2021

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.

ENGROSSED 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. Requests for New Investigations Concerning**
5 **Uncharged Deaths**

6 **Sec. 1. The superintendent of the department shall review a**
7 **request for a new investigation concerning an uncharged death in**
8 **accordance with 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**

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

2 SECTION 4. IC 35-31.5-2-267.7 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2021]: **Sec. 267.7. "Reasonable suspicion",**
5 **for purposes of IC 35-40, has the meaning set forth in**
6 **IC 35-40-4-7.3.**

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

11 SECTION 6. IC 35-40-4-4.5 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2021]: **Sec. 4.5. "Immediate family member" means a spouse,**
14 **child, parent, or sibling.**

15 SECTION 7. IC 35-40-4-4.7 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2021]: **Sec. 4.7. "Local law enforcement agency" means a law**
18 **enforcement agency other than the state police department.**

19 SECTION 8. IC 35-40-4-7.3 IS ADDED TO THE INDIANA CODE
20 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2021]: **Sec. 7.3. "Reasonable suspicion" means an objectively**
22 **reasonable basis for believing that a death was caused by the**
23 **criminal act of a third person, based on:**

- 24 (1) **concrete, articulable facts that support the belief; and**
25 (2) **specific reasonable inferences that may be drawn from**
26 **these facts.**

27 SECTION 9. IC 35-40-4-7.5 IS ADDED TO THE INDIANA CODE
28 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2021]: **Sec. 7.5. "Uncharged death" means the death of a person**
30 **that a local law enforcement agency has determined was not the**
31 **result of a criminal act committed by a third person.**

32 SECTION 10. IC 35-40-15 IS ADDED TO THE INDIANA CODE
33 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2021]:

35 **Chapter 15. Right to Request a New Investigation**

36 **Sec. 1. (a) This chapter does not apply to the death of a person:**

- 37 (1) **under the care of a physician; or**
38 (2) **if the person's death may be the result of medical**
39 **malpractice.**

40 (b) **This chapter does not affect the authority of the state police**
41 **department to conduct a new investigation.**

42 **Sec. 2. An immediate family member:**



1 (1) of a person whose death is an uncharged death; and

2 (2) who has reasonable suspicion that the uncharged death
3 was caused by the criminal act of a third person;

4 has the right to request the superintendent of the state police
5 department to conduct a new investigation to determine whether
6 the death was the result of a criminal act committed by a third
7 person. An immediate family member has the right to request a
8 new investigation even if the state police department assisted the
9 local law enforcement agency in the earlier investigation of the
10 uncharged death.

11 Sec. 3. (a) An immediate family member who wishes the state
12 police department to conduct a new investigation as described in
13 section 2 of this chapter must:

14 (1) request the new investigation in writing;

15 (2) describe the immediate family member's relationship to
16 the deceased;

17 (3) describe the determination made by the local law
18 enforcement agency;

19 (4) concisely set forth the basis of the immediate family
20 member's reasonable suspicion that the death was the result
21 of a criminal act committed by a third person, including:

22 (A) describing the criminal act or acts that the immediate
23 family member believes caused the death;

24 (B) listing every fact that forms the basis of the immediate
25 family member's reasonable suspicion; and

26 (C) explaining any reasonable inferences drawn from the
27 facts described in clause (B); and

28 (5) notify the local law enforcement agency and the
29 prosecuting attorney that the immediate family member has
30 requested a new investigation.

31 (b) An immediate family member is entitled to request a new
32 investigation under this chapter even if another immediate family
33 member objects to the request.

34 Sec. 4. (a) Upon receipt of a request for a new investigation, the
35 superintendent of the state police department shall, as soon as
36 practicable, review the written request and, if warranted, conduct
37 any further investigation.

38 (b) If the state police department assisted the local law
39 enforcement agency in the earlier investigation, the superintendent
40 of the state police department shall consider assigning an officer to
41 review the request who did not participate in the earlier
42 investigation, unless assigning a new officer is impracticable.



1 (c) The review of a request under this chapter shall be
2 conducted without regard to the conclusions of the earlier
3 investigation. However, an officer conducting the new investigation
4 may rely on forensic and other evidence collected during the
5 earlier investigation.

6 (d) At the conclusion of the review, the superintendent of the
7 state police department shall provide the immediate family
8 member who requested the investigation with a concise written
9 summary of the determination made by the state police
10 department. A determination made by the state police department
11 under this section is not subject to judicial review.

12 Sec. 5. A coroner and a local law enforcement agency shall,
13 upon request by the superintendent of the state police department,
14 exchange information with, cooperate with, and assist the state
15 police department in reviewing the request and, if applicable,
16 conducting the new investigation.

17 Sec. 6. (a) An immediate family member is only entitled to
18 request a new investigation under this chapter if the earlier
19 investigation resulted in an uncharged death. An immediate family
20 member is not entitled to request a new investigation under this
21 chapter because the family member is dissatisfied with any other
22 aspect of the earlier investigation, including:

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

27 (b) The superintendent of the state police department is only
28 required to consider a request to conduct one (1) new investigation,
29 regardless of the number of immediate family members who
30 request a new investigation.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 177, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, delete "Independent" and insert **"Requests for New"**.

Page 1, line 6, delete "conduct a new and independent" and insert **"review a request for a new"**.

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 4. IC 35-31.5-2-267.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 267.7. "Reasonable suspicion", for purposes of IC 35-40, has the meaning set forth in IC 35-40-4-7.3.**"

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 7. IC 35-40-4-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 7.3. "Reasonable suspicion" means an objectively reasonable basis for believing that a death was caused by the criminal act of a third person, based on:**

- (1) concrete, articulable facts that support the belief; and**
- (2) specific reasonable inferences that may be drawn from these facts."**

Page 2, delete lines 22 through 42, begin a new paragraph, and insert:

"Chapter 15. Right to Request a New Investigation

Sec. 1. (a) This chapter does not apply to the death of a person:

- (1) under the care of a physician; or**
- (2) if the person's death may be the result of medical malpractice.**

(b) This chapter does not affect the authority of the state police department to conduct a new investigation.

Sec. 2. An immediate family member:

- (1) of a person whose death is an uncharged death; and**
- (2) who has reasonable suspicion that the uncharged death was caused by the criminal act of a third person;**

has the right to request the state police department to conduct a new investigation to determine whether the death was the result of a criminal act committed by a third person. An immediate family member has the right to request a new investigation even if the state police department assisted the local law enforcement agency



in the earlier investigation of the uncharged death.

Sec. 3. (a) An immediate family member who wishes the state police department to conduct a new investigation as described in section 2 of this chapter must:

- (1) request the new investigation in writing;**
- (2) describe the immediate family member's relationship to the deceased;**
- (3) describe the determination made by the local law enforcement agency;**
- (4) concisely set forth the basis of the immediate family member's reasonable suspicion that the death was the result of a criminal act committed by a third person, including:**
 - (A) describing the criminal act or acts that the immediate family member believes caused the death;**
 - (B) listing every fact that forms the basis of the immediate family member's reasonable suspicion; and**
 - (C) explaining any reasonable inferences drawn from the facts described in clause (B); and**
- (5) notify the local law enforcement agency and the prosecuting attorney that the immediate family member has requested a new investigation.**

(b) An immediate family member is entitled to request a new investigation under this chapter even if another immediate family member objects to the request.

Sec. 4. (a) Upon receipt of a request for a new investigation, the state police department shall, as soon as practicable, review the written request and, if warranted, conduct any further investigation.

(b) If the state police department assisted the local law enforcement agency in the earlier investigation, the state police department shall consider assigning an officer to review the request who did not participate in the earlier investigation, unless assigning a new officer is impracticable.

(c) The review of a request under this chapter shall be conducted without regard to the conclusions of the earlier investigation. However, an officer conducting the new investigation may rely on forensic and other evidence collected during the earlier investigation.

(d) At the conclusion of the review, the state police department shall provide the immediate family member who requested the investigation with a concise written summary of the determination made by the state police department. A determination made by the



state police department under this section is not subject to judicial review.

Sec. 5. A coroner and a local law enforcement agency shall, upon request by the state police department, exchange information with, cooperate with, and assist the state police department in reviewing the request and, if applicable, conducting the new investigation.

Sec. 6. (a) An immediate family member is only entitled to request a new investigation under this chapter if the earlier investigation resulted in an uncharged death. An immediate family member is not entitled to request a new investigation under this chapter because the family member is dissatisfied with any other aspect of the earlier investigation, including:

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

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

Delete page 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 177 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 177, 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 1, line 6, after "The" insert "**superintendent of the**".

Page 3, line 4, after "request the" insert "**superintendent of the**".

Page 3, line 33, after "investigation, the" insert "**superintendent of the**".

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Page 3, line 38, after "investigation, the" insert "**superintendent of the**".

Page 4, line 5, after "review, the" insert "**superintendent of the**".

Page 4, line 12, after "by the" insert "**superintendent of the**".

Page 4, line 26, after "The" insert "**superintendent of the**".

and when so amended that said bill do pass.

(Reference is to SB 177 as printed January 29, 2021.)

MCNAMARA

Committee Vote: yeas 12, nays 0.

