



February 16, 2016

---

---

**ENGROSSED**  
**SENATE BILL No. 371**

---

DIGEST OF SB 371 (Updated February 15, 2016 11:49 am - DI 84)

**Citations Affected:** IC 6-1.1; IC 6-4.1; IC 23-14; IC 25-15; IC 29-1; IC 29-2; IC 29-3; IC 32-17.5; noncode.

**Synopsis:** Probate matters. Provides that an individual otherwise qualified for certain property tax deductions for property that the individual occupies as a beneficiary of the trust that owns the property is not required to be considered the owner of the property under the rules of construction for the property tax law for the trust to receive the property tax deduction. Transfers certain inheritance tax duties from the probate court, county assessor, and county treasurer to the  
(Continued next page)

**Effective:** Upon passage; July 1, 2016.

---

---

**Bray, Zakas, Taylor,**  
**Randolph Lonnie M**  
(HOUSE SPONSOR — KOCH)

---

---

January 11, 2016, read first time and referred to Committee on Civil Law.  
January 25, 2016, amended, reported favorably — Do Pass.  
January 28, 2016, read second time, amended, ordered engrossed.  
January 29, 2016, engrossed.  
February 1, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Judiciary.  
February 15, 2016, reported — Do Pass.

---

---

ES 371—LS 6660/DI 92



Digest Continued

department of state revenue with respect to inheritance tax returns filed after March 31, 2016. Revises the inheritance tax allocation statute so that the current allocation between the counties and the state is unaffected by the transfer of inheritance tax duties. Provides that a will contest must be initiated in the same cause of action. Specifies the priority of a personal representative and stepchildren with respect to the disposition of a decedent's body and funeral arrangements. Specifies that a court must consider a standby guardian designation when appointing a guardian. Specifies that for purposes of a guardianship appointment, a person designated a standby guardian is second in priority to a person designated in a durable power of attorney. Specifies how property passes in a transfer on death transfer if the beneficiary disclaims the property. Makes technical corrections.

**ES 371—LS 6660/DI 92**



February 16, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 371

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

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

1 SECTION 1. IC 6-1.1-12-17.9, AS AMENDED BY P.L.250-2015,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 17.9. A trust is entitled to a deduction under  
4 section 9, 11, 13, 14, 16, or 17.4 (before its expiration) of this chapter  
5 for real property owned by the trust and occupied by an individual if  
6 the county auditor determines that the individual:  
7 (1) upon verification in the body of the deed or otherwise, has  
8 either:  
9 (A) a beneficial interest in the trust; or  
10 (B) the right to occupy the real property rent free under the  
11 terms of a qualified personal residence trust created by the  
12 individual under United States Treasury Regulation  
13 25.2702-5(c)(2); **and**  
14 (2) otherwise qualifies for the deduction. **and**  
15 (3) ~~would be considered the owner of the real property under~~  
16 ~~IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).~~  
17 SECTION 2. IC 6-4.1-4-1, AS AMENDED BY P.L.6-2010,

ES 371—LS 6660/DI 92



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 UPON PASSAGE]: Sec. 1. (a) Except as otherwise provided in section  
3 0.5 of this chapter or in IC 6-4.1-5-8, the personal representative of a  
4 resident decedent's estate or the trustee or transferee of property  
5 transferred by the decedent shall file an inheritance tax return with:

6 (1) the appropriate probate court, **in the case of a return filed**  
7 **before April 1, 2016; or**

8 (2) **the department of state revenue, in the case of a return**  
9 **filed after March 31, 2016;**

10 within nine (9) months after the date of the decedent's death.

11 (b) The person filing the return shall file it under oath on the forms  
12 prescribed by the department of state revenue. The return shall:

13 (1) contain a statement of all property interests transferred by the  
14 decedent under taxable transfers known to the person filing the  
15 return;

16 (2) indicate the fair market value, as of the appraisal date  
17 prescribed by IC 6-4.1-5-1.5, of each property interest included in  
18 the statement;

19 (3) contain an itemized list of all inheritance tax deductions  
20 claimed with respect to property interests included in the  
21 statement;

22 (4) contain a list which indicates the name and address of each  
23 transferee of the property interests included in the statement and  
24 which indicates the total value of the property interests transferred  
25 to each transferee; and

26 (5) contain the name and address of the attorney for the personal  
27 representative or for the person filing the return.

28 ~~(b)~~ (c) If the decedent died testate, the person filing the return shall  
29 attach a copy of the decedent's will to the return.

30 SECTION 3. IC 6-4.1-4-2, AS AMENDED BY P.L.238-2005,  
31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 UPON PASSAGE]: Sec. 2. (a) If the Internal Revenue Service allows  
33 an extension on a federal estate tax return, the corresponding due date  
34 for the Indiana inheritance tax return is automatically extended for the  
35 same period as the federal extension.

36 (b) **This subsection applies to an inheritance tax return due**  
37 **before April 1, 2016.** If the appropriate probate court finds that  
38 because of an unavoidable delay an inheritance tax return cannot be  
39 filed within nine (9) months after the date of decedent's death, the court  
40 may extend the period for filing the return. After the expiration of the  
41 first extension period, the court may grant a subsequent extension if the  
42 person seeking the extension files a written motion which states the



1 reason for the delay in filing the return.

2 **(c) This subsection applies to an inheritance tax return due after**  
 3 **March 31, 2016. If the department of state revenue finds that**  
 4 **because of an unavoidable delay an inheritance tax return cannot**  
 5 **be filed before the deadline established by the appropriate probate**  
 6 **court or the department of state revenue, the department of state**  
 7 **revenue may extend the period for filing the return. After the**  
 8 **expiration of the first extension period, the department of state**  
 9 **revenue may grant a subsequent extension if the person seeking the**  
 10 **extension files a written petition that states the reason for the delay**  
 11 **in filing the return.**

12 ~~(e)~~ **(d)** For purposes of sections 3 and 6 of this chapter, an  
 13 inheritance tax return is not due until the last day of any extension  
 14 period or periods granted under this section.

15 SECTION 4. IC 6-4.1-4-6 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) **This**  
 17 **subsection applies to an inheritance tax return due before April 1,**  
 18 **2016.** Except as provided in subsection (b), ~~of this section,~~ the  
 19 appropriate probate court shall charge a person who fails to file an  
 20 inheritance tax return on or before the due date a penalty in an amount  
 21 which equals:

- 22 (1) fifty cents (\$0.50) per day for each day that the return is  
 23 delinquent; or  
 24 (2) fifty dollars (\$50);

25 whichever is less. The court shall include the penalty in the inheritance  
 26 tax decree which it issues with respect to the decedent's estate. The  
 27 person to whom the penalty is charged shall pay it to the treasurer of  
 28 the county in which the resident decedent was domiciled at the time of  
 29 the resident decedent's death.

30 (b) The appropriate probate court may waive the penalty otherwise  
 31 required under subsection (a) ~~of this section~~ if the court finds that the  
 32 person had a justifiable excuse for not filing the return on or before the  
 33 due date.

34 **(c) This subsection applies to an inheritance tax return due after**  
 35 **March 31, 2016. Except as provided in subsection (d), the**  
 36 **department of state revenue shall charge a person who fails to file**  
 37 **an inheritance tax return on or before the due date a penalty in an**  
 38 **amount that equals:**

- 39 (1) fifty cents (\$0.50) per day for each day that the return is  
 40 delinquent; or  
 41 (2) fifty dollars (\$50);

42 whichever is less. The department of state revenue shall include the



1 penalty in the inheritance tax order that it issues with respect to  
 2 the decedent's estate. The person to whom the penalty is charged  
 3 shall pay the penalty to the department of state revenue.

4 (d) The department of state revenue may waive the penalty  
 5 otherwise required under subsection (c) if the department of state  
 6 revenue finds that the person had a justifiable excuse for not filing  
 7 the return on or before the due date.

8 SECTION 5. IC 6-4.1-5-2 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **This section**  
 10 **does not apply to an inheritance tax return filed for a resident**  
 11 **decedent after March 31, 2016.**

12 (b) Within ten (10) days after an inheritance tax return for a resident  
 13 decedent is filed with the probate court, the court shall refer the return  
 14 to the county inheritance tax appraiser. The county inheritance tax  
 15 appraiser shall:

- 16 (1) investigate the facts concerning taxable transfers made by the  
 17 decedent before ~~his~~ **the decedent's** death;
- 18 (2) review the return for mistakes and omissions; and
- 19 (3) appraise each property interest, transferred by the decedent  
 20 under a taxable transfer, at its fair market value as of the appraisal  
 21 date prescribed by IC 6-4.1-5-1.5.

22 SECTION 6. IC 6-4.1-5-3 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **This section**  
 24 **does not apply to an inheritance tax return filed for a resident**  
 25 **decedent after March 31, 2016.**

26 (b) Before making the appraisal required under section ~~2(3)~~ **2(b)(3)**  
 27 of this chapter, the county inheritance tax appraiser shall give notice of  
 28 the date, time, and place of the appraisal, by mail, to any person  
 29 designated by the probate court and each interested person who filed  
 30 a request for notice and provided a mailing address to the county  
 31 assessor. The county inheritance tax appraiser shall appraise the  
 32 property interests at the time and place stated in the notice.

33 SECTION 7. IC 6-4.1-5-4 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **This section**  
 35 **does not apply to an inheritance tax return filed for a resident**  
 36 **decedent after March 31, 2016.**

37 (b) In order to make the appraisal required under section ~~2(3)~~  
 38 **2(b)(3)** of this chapter, the county inheritance tax appraiser may:

- 39 (1) issue subpoenas;
- 40 (2) compel the appearance of witnesses before ~~him;~~ **the**  
 41 **appraiser;** and
- 42 (3) examine witnesses under oath.



1 Each witness examined with respect to the appraisal is entitled to  
 2 receive a fee in the same amount paid to a witness subpoenaed to  
 3 appear before a court of record. The county treasurer shall, from county  
 4 funds not otherwise appropriated, pay the witness fee which is provided  
 5 for under this section and which is allowed by the probate court under  
 6 section 10 of this chapter.

7 SECTION 8. IC 6-4.1-5-5 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) This section**  
 9 **does not apply to an inheritance tax return filed for a resident**  
 10 **decedent after March 31, 2016.**

11 **(b)** After an inheritance tax return filed for a resident decedent is  
 12 examined by the county inheritance tax appraiser and the probate court,  
 13 the court shall order the person responsible for filing the return to  
 14 complete the return and refile it if the court finds that the return is  
 15 incomplete. When the return is refiled, the court shall refer the refiled  
 16 return to the county inheritance tax appraiser for review. ~~by him.~~

17 SECTION 9. IC 6-4.1-5-6 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a) This section**  
 19 **does not apply to an inheritance tax return filed for a resident**  
 20 **decedent after March 31, 2016.**

21 **(b)** After completing the duties assigned to ~~him~~ under section ~~2~~ **2(b)**  
 22 of this chapter, the county inheritance tax appraiser shall prepare an  
 23 appraisal report. The appraisal report shall:

- 24 (1) contain a list of the property interests described in section ~~2~~  
 25 **2(b)(3)** of this chapter; and  
 26 (2) indicate the fair market value of the property interests.

27 The county inheritance tax appraiser shall file one (1) copy of the  
 28 report with the probate court, and ~~he~~ shall file another copy of the  
 29 report with the department of state revenue. The appraiser shall attach  
 30 the depositions of any witnesses examined with respect to the appraisal  
 31 and any other information which the court may require to the appraisal  
 32 report ~~which he files~~ **filed** with the court.

33 SECTION 10. IC 6-4.1-5-7 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If the personal  
 35 representative of a resident decedent's estate or the trustee or transferee  
 36 of property transferred by the decedent believes that no inheritance tax  
 37 is imposed under this article as a result of the decedent's death, ~~he~~ **the**  
 38 **personal representative** may file a verified petition with:

- 39 **(1)** the appropriate probate court, **in the case of an inheritance**  
 40 **tax return that would otherwise be due before April 1, 2016;**  
 41 **or**  
 42 **(2)** the department of state revenue, **in the case of an**



1           **inheritance tax return that would otherwise be due after**  
 2           **March 31, 2016;**  
 3 requesting that the court **or the department of state revenue,**  
 4 **whichever is applicable,** enter an order stating that no inheritance tax  
 5 is due. The petitioner must include in the petition a statement of the  
 6 value of the property interests transferred by the decedent.

7           SECTION 11. IC 6-4.1-5-8 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** If a petition  
 9 is filed under section 7 of this chapter, the:

- 10           **(1) probate court, in the case of a petition filed under section**  
 11           **7(1) of this chapter; or**  
 12           **(2) department of state revenue, in the case of a petition filed**  
 13           **under section 7(2) of this chapter;**

14 may hold a hearing on the petition. If the court **or the department of**  
 15 **state revenue, whichever is applicable,** elects to hold a hearing, it  
 16 shall give notice of the hearing in the same manner prescribed for  
 17 giving the notice required under section **9 9(b)** of this chapter.

18           **(b)** After the:

- 19           **(1) probate court; or**  
 20           **(2) department of state revenue;**

21 completes its examination of the petition, the court **or the department**  
 22 **of state revenue, whichever is applicable,** may enter an order stating  
 23 that no inheritance tax is due as a result of the decedent's death.

24           **(c)** If the:

- 25           **(1) court; or**  
 26           **(2) department of state revenue;**

27 enters ~~such~~ an order **under subsection (b),** the petitioner is not  
 28 required to file an inheritance tax return.

29           **(d)** However, a person may petition the:

- 30           **(1) appropriate probate court; or**  
 31           **(2) department of state revenue;**

32 under IC 6-4.1-7 for a rehearing on the ~~court's~~ order **entered under**  
 33 **subsection (b)** or for a reappraisal of the property interests transferred  
 34 by the decedent.

35           SECTION 12. IC 6-4.1-5-9 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) This section**  
 37 **does not apply to an inheritance tax return filed for a resident**  
 38 **decedent after March 31, 2016.**

39           **(b)** When the county inheritance tax appraiser files an appraisal  
 40 report with the probate court, the court shall give twenty (20) days  
 41 notice by mail of the date, time, and place of a hearing on the report to  
 42 each interested person who filed a request for notice and provided a





1 mailing address under section 3 **3(b)** of this chapter.

2 SECTION 13. IC 6-4.1-5-10 IS AMENDED TO READ AS  
 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After the  
 4 hearing required by section 9 **9(b)** of this chapter **for a determination**  
 5 **made before April 1, 2016**, the probate court shall determine the fair  
 6 market value of the property interests transferred by the resident  
 7 decedent and the amount of inheritance tax due as a result of ~~his~~ **the**  
 8 **decedent's** death. The court shall then enter an order stating the  
 9 amount of inheritance tax due and the fees due witnesses under section  
 10 4 of this chapter. If the court finds that no inheritance tax is due, the  
 11 court shall include a statement to that effect in the order.

12 (b) The court shall prepare the order required by ~~this section~~  
 13 **subsection (a)** on the form prescribed by the department of state  
 14 revenue. The court shall include in the order a description of all Indiana  
 15 real property owned by the resident decedent at the time of ~~his~~ **the**  
 16 **decedent's** death. The probate court shall spread the order of record in  
 17 the office of the clerk of the circuit court. The clerk shall maintain the  
 18 orders in a looseleaf ledger.

19 (c) **This subsection applies if an order stating the amount of**  
 20 **inheritance tax due as a result of the death of a decedent who died**  
 21 **before January 1, 2013, has not been issued as of the close of**  
 22 **business on March 31, 2016. The department of state revenue shall**  
 23 **determine the fair market value of the property interests**  
 24 **transferred by the resident decedent and the amount of inheritance**  
 25 **tax due as a result of the decedent's death. The department of state**  
 26 **revenue shall then enter an order stating the amount of inheritance**  
 27 **tax due and the fees due witnesses under section 4 of this chapter.**  
 28 **If the department of state revenue finds that no inheritance tax is**  
 29 **due, the department shall include a statement to that effect in the**  
 30 **order. The department of state revenue shall prepare the order**  
 31 **required by this subsection on a form prescribed by the**  
 32 **department. The department shall include in the order a**  
 33 **description of all Indiana real property owned by the resident**  
 34 **decedent at the time of the decedent's death. The department shall**  
 35 **spread the order of record in the office of the clerk of the**  
 36 **appropriate circuit court. The clerk shall maintain the orders in a**  
 37 **looseleaf ledger.**

38 (c) (d) ~~The order described in~~ **An order issued by the appropriate**  
 39 **probate court or the department of state revenue under this section**  
 40 **is confidential.**

41 SECTION 14. IC 6-4.1-5-11 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The court,



1 **or the department of state revenue, whichever is applicable,** shall  
 2 immediately mail a copy of its determination of the fair market value  
 3 of the property interests transferred by a resident decedent and the  
 4 inheritance tax due as a result of the person's death to each interested  
 5 person who filed a request for notice and provided a mailing address  
 6 under section 3 **3(b)** of this chapter.

7 **(b) If the appropriate probate court made the determinations**  
 8 **under section 10 of this chapter, the court shall also mail the**  
 9 **information described in subsection (a) to** the department of state  
 10 revenue and the county treasurer.

11 SECTION 15. IC 6-4.1-6-1 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) For purposes  
 13 of this article, ~~county inheritance tax appraisers and~~ the department of  
 14 state revenue shall, if possible, appraise each future, contingent,  
 15 defeasible, or life interest in property and each annuity by using the  
 16 rules, methods, standards of mortality, and actuarial tables used by the  
 17 Internal Revenue Service on October 1, 1988, for federal estate tax  
 18 purposes.

19 (b) Except as otherwise provided in this chapter, the value of a  
 20 future interest in specific property equals the remainder of:

21 (1) the total value of the property; minus

22 (2) the value of all other interests in the property.

23 (c) Unless otherwise provided by the transferor, the inheritance tax  
 24 imposed on the transfer of each of the interests is payable from the  
 25 property in which the interests exist.

26 SECTION 16. IC 6-4.1-6-2 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~County~~  
 28 ~~inheritance tax appraisers and~~ The department of state revenue shall  
 29 appraise a property interest which may be divested because of an act or  
 30 omission of the transferee as if there were no possibility of divestment.

31 SECTION 17. IC 6-4.1-6-4 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) This**  
 33 **subsection applies to an inheritance tax return filed before April 1,**  
 34 **2016.** For purposes of determining the inheritance tax imposed on a  
 35 decedent's transfer of specific property, the appropriate probate court  
 36 shall, so far as possible, determine the manner in which the property  
 37 will probably be distributed if:

38 (1) a contingency makes it impossible to determine each  
 39 transferee's exact interest in the property; and

40 (2) the department of state revenue and the taxpayer fail, within  
 41 a reasonable time, to enter into an agreement under section 3 of  
 42 this chapter.



1 Unless the court's determination is appealed, it is final and binding on  
2 all parties.

3 **(b) This subsection applies to an inheritance tax return filed**  
4 **after March 31, 2016. For purposes of determining the inheritance**  
5 **tax imposed on a decedent's transfer of specific property, the**  
6 **department of state revenue shall, so far as possible, determine the**  
7 **manner in which the property will probably be distributed if:**

8 **(1) a contingency makes it impossible to determine each**  
9 **transferee's exact interest in the property; and**

10 **(2) the department of state revenue and the taxpayer fail,**  
11 **within a reasonable time, to enter into an agreement under**  
12 **section 3 of this chapter.**

13 **A person may petition the department of state revenue for a**  
14 **redetermination of the amount of inheritance tax imposed under**  
15 **this subsection in the time and manner provided under IC 6-4.1-7-1**  
16 **or IC 6-4.1-7-5, whichever is applicable.**

17 SECTION 18. IC 6-4.1-6-6 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If  
19 proceedings have not been instituted under this chapter to determine  
20 the inheritance tax imposed on the decedent's transfer of a contingent  
21 or defeasible future interest in property or if the tax imposed on such  
22 a transfer is postponed under subsection (b), ~~of this section, the county~~  
23 ~~inheritance tax appraiser~~ or the department of state revenue shall,  
24 notwithstanding the provisions of IC 6-4.1-5, appraise the property  
25 interest at its fair market value when the transferee of the interest  
26 obtains the beneficial enjoyment or possession of the property.

27 (b) The inheritance tax imposed on the decedent's transfer of a  
28 contingent or defeasible interest in property accrues and is due when  
29 the transferee of the interest obtains the beneficial enjoyment or  
30 possession of the property if the fair market value of the property  
31 interest as of the appraisal date prescribed by IC 6-4.1-5-1.5 cannot  
32 otherwise be ascertained under this chapter.

33 SECTION 19. IC 6-4.1-7-1 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) This**  
35 **subsection applies to an inheritance tax return filed before April 1,**  
36 **2016.** A person who is dissatisfied with an inheritance tax  
37 determination made by a probate court with respect to a resident  
38 decedent's estate may obtain a rehearing on the determination. To  
39 obtain the rehearing, the person must file a petition for rehearing with  
40 the probate court within one hundred twenty (120) days after the  
41 determination is made. In the petition, the person must state the  
42 grounds for the rehearing. The probate court shall base the rehearing



1 on evidence presented at the original hearing plus any additional  
2 evidence which the court elects to hear.

3 **(b) This subsection applies to an inheritance tax return filed**  
4 **after March 31, 2016. A person who is dissatisfied with an**  
5 **inheritance tax determination made by the department of state**  
6 **revenue with respect to a resident decedent's estate may obtain a**  
7 **hearing on the determination. To obtain the hearing, the person**  
8 **must file a petition for a hearing with the appropriate probate**  
9 **court within one hundred twenty (120) days after the**  
10 **determination is made. In the petition, the person must state the**  
11 **grounds for the hearing. The probate court shall base the hearing**  
12 **on evidence presented to the department of state revenue plus any**  
13 **additional evidence which the court elects to hear.**

14 SECTION 20. IC 6-4.1-7-2 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) This**  
16 **subsection applies to an inheritance tax return filed before April 1,**  
17 **2016. A person who is dissatisfied with an appraisal approved by a**  
18 **probate court with respect to a resident decedent's estate may obtain a**  
19 **reappraisal of the property interest involved. To obtain the reappraisal,**  
20 **the person must file a petition for reappraisal with the probate court**  
21 **within one (1) year after the court enters an order determining the**  
22 **inheritance tax due as a result of the decedent's death. However, if the**  
23 **original appraisal is fraudulently or erroneously made, the person may**  
24 **file the reappraisal petition within two (2) years after the court enters**  
25 **the order.**

26 **(b) This subsection applies to an inheritance tax return filed**  
27 **after March 31, 2016. A person who is dissatisfied with an**  
28 **appraisal made by the department of state revenue with respect to**  
29 **a resident decedent's estate may obtain a reappraisal of the**  
30 **property interest involved. To obtain the reappraisal, the person**  
31 **must file a petition for reappraisal with the probate court within**  
32 **one (1) year after the department of state revenue enters an order**  
33 **determining the inheritance tax due as a result of the decedent's**  
34 **death. However, if the original appraisal is fraudulently or**  
35 **erroneously made, the person may file the reappraisal petition**  
36 **within two (2) years after the department of state revenue enters**  
37 **the order.**

38 SECTION 21. IC 6-4.1-7-3 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. When a  
40 reappraisal petition is filed under section 2 of this chapter, the probate  
41 court may appoint a competent person to reappraise the property  
42 interests transferred by the resident decedent under taxable transfers.



1 An appraiser appointed by the court under this section has the same  
 2 powers and duties, including the duty to give notice of the appraisal  
 3 and the duty to make an appraisal report to the court, as the county  
 4 inheritance tax appraiser **had under this article as of January 1,**  
 5 **2016.** The appointed appraiser is entitled to receive an amount fixed by  
 6 the court and approved by the department of revenue as compensation  
 7 for ~~his~~ **the appointed appraiser's** services. After the probate court  
 8 certifies to the county treasurer the amount of compensation due the  
 9 appointed appraiser, the county treasurer shall pay the appraiser from  
 10 county funds not otherwise appropriated.

11 SECTION 22. IC 6-4.1-7-4 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After the  
 13 appraiser, if any, appointed under section 3 of this chapter files ~~his~~ **an**  
 14 appraisal report, the probate court shall redetermine the inheritance tax  
 15 due with respect to the property interests transferred by the resident  
 16 decedent. In making the redetermination, the court shall follow the  
 17 same procedures:

- 18 (1) ~~it the court~~ is required to follow under IC 6-4.1-5-9,  
 19 IC 6-4.1-5-10, and IC 6-4.1-5-11 when making an original  
 20 inheritance tax determination, **in the case of an inheritance tax**  
 21 **return filed before April 1, 2016; or**  
 22 (2) **the department of state revenue is required to follow**  
 23 **under IC 6-4.1-5-9, IC 6-4.1-5-10, and IC 6-4.1-5-11 when**  
 24 **making an original inheritance tax determination, in the case**  
 25 **of an inheritance tax return filed after March 31, 2016.**

26 (b) The probate court's redetermination of the inheritance tax due  
 27 supersedes:

- 28 (1) the court's original determination; **or**  
 29 (2) **an original determination by the department of state**  
 30 **revenue;**

31 **whichever is applicable.** The court shall file a copy of the  
 32 redetermination with the clerk of the court.

33 SECTION 23. IC 6-4.1-7-6.5 IS ADDED TO THE INDIANA  
 34 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 35 [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. An inheritance tax**  
 36 **determination or an appraisal made by the department of state**  
 37 **revenue may not be directly appealed to the tax court. A person**  
 38 **dissatisfied with an inheritance tax determination or an appraisal**  
 39 **made by the department of state revenue must have the inheritance**  
 40 **tax determination or appraisal reviewed by the appropriate**  
 41 **probate court under section 1, 2, or 5 of this chapter, whichever is**  
 42 **applicable. The probate court's action on the inheritance tax**



1 **determination or an appraisal made by the department of state**  
 2 **revenue may be appealed to the tax court under section 7 of this**  
 3 **chapter.**

4 SECTION 24. IC 6-4.1-9-1 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as  
 6 otherwise provided in IC 6-4.1-6-6(b), the inheritance tax imposed as  
 7 a result of a decedent's death is due twelve (12) months after the  
 8 person's date of death. If a person liable for payment of inheritance tax  
 9 does not pay the tax on or before the due date, the person shall, except  
 10 as provided in subsection (b), ~~of this section~~, pay interest on the  
 11 delinquent portion of the tax at the rate of ten percent (10%) per year  
 12 from the date of the decedent's death to the date payment is made.

13 (b) If an unavoidable delay, such as necessary litigation, prevents a  
 14 determination of the amount of inheritance tax due, the:

15 (1) appropriate probate court, in the case of a resident decedent  
 16 **for whom an inheritance tax return is filed before April 1,**  
 17 **2016; or**

18 (2) ~~the~~ department of state revenue, ~~in the case of a non-resident~~  
 19 ~~decedent~~, **all other cases;**

20 may reduce the rate of interest imposed under this section, for the time  
 21 period beginning on the date of the decedent's death and ending when  
 22 the cause of delay is removed, to six percent (6%) per year.

23 SECTION 25. IC 6-4.1-9-5 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A person  
 25 who is liable for inheritance tax imposed as a result of a resident  
 26 decedent's death shall pay the tax to the:

27 (1) treasurer of the county in which the resident decedent was  
 28 domiciled at the time of the resident decedent's death **if an**  
 29 **inheritance tax return is filed for the resident decedent before**  
 30 **April 1, 2016; or**

31 (2) **department of state revenue, in all other cases.**

32 If such a person believes that more inheritance tax is due as a result of  
 33 the resident decedent's death than the amount of tax determined by the  
 34 court **or the department of state revenue** under IC 6-4.1-5-10, the  
 35 person may, without obtaining another ~~court~~ determination **from the**  
 36 **court or the department of state revenue**, pay the additional tax and  
 37 any interest due on the additional tax to the county treasurer **or the**  
 38 **department of state revenue, whichever is applicable.**

39 (b) **This subsection applies only to inheritance taxes paid under**  
 40 **subsection (a)(1).** The county treasurer shall collect the tax, shall issue  
 41 a receipt for the tax payment in duplicate, and shall send one (1) copy  
 42 of the receipt to the department of state revenue. The department shall



1 countersign the receipt, shall affix its seal to the receipt, and shall  
 2 return the signed and sealed receipt to the payor. The department shall  
 3 also charge the county treasurer with the amount of inheritance tax  
 4 collected. ~~by him.~~

5 SECTION 26. IC 6-4.1-9-6 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) **This**  
 7 **subsection applies to inheritance taxes collected by a county**  
 8 **treasurer before April 1, 2016.** With respect to the inheritance tax  
 9 imposed as a result of a resident decedent's death, the county in which  
 10 the tax is collected shall receive eight percent (8%) of the inheritance  
 11 tax paid as a result of the decedent's death. On the first day of January,  
 12 April, July, and October of each year, the county treasurer shall, except  
 13 as provided in subsection ~~(b)~~; **(c)**, transfer to the county general fund  
 14 the amount due the county under this section. This state shall receive  
 15 the remaining ninety-two percent (92%) of the inheritance taxes, all the  
 16 interest charges collected by the county treasurer under section 1 or 1.5  
 17 of this chapter, and all the penalties collected by the county treasurer  
 18 under IC 6-4.1-4-6.

19 **(b) This subsection applies to inheritance taxes imposed as a**  
 20 **result of the death of a resident decedent that are collected after**  
 21 **March 31, 2016, by the department of state revenue. The**  
 22 **department of state revenue shall distribute inheritance taxes**  
 23 **collected as the result of the death of a resident decedent as follows:**

24 **(1) The department shall retain ninety-two percent (92%) of**  
 25 **the taxes collected for deposit in the state general fund.**

26 **(2) The department shall retain any interest or penalties**  
 27 **collected by the department for deposit in the state general**  
 28 **fund.**

29 **(3) Subject to subsection (c), the department shall distribute**  
 30 **eight percent (8%) of the taxes collected to the county**  
 31 **treasurer of the county in which the resident decedent lived at**  
 32 **the time of the resident decedent's death for deposit in the**  
 33 **county general fund.**

34 ~~(b)~~ **(c)** In a county having a consolidated city, the amount due the  
 35 county under this section shall be transferred to the general fund of the  
 36 consolidated city.

37 SECTION 27. IC 6-4.1-9-7 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **This section**  
 39 **does not apply to inheritance taxes paid to the department of state**  
 40 **revenue after March 31, 2016.**

41 **(b)** On the first day of January, April, July, and October of each  
 42 year, each county treasurer shall, under oath, send a written inheritance



1 tax report to the department of state revenue. Each report shall state the  
 2 amount of inheritance taxes collected by the county treasurer during the  
 3 preceding three (3) months and shall indicate the estates for which the  
 4 taxes were paid, who paid the taxes, and when the taxes were paid. The  
 5 county treasurer shall prepare each report on the form prescribed by the  
 6 state board of accounts.

7 ~~(b)~~ (c) On the first day of January, April, July, and October of each  
 8 year, each county auditor shall issue a warrant to the state treasurer for  
 9 the amount of inheritance taxes, interest charges, and penalties which  
 10 the state is to receive under section 6 of this chapter. The county  
 11 treasurer shall stamp and countersign the warrant. The county treasurer  
 12 shall send the warrant to the department of state revenue not more than  
 13 thirty (30) days after the county treasurer is required to send the related  
 14 inheritance tax report for the preceding three (3) months under  
 15 subsection ~~(a)~~: (b).

16 SECTION 28. IC 6-4.1-9-8 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The  
 18 department of state revenue shall receipt and account for each warrant  
 19 which it receives under section ~~7(b)~~ 7(c) of this chapter. The  
 20 department shall then forward the warrant to the state treasurer. The  
 21 state treasurer shall deposit the warrants in a special account within the  
 22 state general fund to be known as the Inheritance Tax Account.

23 (b) At the end of each month, the state auditor shall issue a quietus  
 24 to the department of state revenue for the money collected by the  
 25 department under section ~~7(b)~~ 7(c) of this chapter. The state auditor  
 26 shall issue the quietus under the same terms and conditions established  
 27 for issuing a quietus to similar state agencies.

28 SECTION 29. IC 6-4.1-12-1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as**  
 30 **otherwise provided in this article**, the probate court of the county:

31 (1) in which a resident decedent was domiciled at the time of the  
 32 decedent's death; or

33 (2) in which the resident decedent's estate is being administered,  
 34 if different from the county described in subdivision (1);

35 has jurisdiction to determine the inheritance tax imposed as a result of  
 36 the resident decedent's death and to hear all matters related to the tax  
 37 determination. However, if two (2) or more courts in a county have  
 38 probate jurisdiction, the first court acquiring jurisdiction under this  
 39 article acquires exclusive jurisdiction over the inheritance tax  
 40 determination.

41 (b) **In the case of an inheritance tax return filed after March 31,**  
 42 **2016, the probate court having jurisdiction under subsection (a)**





1 does not have the power to make original inheritance tax  
 2 determinations. The probate court may hear the following matters  
 3 with respect to an inheritance tax return filed after March 31,  
 4 2016, for a resident decedent:

- 5 (1) Any matter subject to IC 6-4.1-4-3 through IC 6-4.1-4-5.  
 6 (2) Any matter subject to IC 6-4.1-5-13.  
 7 (3) Petitions for a redetermination of inheritance tax due or  
 8 a reappraisal of a property interest under IC 6-4.1-7.  
 9 (4) An appeal of a refund order under IC 6-4.1-10-4.

10 SECTION 30. IC 6-4.1-12-2 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Except as**  
 12 **provided in subsection (b)**, each county assessor shall serve as the  
 13 county inheritance tax appraiser for the county ~~he~~ **the assessor** serves.  
 14 However, the appropriate probate court shall appoint a competent and  
 15 qualified resident of the county to appraise property transferred by a  
 16 resident decedent if the county assessor is:

- 17 (1) beneficially interested as an heir of the decedent's estate;  
 18 (2) the personal representative of the decedent's estate; or  
 19 (3) related to the decedent or a beneficiary of the decedent's estate  
 20 within the third degree of consanguinity or affinity.

21 A person who is appointed to act as the county inheritance tax  
 22 appraiser under this section shall receive a fee for ~~his~~ **the person's**  
 23 services. The court, subject to the approval of the department of state  
 24 revenue, shall set the fee.

25 (b) **For purposes of determining the inheritance tax with respect**  
 26 **to an inheritance tax return filed after March 31, 2016, the duty to**  
 27 **appraise property interest transferred by a resident decedent is**  
 28 **transferred to the department of state revenue.**

29 SECTION 31. IC 6-4.1-12-4 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **Before April 1,**  
 31 **2016**, the county assessor shall receive funds from the county to pay the  
 32 actual cost of equipment which ~~he~~ **the assessor** needs to perform the  
 33 duties assigned to ~~him~~ **the assessor** under this article.

34 SECTION 32. IC 23-14-31-26, AS AMENDED BY P.L.6-2012,  
 35 SECTION 161, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2016]: Sec. 26. (a) Except as provided in  
 37 subsection (c), the following persons, in the priority listed, have the  
 38 right to serve as an authorizing agent:

- 39 (1) A person:  
 40 (A) granted the authority to serve in a funeral planning  
 41 declaration executed by the decedent under IC 29-2-19; or  
 42 (B) named in a United States Department of Defense form



- 1 "Record of Emergency Data" (DD Form 93) or a successor  
2 form adopted by the United States Department of Defense, if  
3 the decedent died while serving in any branch of the United  
4 States Armed Forces (as defined in 10 U.S.C. 1481) and  
5 completed the form.
- 6 (2) An individual specifically granted the authority to serve in a  
7 power of attorney or a health care power of attorney executed by  
8 the decedent under IC 30-5-5-16.
- 9 (3) The individual who was the spouse of the decedent at the time  
10 of the decedent's death, except when:
- 11 (A) a petition to dissolve the marriage or for legal separation  
12 of the decedent and spouse is pending with a court at the time  
13 of the decedent's death, unless a court finds that the decedent  
14 and spouse were reconciled before the decedent's death; or
- 15 (B) a court determines the decedent and spouse were  
16 physically and emotionally separated at the time of death and  
17 the separation was for an extended time that clearly  
18 demonstrates an absence of due affection, trust, and regard for  
19 the decedent.
- 20 (4) The decedent's surviving adult child or, if more than one (1)  
21 adult child is surviving, the majority of the adult children.  
22 However, less than half of the surviving adult children have the  
23 rights under this subdivision if the adult children have used  
24 reasonable efforts to notify the other surviving adult children of  
25 their intentions and are not aware of any opposition to the final  
26 disposition instructions by more than half of the surviving adult  
27 children.
- 28 (5) The decedent's surviving parent or parents. If one (1) of the  
29 parents is absent, the parent who is present has authority under  
30 this subdivision if the parent who is present has used reasonable  
31 efforts to notify the absent parent.
- 32 (6) The decedent's surviving sibling or, if more than one (1)  
33 sibling is surviving, the majority of the surviving siblings.  
34 However, less than half of the surviving siblings have the rights  
35 under this subdivision if the siblings have used reasonable efforts  
36 to notify the other surviving siblings of their intentions and are  
37 not aware of any opposition to the final disposition instructions by  
38 more than half of the surviving siblings.
- 39 (7) The individual in the next degree of kinship under IC 29-1-2-1  
40 to inherit the estate of the decedent or, if more than one (1)  
41 individual of the same degree is surviving, the majority of those  
42 who are of the same degree. However, less than half of the



1 individuals who are of the same degree of kinship have the rights  
 2 under this subdivision if they have used reasonable efforts to  
 3 notify the other individuals who are of the same degree of kinship  
 4 of their intentions and are not aware of any opposition to the final  
 5 disposition instructions by more than half of the individuals who  
 6 are of the same degree of kinship.

7 **(8) If none of the persons described in subdivisions (1)**  
 8 **through (7) are available, or willing, to act and arrange for**  
 9 **the final disposition of the decedent's remains, a stepchild (as**  
 10 **defined in IC 6-4.1-1-3(f)) of the decedent. If more than one**  
 11 **(1) stepchild survives the decedent, then a majority of the**  
 12 **surviving stepchildren. However, less than half of the**  
 13 **surviving stepchildren have the rights under this subdivision**  
 14 **if they have used reasonable efforts to notify the other**  
 15 **stepchildren of their intentions and are not aware of any**  
 16 **opposition to the final disposition instructions by more than**  
 17 **half of the stepchildren.**

18 **(9) The person appointed to administer the decedent's estate**  
 19 **under IC 29-1.**

20 ~~(8)~~ **(10)** If none of the persons described in subdivisions (1)  
 21 through ~~(7)~~ **(9)** are available, any other person willing to act and  
 22 arrange for the final disposition of the decedent's remains,  
 23 including a funeral home that:

24 (A) has a valid prepaid funeral plan executed under IC 30-2-13  
 25 that makes arrangements for the disposition of the decedent's  
 26 remains; and

27 (B) attests in writing that a good faith effort has been made to  
 28 contact any living individuals described in subdivisions (1)  
 29 through ~~(7)~~ **(9)**.

30 ~~(9)~~ **(11)** In the case of an indigent or other individual whose final  
 31 disposition is the responsibility of the state or township, the  
 32 following may serve as the authorizing agent:

33 (A) If none of the persons identified in subdivisions (1)  
 34 through ~~(8)~~ **(10)** are available:

35 (i) a public administrator, including a responsible township  
 36 trustee or the trustee's designee; or

37 (ii) the coroner.

38 (B) A state appointed guardian.

39 However, an indigent decedent may not be cremated if a  
 40 surviving family member objects to the cremation or if cremation  
 41 would be contrary to the religious practices of the deceased  
 42 individual as expressed by the individual or the individual's



- 1 family.
- 2 ~~(10)~~ **(12)** In the absence of any person under subdivisions (1)
- 3 through ~~(9)~~; **(11)**, any person willing to assume the responsibility
- 4 as the authorizing agent, as specified in this article.
- 5 (b) When a body part of a nondeceased individual is to be cremated,
- 6 a representative of the institution that has arranged with the crematory
- 7 authority to cremate the body part may serve as the authorizing agent.
- 8 (c) If:
- 9 (1) the death of the decedent appears to have been the result of:
- 10 (A) murder (IC 35-42-1-1);
- 11 (B) voluntary manslaughter (IC 35-42-1-3); or
- 12 (C) another criminal act, if the death does not result from the
- 13 operation of a vehicle; and
- 14 (2) the coroner, in consultation with the law enforcement agency
- 15 investigating the death of the decedent, determines that there is a
- 16 reasonable suspicion that a person described in subsection (a)
- 17 committed the offense;
- 18 the person referred to in subdivision (2) may not serve as the
- 19 authorizing agent.
- 20 (d) The coroner, in consultation with the law enforcement agency
- 21 investigating the death of the decedent, shall inform the crematory
- 22 authority of the determination referred to in subsection (c)(2).
- 23 (e) If a person vested with a right under subsection (a) does not
- 24 exercise that right not later than seventy-two (72) hours after the person
- 25 receives notification of the death of the decedent, the person forfeits the
- 26 person's right to determine the final disposition of the decedent's
- 27 remains, and the right to determine final disposition passes to the next
- 28 person described in subsection (a).
- 29 (f) A crematory authority owner has the right to rely, in good faith,
- 30 on the representations of a person listed in subsection (a) that any other
- 31 individuals of the same degree of kinship have been notified of the
- 32 final disposition instructions.
- 33 (g) If there is a dispute concerning the disposition of a decedent's
- 34 remains, a crematory authority is not liable for refusing to accept the
- 35 remains of the decedent until the crematory authority receives:
- 36 (1) a court order; or
- 37 (2) a written agreement signed by the disputing parties;
- 38 that determines the final disposition of the decedent's remains. If a
- 39 crematory authority agrees to shelter the remains of the decedent while
- 40 the parties are in dispute, the crematory authority may collect any
- 41 applicable fees for storing the remains, including legal fees that are
- 42 incurred.



1 (h) Any cause of action filed under this section must be filed in the  
 2 probate court in the county where the decedent resided, unless the  
 3 decedent was not a resident of Indiana.

4 (i) A spouse seeking a judicial determination under subsection  
 5 (a)(3)(A) that the decedent and spouse were reconciled before the  
 6 decedent's death may petition the court having jurisdiction over the  
 7 dissolution or separation proceeding to make this determination by  
 8 filing the petition under the same cause number as the dissolution or  
 9 separation proceeding. A spouse who files a petition under this  
 10 subsection is not required to pay a filing fee.

11 SECTION 33. IC 23-14-55-2, AS AMENDED BY P.L.6-2012,  
 12 SECTION 163, IS AMENDED TO READ AS FOLLOWS  
 13 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except as provided in  
 14 subsection (c), the owner of a cemetery is authorized to inter, entomb,  
 15 or inurn the body or cremated remains of a deceased human upon the  
 16 receipt of a written authorization of an individual who professes either  
 17 of the following:

18 (1) To be (in the priority listed) one (1) of the following:

19 (A) An individual granted the authority to serve in a funeral  
 20 planning declaration executed by the decedent under  
 21 IC 29-2-19, or the person named in a United States  
 22 Department of Defense form "Record of Emergency Data"  
 23 (DD Form 93) or a successor form adopted by the United  
 24 States Department of Defense, if the decedent died while  
 25 serving in any branch of the United States Armed Forces (as  
 26 defined in 10 U.S.C. 1481) and completed the form.

27 (B) An individual specifically granted the authority in a power  
 28 of attorney or a health care power of attorney executed by the  
 29 decedent under IC 30-5-5-16.

30 (C) The individual who was the spouse of the decedent at the  
 31 time of the decedent's death, except when:

32 (i) a petition to dissolve the marriage or for legal separation  
 33 of the decedent and spouse is pending with a court at the  
 34 time of the decedent's death, unless a court finds that the  
 35 decedent and spouse were reconciled before the decedent's  
 36 death; or

37 (ii) a court determines the decedent and spouse were  
 38 physically and emotionally separated at the time of death  
 39 and the separation was for an extended time that clearly  
 40 demonstrates an absence of due affection, trust, and regard  
 41 for the decedent.

42 (D) The decedent's surviving adult child or, if more than one



- 1 (1) adult child is surviving, the majority of the adult children.  
 2 However, less than half of the surviving adult children have  
 3 the rights under this clause if the adult children have used  
 4 reasonable efforts to notify the other surviving adult children  
 5 of their intentions and are not aware of any opposition to the  
 6 final disposition instructions by more than half of the surviving  
 7 adult children.
- 8 (E) The decedent's surviving parent or parents. If one (1) of the  
 9 parents is absent, the parent who is present has authority under  
 10 this clause if the parent who is present has used reasonable  
 11 efforts to notify the absent parent.
- 12 (F) The decedent's surviving sibling or, if more than one (1)  
 13 sibling is surviving, the majority of the surviving siblings.  
 14 However, less than half of the surviving siblings have the  
 15 rights under this clause if the siblings have used reasonable  
 16 efforts to notify the other surviving siblings of their intentions  
 17 and are not aware of any opposition to the final disposition  
 18 instructions by more than half of the surviving siblings.
- 19 (G) The individual in the next degree of kinship under  
 20 IC 29-1-2-1 to inherit the estate of the decedent or, if more  
 21 than one (1) individual of the same degree of kinship is  
 22 surviving, the majority of those who are of the same degree.  
 23 However, less than half of the individuals who are of the same  
 24 degree of kinship have the rights under this clause if they have  
 25 used reasonable efforts to notify the other individuals who are  
 26 of the same degree of kinship of their intentions and are not  
 27 aware of any opposition to the final disposition instructions by  
 28 more than half of the individuals who are of the same degree  
 29 of kinship.
- 30 **(H) If none of the persons described in clauses (A) through**  
 31 **(G) are available, or willing, to act and arrange for the**  
 32 **final disposition of the decedent's remains, a stepchild (as**  
 33 **defined in IC 6-4.1-1-3(f) of the decedent. If more than one**  
 34 **(1) stepchild survives the decedent, then a majority of the**  
 35 **surviving stepchildren. However, less than half of the**  
 36 **surviving stepchildren have the rights under this**  
 37 **subdivision if they have used reasonable efforts to notify**  
 38 **the other stepchildren of their intentions and are not aware**  
 39 **of any opposition to the final disposition instructions by**  
 40 **more than half of the stepchildren.**
- 41 **(I) The person appointed to administer the decedent's**  
 42 **estate under IC 29-1.**



- 1           ~~(H)~~ **(J)** If none of the persons described in clauses (A) through  
 2           ~~(G)~~ **(I)** are available, any other person willing to act and  
 3           arrange for the final disposition of the decedent's remains,  
 4           including a funeral home that:  
 5           (i) has a valid prepaid funeral plan executed under  
 6           IC 30-2-13 that makes arrangements for the disposition of  
 7           the decedent's remains; and  
 8           (ii) attests in writing that a good faith effort has been made  
 9           to contact any living individuals described in clauses (A)  
 10          through ~~(G)~~: **(I)**.  
 11          (2) To have acquired by court order the right to control the  
 12          disposition of the deceased human body or cremated remains.  
 13          The owner of a cemetery may accept the authorization of an individual  
 14          only if all other individuals of the same priority or a higher priority  
 15          (according to the priority listing in this subsection) are deceased, are  
 16          barred from authorizing the disposition of the deceased human body or  
 17          cremated remains under subsection (c), or are physically or mentally  
 18          incapacitated from exercising the authorization, and the incapacity is  
 19          certified to by a qualified medical doctor.  
 20          (b) An action may not be brought against the owner of a cemetery  
 21          relating to the remains of a human that have been left in the possession  
 22          of the cemetery owner without permanent interment, entombment, or  
 23          inurnment for a period of three (3) years, unless the cemetery owner  
 24          has entered into a written contract for the care of the remains.  
 25          (c) If:  
 26               (1) the death of the decedent appears to have been the result of:  
 27                   (A) murder (IC 35-42-1-1);  
 28                   (B) voluntary manslaughter (IC 35-42-1-3); or  
 29                   (C) another criminal act, if the death does not result from the  
 30                   operation of a vehicle; and  
 31               (2) the coroner, in consultation with the law enforcement agency  
 32               investigating the death of the decedent, determines that there is a  
 33               reasonable suspicion that a person described in subsection (a)  
 34               committed the offense;  
 35          the person referred to in subdivision (2) may not authorize the  
 36          disposition of the decedent's body or cremated remains.  
 37          (d) The coroner, in consultation with the law enforcement agency  
 38          investigating the death of the decedent, shall inform the cemetery  
 39          owner of the determination referred to in subsection (c)(2).  
 40          (e) If a person vested with a right under subsection (a) does not  
 41          exercise that right not less than seventy-two (72) hours after the person  
 42          receives notification of the death of the decedent, the person forfeits the



1 person's right to determine the final disposition of the decedent's  
 2 remains and the right to determine final disposition passes to the next  
 3 person described in subsection (a).

4 (f) A cemetery owner has the right to rely, in good faith, on the  
 5 representations of a person listed in subsection (a) that any other  
 6 individuals of the same degree of kinship have been notified of the  
 7 final disposition instructions.

8 (g) If there is a dispute concerning the disposition of a decedent's  
 9 remains, a cemetery owner is not liable for refusing to accept the  
 10 remains of the decedent until the cemetery owner receives:

11 (1) a court order; or

12 (2) a written agreement signed by the disputing parties;

13 that determines the final disposition of the decedent's remains. If a  
 14 cemetery agrees to shelter the remains of the decedent while the parties  
 15 are in dispute, the cemetery may collect any applicable fees for storing  
 16 the remains, including legal fees that are incurred.

17 (h) Any cause of action filed under this section must be filed in the  
 18 probate court in the county where the decedent resided, unless the  
 19 decedent was not a resident of Indiana.

20 (i) A spouse seeking a judicial determination under subsection  
 21 (a)(1)(C)(i) that the decedent and spouse were reconciled before the  
 22 decedent's death may petition the court having jurisdiction over the  
 23 dissolution or separation proceeding to make this determination by  
 24 filing the petition under the same cause number as the dissolution or  
 25 separation proceeding. A spouse who files a petition under this  
 26 subsection is not required to pay a filing fee.

27 SECTION 34. IC 25-15-9-18, AS AMENDED BY P.L.6-2012,  
 28 SECTION 176, IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) Except as provided in  
 30 subsection (b), the following persons, in the order of priority indicated,  
 31 have the authority to designate the manner, type, and selection of the  
 32 final disposition of human remains, to make arrangements for funeral  
 33 services, and to make other ceremonial arrangements after an  
 34 individual's death:

35 (1) A person:

36 (A) granted the authority to serve in a funeral planning  
 37 declaration executed by the decedent under IC 29-2-19; or

38 (B) named in a United States Department of Defense form  
 39 "Record of Emergency Data" (DD Form 93) or a successor  
 40 form adopted by the United States Department of Defense, if  
 41 the decedent died while serving in any branch of the United  
 42 States Armed Forces (as defined in 10 U.S.C. 1481) and





- 1 completed the form.
- 2 (2) An individual specifically granted the authority in a power of  
3 attorney or a health care power of attorney executed by the  
4 decedent under IC 30-5-5-16.
- 5 (3) The individual who was the spouse of the decedent at the time  
6 of the decedent's death, except when:
- 7 (A) a petition to dissolve the marriage or for legal separation  
8 of the decedent and spouse is pending with a court at the time  
9 of the decedent's death, unless a court finds that the decedent  
10 and spouse were reconciled before the decedent's death; or
- 11 (B) a court determines the decedent and spouse were  
12 physically and emotionally separated at the time of death and  
13 the separation was for an extended time that clearly  
14 demonstrates an absence of due affection, trust, and regard for  
15 the decedent.
- 16 (4) The decedent's surviving adult child or, if more than one (1)  
17 adult child is surviving, the majority of the adult children.  
18 However, less than half of the surviving adult children have the  
19 rights under this subdivision if the adult children have used  
20 reasonable efforts to notify the other surviving adult children of  
21 their intentions and are not aware of any opposition to the final  
22 disposition instructions by more than half of the surviving adult  
23 children.
- 24 (5) The decedent's surviving parent or parents. If one (1) of the  
25 parents is absent, the parent who is present has the rights under  
26 this subdivision if the parent who is present has used reasonable  
27 efforts to notify the absent parent.
- 28 (6) The decedent's surviving sibling or, if more than one (1)  
29 sibling is surviving, the majority of the surviving siblings.  
30 However, less than half of the surviving siblings have the rights  
31 under this subdivision if the siblings have used reasonable efforts  
32 to notify the other surviving siblings of their intentions and are  
33 not aware of any opposition to the final disposition instructions by  
34 more than half of the surviving siblings.
- 35 (7) The individual in the next degree of kinship under IC 29-1-2-1  
36 to inherit the estate of the decedent or, if more than one (1)  
37 individual of the same degree survives, the majority of those who  
38 are of the same degree of kinship. However, less than half of the  
39 individuals who are of the same degree of kinship have the rights  
40 under this subdivision if they have used reasonable efforts to  
41 notify the other individuals who are of the same degree of kinship  
42 of their intentions and are not aware of any opposition to the final



1 disposition instructions by more than half of the individuals who  
2 are of the same degree of kinship.

3 **(8) If none of the persons described in subdivisions (1)**  
4 **through (7) are available, or willing, to act and arrange for**  
5 **the final disposition of the decedent's remains, a stepchild (as**  
6 **defined in IC 6-4.1-1-3(f)) of the decedent. If more than one**  
7 **(1) stepchild survives the decedent, then a majority of the**  
8 **surviving stepchildren. However, less than half of the**  
9 **surviving stepchildren have the rights under this subdivision**  
10 **if they have used reasonable efforts to notify the other**  
11 **stepchildren of their intentions and are not aware of any**  
12 **opposition to the final disposition instructions by more than**  
13 **half of the stepchildren.**

14 **(9) The person appointed to administer the decedent's estate**  
15 **under IC 29-1.**

16 ~~(8)~~ **(10)** If none of the persons identified in subdivisions (1)  
17 through ~~(7)~~ **(9)** are available, any other person willing to act and  
18 arrange for the final disposition of the decedent's remains,  
19 including a funeral home that:

20 (A) has a valid prepaid funeral plan executed under IC 30-2-13  
21 that makes arrangements for the disposition of the decedent's  
22 remains; and

23 (B) attests in writing that a good faith effort has been made to  
24 contact any living individuals described in subdivisions (1)  
25 through ~~(7)~~: **(9)**.

26 ~~(9)~~ **(11)** In the case of an indigent or other individual whose final  
27 disposition is the responsibility of the state or township, the  
28 following:

29 (A) If none of the persons identified in subdivisions (1)  
30 through ~~(8)~~ **(10)** is available:

31 (i) a public administrator, including a responsible township  
32 trustee or the trustee's designee; or

33 (ii) the coroner.

34 (B) A state appointed guardian.

35 (b) If:

36 (1) the death of the decedent appears to have been the result of:

37 (A) murder (IC 35-42-1-1);

38 (B) voluntary manslaughter (IC 35-42-1-3); or

39 (C) another criminal act, if the death does not result from the  
40 operation of a vehicle; and

41 (2) the coroner, in consultation with the law enforcement agency  
42 investigating the death of the decedent, determines that there is a



- 1 reasonable suspicion that a person described in subsection (a)  
2 committed the offense;  
3 the person referred to in subdivision (2) may not authorize or designate  
4 the manner, type, or selection of the final disposition of human  
5 remains.
- 6 (c) The coroner, in consultation with the law enforcement agency  
7 investigating the death of the decedent, shall inform the cemetery  
8 owner or crematory authority of the determination under subsection  
9 (b)(2).
- 10 (d) If the decedent had filed a protection order against a person  
11 described in subsection (a) and the protection order is currently in  
12 effect, the person described in subsection (a) may not authorize or  
13 designate the manner, type, or selection of the final disposition of  
14 human remains.
- 15 (e) A law enforcement agency shall determine if the protection order  
16 is in effect. If the law enforcement agency cannot determine the  
17 existence of a protection order that is in effect, the law enforcement  
18 agency shall consult the protective order registry established under  
19 IC 5-2-9-5.5.
- 20 (f) If a person vested with a right under subsection (a) does not  
21 exercise that right not later than seventy-two (72) hours after the person  
22 receives notification of the death of the decedent, the person forfeits the  
23 person's right to determine the final disposition of the decedent's  
24 remains and the right to determine final disposition passes to the next  
25 person described in subsection (a).
- 26 (g) A funeral home has the right to rely, in good faith, on the  
27 representations of a person listed in subsection (a) that any other  
28 individuals of the same degree of kinship have been notified of the  
29 final disposition instructions.
- 30 (h) If there is a dispute concerning the disposition of a decedent's  
31 remains, a funeral home is not liable for refusing to accept the remains  
32 of the decedent until the funeral home receives:
- 33 (1) a court order; or  
34 (2) a written agreement signed by the disputing parties;  
35 that determines the final disposition of the decedent's remains. If a  
36 funeral home agrees to shelter the remains of the decedent while the  
37 parties are in dispute, the funeral home may collect any applicable fees  
38 for storing the remains, including legal fees that are incurred.
- 39 (i) Any cause of action filed under this section must be filed in the  
40 probate court in the county where the decedent resided, unless the  
41 decedent was not a resident of Indiana.
- 42 (j) A spouse seeking a judicial determination under subsection



1 (a)(3)(A) that the decedent and spouse were reconciled before the  
 2 decedent's death may petition the court having jurisdiction over the  
 3 dissolution or separation proceeding to make this determination by  
 4 filing the petition under the same cause number as the dissolution or  
 5 separation proceeding. A spouse who files a petition under this  
 6 subsection is not required to pay a filing fee.

7 SECTION 35. IC 29-1-1-3, AS AMENDED BY P.L.81-2015,  
 8 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2016]: Sec. 3. (a) The following definitions apply throughout  
 10 this article, unless otherwise apparent from the context:

11 (1) "Child" includes an adopted child but does not include a  
 12 grandchild or other more remote descendants, nor, except as  
 13 provided in ~~IC 29-1-2-5~~, **IC 29-1-2-7**, a child born out of  
 14 wedlock.

15 (2) "Claims" includes liabilities of a decedent which survive,  
 16 whether arising in contract or in tort or otherwise, expenses of  
 17 administration, and all taxes imposed by reason of the person's  
 18 death. However, for purposes of IC 29-1-2-1 and IC 29-1-3-1, the  
 19 term does not include taxes imposed by reason of the person's  
 20 death.

21 (3) "Court" means the court having probate jurisdiction.

22 (4) "Decedent" means one who dies testate or intestate.

23 (5) "Devise" or "legacy", when used as a noun, means a  
 24 testamentary disposition of either real or personal property or  
 25 both.

26 (6) "Devise", when used as a verb, means to dispose of either real  
 27 or personal property or both by will.

28 (7) "Devisee" includes legatee, and "legatee" includes devisee.

29 (8) "Distributee" denotes those persons who are entitled to the  
 30 real and personal property of a decedent under a will, under the  
 31 statutes of intestate succession, or under IC 29-1-4-1.

32 (9) "Estate" denotes the real and personal property of the decedent  
 33 or protected person, as from time to time changed in form by sale,  
 34 reinvestment, or otherwise, and augmented by any accretions and  
 35 additions thereto and substitutions therefor and diminished by any  
 36 decreases and distributions therefrom.

37 (10) "Expenses of administration" includes expenses incurred by  
 38 or on behalf of a decedent's estate in the collection of assets, the  
 39 payment of debts, and the distribution of property to the persons  
 40 entitled to the property, including funeral expenses, expenses of  
 41 a tombstone, expenses incurred in the disposition of the  
 42 decedent's body, executor's commissions, attorney's fees, and



- 1 miscellaneous expenses.  
 2 (11) "Fiduciary" includes a:  
 3 (A) personal representative;  
 4 (B) guardian;  
 5 (C) conservator;  
 6 (D) trustee; and  
 7 (E) person designated in a protective order to act on behalf of  
 8 a protected person.  
 9 (12) "Heirs" denotes those persons, including the surviving  
 10 spouse, who are entitled under the statutes of intestate succession  
 11 to the real and personal property of a decedent on the decedent's  
 12 death intestate, unless otherwise defined or limited by the will.  
 13 (13) "Incapacitated" has the meaning set forth in IC 29-3-1-7.5.  
 14 (14) "Interested persons" means heirs, devisees, spouses,  
 15 creditors, or any others having a property right in or claim against  
 16 the estate of a decedent being administered. This meaning may  
 17 vary at different stages and different parts of a proceeding and  
 18 must be determined according to the particular purpose and  
 19 matter involved.  
 20 (15) "Issue" of a person, when used to refer to persons who take  
 21 by intestate succession, includes all lawful lineal descendants  
 22 except those who are lineal descendants of living lineal  
 23 descendants of the intestate.  
 24 (16) "Lease" includes an oil and gas lease or other mineral lease.  
 25 (17) "Letters" includes letters testamentary, letters of  
 26 administration, and letters of guardianship.  
 27 (18) "Minor" or "minor child" or "minority" refers to any person  
 28 under the age of eighteen (18) years.  
 29 (19) "Mortgage" includes deed of trust, vendor's lien, and chattel  
 30 mortgage.  
 31 (20) "Net estate" refers to the real and personal property of a  
 32 decedent less the allowances provided under IC 29-1-4-1 and  
 33 enforceable claims against the estate.  
 34 (21) "Person" means:  
 35 (A) an individual;  
 36 (B) a corporation;  
 37 (C) a trust;  
 38 (D) a limited liability company;  
 39 (E) a partnership;  
 40 (F) a business trust;  
 41 (G) an estate;  
 42 (H) an association;



- 1 (I) a joint venture;
- 2 (J) a government or political subdivision;
- 3 (K) an agency;
- 4 (L) an instrumentality; or
- 5 (M) any other legal or commercial entity.
- 6 (22) "Personal property" includes interests in goods, money,
- 7 choses in action, evidences of debt, and chattels real.
- 8 (23) "Personal representative" includes executor, administrator,
- 9 administrator with the will annexed, administrator de bonis non,
- 10 and special administrator.
- 11 (24) "Probate estate" denotes the property transferred at the death
- 12 of a decedent under the decedent's will or under IC 29-1-2, in the
- 13 case of a decedent dying intestate.
- 14 (25) "Property" includes both real and personal property.
- 15 (26) "Protected person" has the meaning set forth in IC 29-3-1-13.
- 16 (27) "Real property" includes estates and interests in land,
- 17 corporeal or incorporeal, legal or equitable, other than chattels
- 18 real.
- 19 (28) "Will" includes all wills, testaments, and codicils. The term
- 20 also includes a testamentary instrument which merely appoints an
- 21 executor or revokes or revives another will.
- 22 (b) The following rules of construction apply throughout this article
- 23 unless otherwise apparent from the context:
- 24 (1) The singular number includes the plural and the plural number
- 25 includes the singular.
- 26 (2) The masculine gender includes the feminine and neuter.
- 27 SECTION 36. IC 29-1-2-7 IS AMENDED TO READ AS
- 28 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) For the purpose
- 29 of inheritance (on the maternal side) to, through, and from a child born
- 30 out of wedlock, the child shall be treated as if the child's mother were
- 31 married to the child's father at the time of the child's birth, so that the
- 32 child and the child's issue shall inherit from the child's mother and from
- 33 the child's maternal kindred, both descendants and collaterals, in all
- 34 degrees, and they may inherit from the child. The child shall also be
- 35 treated as if the child's mother were married to the child's father at the
- 36 time of the child's birth, for the purpose of determining homestead
- 37 rights and the making of family allowances.
- 38 (b) For the purpose of inheritance (on the paternal side) to, through,
- 39 and from a child born out of wedlock, the child shall be treated as if the
- 40 child's father were married to the child's mother at the time of the
- 41 child's birth, if one (1) of the following requirements is met:
- 42 (1) The paternity of a child who was at least twenty (20) years of



1 age when the father died has been established by law in a cause  
2 of action that is filed during the father's lifetime.

3 (2) The paternity of a child who was less than twenty (20) years  
4 of age when the father died has been established by law in a cause  
5 of action that is filed:

6 (A) during the father's lifetime; or

7 (B) within five (5) months after the father's death.

8 (3) The paternity of a child born after the father died has been  
9 established by law in a cause of action that is filed within eleven  
10 (11) months after the father's death.

11 (4) The putative father marries the mother of the child and  
12 acknowledges the child to be his own.

13 **(5) The putative father executed a paternity affidavit in**  
14 **accordance with IC 31-6-6.1-9(b) (before its repeal).**

15 ~~(5)~~ (6) The putative father executes a paternity affidavit as set  
16 forth in IC 16-37-2-2.1.

17 (c) The testimony of the mother may be received in evidence to  
18 establish such paternity and acknowledgment, but no judgment shall be  
19 made upon the evidence of the mother alone. The evidence of the  
20 mother must be supported by corroborative evidence or circumstances.

21 (d) If paternity is established as described in this section, the child  
22 shall be treated as if the child's father were married to the child's  
23 mother at the time of the child's birth, so that the child and the child's  
24 issue shall inherit from the child's father and from the child's paternal  
25 kindred, both descendants and collateral, in all degrees, and they may  
26 inherit from the child. The child shall also be treated as if the child's  
27 father were married to the child's mother at the time of the child's birth,  
28 for the purpose of determining homestead rights and the making of  
29 family allowances.

30 SECTION 37. IC 29-1-7-17 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 17. Any interested  
32 person may contest the validity of any will in the court having  
33 jurisdiction over the probate of the will within three (3) months after  
34 the date of the order admitting the will to probate by filing in the **same**  
35 court, **in the same cause of action**, the person's allegations in writing  
36 verified by affidavit, setting forth:

37 (1) the unsoundness of mind of the testator;

38 (2) the undue execution of the will;

39 (3) that the will was executed under duress or was obtained by  
40 fraud; or

41 (4) any other valid objection to the will's validity or the probate of  
42 the will.



1 The executor and all other persons beneficially interested in the will  
2 shall be made defendants to the action.

3 SECTION 38. IC 29-2-19-17, AS AMENDED BY P.L.6-2012,  
4 SECTION 201, IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2016]: Sec. 17. The right to control the  
6 disposition of a decedent's body, to make arrangements for funeral  
7 services, and to make other ceremonial arrangements after an  
8 individual's death devolves on the following, in the priority listed:

9 (1) A person:

10 (A) granted the authority to serve in a funeral planning  
11 declaration executed by the decedent under this chapter; or

12 (B) named in a United States Department of Defense form  
13 "Record of Emergency Data" (DD Form 93) or a successor  
14 form adopted by the United States Department of Defense, if  
15 the decedent died while serving in any branch of the United  
16 States Armed Forces (as defined in 10 U.S.C. 1481) and  
17 completed the form.

18 (2) An individual specifically granted the authority in a power of  
19 attorney or a health care power of attorney executed by the  
20 decedent under IC 30-5-5-16.

21 (3) The decedent's surviving spouse.

22 (4) A surviving adult child of the decedent or, if more than one  
23 (1) adult child is surviving, the majority of the other adult  
24 children. However, less than half of the surviving adult children  
25 have the rights under this subdivision if the adult children have  
26 used reasonable efforts to notify the other surviving adult children  
27 of their intentions and are not aware of any opposition to the final  
28 disposition instructions by more than half of the surviving adult  
29 children.

30 (5) The surviving parent or parents of the decedent. If one (1) of  
31 the parents is absent, the parent who is present has the rights  
32 under this subdivision if the parent who is present has used  
33 reasonable efforts to notify the absent parent.

34 (6) The decedent's surviving sibling or, if more than one (1)  
35 sibling is surviving, the majority of the surviving siblings.  
36 However, less than half of the surviving siblings have the rights  
37 under this subdivision if the siblings have used reasonable efforts  
38 to notify the other surviving siblings of their intentions and are  
39 not aware of any opposition to the final disposition instructions by  
40 more than half of the surviving siblings.

41 (7) An individual in the next degree of kinship under IC 29-1-2-1  
42 to inherit the estate of the decedent or, if more than one (1)





1 individual of the same degree survives, the majority of those who  
 2 are of the same degree of kinship. However, less than half of the  
 3 individuals who are of the same degree of kinship have the rights  
 4 under this subdivision if they have used reasonable efforts to  
 5 notify the other individuals who are of the same degree of kinship  
 6 of their intentions and are not aware of any opposition to the final  
 7 disposition instructions by more than half of the individuals who  
 8 are of the same degree of kinship.

9 **(8) If none of the persons described in subdivisions (1)**  
 10 **through (7) are available, or willing, to act and arrange for**  
 11 **the final disposition of the decedent's remains, a stepchild (as**  
 12 **defined in IC 6-4.1-1-3(f)) of the decedent. If more than one**  
 13 **(1) stepchild survives the decedent, then a majority of the**  
 14 **surviving stepchildren. However, less than half of the**  
 15 **surviving stepchildren have the rights under this subdivision**  
 16 **if they have used reasonable efforts to notify the other**  
 17 **stepchildren of their intentions and are not aware of any**  
 18 **opposition to the final disposition instructions by more than**  
 19 **half of the stepchildren.**

20 **(9) The person appointed to administer the decedent's estate**  
 21 **under IC 29-1.**

22 ~~(8)~~ **(10)** If none of the persons described in subdivisions (1)  
 23 through ~~(7)~~ **(9)** are available, any other person willing to act and  
 24 arrange for the final disposition of the decedent's remains,  
 25 including a funeral home that:

26 (A) has a valid prepaid funeral plan executed under IC 30-2-13  
 27 that makes arrangements for the disposition of the decedent's  
 28 remains; and

29 (B) attests in writing that a good faith effort has been made to  
 30 contact any living individuals described in subdivisions (1)  
 31 through ~~(7)~~: **(9)**.

32 SECTION 39. IC 29-3-5-4 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. The court shall  
 34 appoint as guardian a qualified person or persons most suitable and  
 35 willing to serve, having due regard to the following:

36 (1) Any request made by a person alleged to be an incapacitated  
 37 person, including designations in a durable power of attorney  
 38 under IC 30-5-3-4(a).

39 (2) Any request contained in a will or other written instrument.

40 **(3) A designation of a standby guardian under IC 29-3-3-7.**

41 ~~(3)~~ **(4)** Any request made by a minor who is at least fourteen (14)  
 42 years of age.



1           ~~(4)~~ **(5)** Any request made by the spouse of the alleged  
2 incapacitated person.

3           ~~(5)~~ **(6)** The relationship of the proposed guardian to the individual  
4 for whom guardianship is sought.

5           ~~(6)~~ **(7)** Any person acting for the incapacitated person under a  
6 durable power of attorney.

7           ~~(7)~~ **(8)** The best interest of the incapacitated person or minor and  
8 the property of the incapacitated person or minor.

9           SECTION 40. IC 29-3-5-5 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) The following are  
11 entitled to consideration for appointment as a guardian under section  
12 4 of this chapter in the order listed:

13           (1) A person designated in a durable power of attorney.

14           **(2) A person designated as a standby guardian under**  
15 **IC 29-3-3-7.**

16           ~~(2)~~ **(3)** The spouse of an incapacitated person.

17           ~~(3)~~ **(4)** An adult child of an incapacitated person.

18           ~~(4)~~ **(5)** A parent of an incapacitated person, or a person nominated  
19 by will of a deceased parent of an incapacitated person or by any  
20 writing signed by a parent of an incapacitated person and attested  
21 to by at least two (2) witnesses.

22           ~~(5)~~ **(6)** Any person related to an incapacitated person by blood or  
23 marriage with whom the incapacitated person has resided for  
24 more than six (6) months before the filing of the petition.

25           ~~(6)~~ **(7)** A person nominated by the incapacitated person who is  
26 caring for or paying for the care of the incapacitated person.

27           (b) With respect to persons having equal priority, the court shall  
28 select the person it considers best qualified to serve as guardian. The  
29 court, acting in the best interest of the incapacitated person or minor,  
30 may pass over a person having priority and appoint a person having a  
31 lower priority or no priority under this section.

32           SECTION 41. IC 32-17.5-4-1, AS AMENDED BY P.L.6-2010,  
33 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2016]: Sec. 1. Except for a disclaimer under IC 32-17.5-5 or  
35 IC 32-17.5-6-1, the following rules apply to a disclaimer of an interest  
36 in property:

37           (1) A disclaimer takes effect:

38           (A) when the instrument creating the interest becomes  
39 irrevocable; or

40           (B) upon the intestate's death if the interest arose under the law  
41 of intestate succession.

42           (2) A disclaimed interest passes according to any provision in the



- 1 instrument creating the interest:  
 2 (A) that provides for the disposition of the interest should the  
 3 interest be disclaimed; or  
 4 (B) that concerns disclaimed interests in general.  
 5 (3) If the instrument creating the disclaimed interest does not  
 6 contain a provision described in subdivision (2), the following  
 7 rules apply:  
 8 (A) If the disclaimant is an individual, the following rules  
 9 apply:  
 10 (i) Except as provided in items (ii) and (iii), the disclaimed  
 11 interest passes as if the disclaimant had died immediately  
 12 before the time of distribution.  
 13 (ii) If, by law or under the instrument, the descendants of the  
 14 disclaimant would share in the disclaimed interest by any  
 15 method of representation had the disclaimant died before the  
 16 time of distribution, the disclaimed interest passes only to  
 17 the descendants of the disclaimant who survive at the time  
 18 of distribution.  
 19 (iii) If the disclaimed interest would have passed to the  
 20 disclaimant's estate had the disclaimant died before the time  
 21 of distribution, the disclaimed interest passes by  
 22 representation to the descendants of the disclaimant who  
 23 survive at the time of distribution. If no descendant of the  
 24 disclaimant survives the time of distribution, the disclaimed  
 25 interest becomes part of the residue under the instrument  
 26 creating the disclaimed interest.  
 27 (B) If the disclaimant is not an individual, the disclaimed  
 28 interest passes as if the disclaimant did not exist.  
 29 (4) If the disclaimed interest arose under the law of intestate  
 30 succession, the disclaimed interest passes as if the disclaimant  
 31 had died immediately before the intestate's death.  
 32 (5) Upon the disclaimer of a preceding interest:  
 33 (A) a future interest held by a person other than the  
 34 disclaimant takes effect as if the disclaimant had died or  
 35 ceased to exist immediately before the time of distribution;  
 36 and  
 37 (B) a future interest held by the disclaimant is not accelerated  
 38 in possession or enjoyment.  
 39 **(6) If a beneficiary of a transfer on death transfer (as defined**  
 40 **in IC 32-17-14-3(16)) disclaims an interest in the property, the**  
 41 **disclaimant's interest in the property passes as follows:**  
 42 (A) In the case of a disclaimant who is an individual, as if



1           the disclaimant had died immediately before the death of  
2           the owner (as defined in IC 32-17-14-3(7)).  
3           **(B) In the case of a disclaimant who is not an individual, as**  
4           **if the disclaimant did not exist before the death of the**  
5           **owner (as defined in IC 32-17-14-3(7)).**  
6           SECTION 42. [EFFECTIVE UPON PASSAGE] (a) IC 6-4.1-6-1,  
7           IC 6-4.1-6-2, and IC 6-4.1-6-6, each as amended by this act, apply  
8           to an appraisal occurring after March 31, 2016, with respect to  
9           property interests transferred by a decedent who died before  
10          January 1, 2013.  
11          (b) This SECTION expires January 1, 2017.  
12          SECTION 43. An emergency is declared for this act.



## COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 371, 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 18, line 30, delete "a separate" and insert "**the same**".

Page 19, delete lines 17 through 18.

Page 19, line 19, reset in roman "(4)".

Page 19, line 19, delete "(5)".

Page 19, line 27, reset in roman "(5)".

Page 19, line 27, delete "(6)".

Page 19, line 31, reset in roman "(6)".

Page 19, line 31, delete "(7)".

Page 19, line 38, reset in roman "(7)".

Page 19, line 38, delete "(8)".

Page 20, line 6, delete "(9)" and insert "**(8)**".

Page 20, between lines 16 and 17, begin a new line block indented and insert:

**"(9) The person appointed to administer the decedent's estate under IC 29-1."**

and when so amended that said bill do pass.

(Reference is to SB 371 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

---

 SENATE MOTION

Madam President: I move that Senate Bill 371 be amended to read as follows:

Page 13, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 26. IC 6-4.1-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) **This subsection applies to inheritance taxes collected by a county treasurer before April 1, 2016.** With respect to the inheritance tax imposed as a result of a resident decedent's death, the county in which the tax is collected shall receive eight percent (8%) of the inheritance tax paid as a result of the decedent's death. On the first day of January, April, July, and October of each year, the county treasurer shall, except

ES 371—LS 6660/DI 92



as provided in subsection ~~(b)~~; **(c)**, transfer to the county general fund the amount due the county under this section. This state shall receive the remaining ninety-two percent (92%) of the inheritance taxes, all the interest charges collected by the county treasurer under section 1 or 1.5 of this chapter, and all the penalties collected by the county treasurer under IC 6-4.1-4-6.

**(b) This subsection applies to inheritance taxes imposed as a result of the death of a resident decedent that are collected after March 31, 2016, by the department of state revenue. The department of state revenue shall distribute inheritance taxes collected as the result of the death of a resident decedent as follows:**

**(1) The department shall retain ninety-two percent (92%) of the taxes collected for deposit in the state general fund.**

**(2) The department shall retain any interest or penalties collected by the department for deposit in the state general fund.**

**(3) Subject to subsection (c), the department shall distribute eight percent (8%) of the taxes collected to the county treasurer of the county in which the resident decedent lived at the time of the resident decedent's death for deposit in the county general fund.**

~~(b)~~ **(c)** In a county having a consolidated city, the amount due the county under this section shall be transferred to the general fund of the consolidated city."

Page 15, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 32. IC 23-14-31-26, AS AMENDED BY P.L.6-2012, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

(1) A person:

(A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or

(B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

(2) An individual specifically granted the authority to serve in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.



(3) The individual who was the spouse of the decedent at the time of the decedent's death, except when:

(A) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(B) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has authority under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

(6) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(7) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree is surviving, the majority of those who are of the same degree. However, less than half of the individuals who are of the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

**(8) If none of the persons described in subdivisions (1) through (7) are available, or willing, to act and arrange for**



**the final disposition of the decedent's remains, a stepchild (as defined in IC 6-4.1-1-3(f)) of the decedent. If more than one (1) stepchild survives the decedent, then a majority of the surviving stepchildren. However, less than half of the surviving stepchildren have the rights under this subdivision if they have used reasonable efforts to notify the other stepchildren of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the stepchildren.**

**(9) The person appointed to administer the decedent's estate under IC 29-1.**

~~(8)~~ **(10)** If none of the persons described in subdivisions (1) through ~~(7)~~ **(9)** are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through ~~(7)~~: **(9)**.

~~(9)~~ **(11)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through ~~(8)~~ **(10)** are available:

- (i) a public administrator, including a responsible township trustee or the trustee's designee; or
- (ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

~~(10)~~ **(12)** In the absence of any person under subdivisions (1) through ~~(9)~~: **(11)**, any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:





- (1) the death of the decedent appears to have been the result of:
  - (A) murder (IC 35-42-1-1);
  - (B) voluntary manslaughter (IC 35-42-1-3); or
  - (C) another criminal act, if the death does not result from the operation of a vehicle; and
- (2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

(e) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains, and the right to determine final disposition passes to the next person described in subsection (a).

(f) A crematory authority owner has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(g) If there is a dispute concerning the disposition of a decedent's remains, a crematory authority is not liable for refusing to accept the remains of the decedent until the crematory authority receives:

- (1) a court order; or
- (2) a written agreement signed by the disputing parties;

that determines the final disposition of the decedent's remains. If a crematory authority agrees to shelter the remains of the decedent while the parties are in dispute, the crematory authority may collect any applicable fees for storing the remains, including legal fees that are incurred.

(h) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(i) A spouse seeking a judicial determination under subsection (a)(3)(A) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or



separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

SECTION 33. IC 23-14-55-2, AS AMENDED BY P.L.6-2012, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except as provided in subsection (c), the owner of a cemetery is authorized to inter, entomb, or inurn the body or cremated remains of a deceased human upon the receipt of a written authorization of an individual who professes either of the following:

- (1) To be (in the priority listed) one (1) of the following:
  - (A) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.
  - (B) An individual specifically granted the authority in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.
  - (C) The individual who was the spouse of the decedent at the time of the decedent's death, except when:
    - (i) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or
    - (ii) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.
  - (D) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this clause if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.
  - (E) The decedent's surviving parent or parents. If one (1) of the



parents is absent, the parent who is present has authority under this clause if the parent who is present has used reasonable efforts to notify the absent parent.

(F) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this clause if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(G) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree of kinship is surviving, the majority of those who are of the same degree. However, less than half of the individuals who are of the same degree of kinship have the rights under this clause if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

**(H) If none of the persons described in clauses (A) through (G) are available, or willing, to act and arrange for the final disposition of the decedent's remains, a stepchild (as defined in IC 6-4.1-1-3(f)) of the decedent. If more than one (1) stepchild survives the decedent, then a majority of the surviving stepchildren. However, less than half of the surviving stepchildren have the rights under this subdivision if they have used reasonable efforts to notify the other stepchildren of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the stepchildren.**

**(I) The person appointed to administer the decedent's estate under IC 29-1.**

~~(H)~~ **(J)** If none of the persons described in clauses (A) through ~~(G)~~ **(I)** are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

- (i) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and
- (ii) attests in writing that a good faith effort has been made



to contact any living individuals described in clauses (A) through ~~(G)~~: **(I)**.

(2) To have acquired by court order the right to control the disposition of the deceased human body or cremated remains.

The owner of a cemetery may accept the authorization of an individual only if all other individuals of the same priority or a higher priority (according to the priority listing in this subsection) are deceased, are barred from authorizing the disposition of the deceased human body or cremated remains under subsection (c), or are physically or mentally incapacitated from exercising the authorization, and the incapacity is certified to by a qualified medical doctor.

(b) An action may not be brought against the owner of a cemetery relating to the remains of a human that have been left in the possession of the cemetery owner without permanent interment, entombment, or inurnment for a period of three (3) years, unless the cemetery owner has entered into a written contract for the care of the remains.

(c) If:

- (1) the death of the decedent appears to have been the result of:
  - (A) murder (IC 35-42-1-1);
  - (B) voluntary manslaughter (IC 35-42-1-3); or
  - (C) another criminal act, if the death does not result from the operation of a vehicle; and
- (2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize the disposition of the decedent's body or cremated remains.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner of the determination referred to in subsection (c)(2).

(e) If a person vested with a right under subsection (a) does not exercise that right not less than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains and the right to determine final disposition passes to the next person described in subsection (a).

(f) A cemetery owner has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(g) If there is a dispute concerning the disposition of a decedent's



remains, a cemetery owner is not liable for refusing to accept the remains of the decedent until the cemetery owner receives:

- (1) a court order; or
- (2) a written agreement signed by the disputing parties;

that determines the final disposition of the decedent's remains. If a cemetery agrees to shelter the remains of the decedent while the parties are in dispute, the cemetery may collect any applicable fees for storing the remains, including legal fees that are incurred.

(h) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(i) A spouse seeking a judicial determination under subsection (a)(1)(C)(i) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

SECTION 34. IC 25-15-9-18, AS AMENDED BY P.L.6-2012, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition of human remains, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death:

- (1) A person:
  - (A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or
  - (B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.
- (2) An individual specifically granted the authority in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.
- (3) The individual who was the spouse of the decedent at the time of the decedent's death, except when:
  - (A) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time



of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(B) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has the rights under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

(6) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(7) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree survives, the majority of those who are of the same degree of kinship. However, less than half of the individuals who are of the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

**(8) If none of the persons described in subdivisions (1) through (7) are available, or willing, to act and arrange for the final disposition of the decedent's remains, a stepchild (as defined in IC 6-4.1-1-3(f)) of the decedent. If more than one (1) stepchild survives the decedent, then a majority of the surviving stepchildren. However, less than half of the**



**surviving stepchildren have the rights under this subdivision if they have used reasonable efforts to notify the other stepchildren of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the stepchildren.**

**(9) The person appointed to administer the decedent's estate under IC 29-1.**

~~(8)~~ **(10)** If none of the persons identified in subdivisions (1) through ~~(7)~~ **(9)** are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through ~~(7)~~: **(9)**.

~~(9)~~ **(11)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through ~~(8)~~ **(10)** is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection



(b)(2).

(d) If the decedent had filed a protection order against a person described in subsection (a) and the protection order is currently in effect, the person described in subsection (a) may not authorize or designate the manner, type, or selection of the final disposition of human remains.

(e) A law enforcement agency shall determine if the protection order is in effect. If the law enforcement agency cannot determine the existence of a protection order that is in effect, the law enforcement agency shall consult the protective order registry established under IC 5-2-9-5.5.

(f) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains and the right to determine final disposition passes to the next person described in subsection (a).

(g) A funeral home has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(h) If there is a dispute concerning the disposition of a decedent's remains, a funeral home is not liable for refusing to accept the remains of the decedent until the funeral home receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties; that determines the final disposition of the decedent's remains. If a funeral home agrees to shelter the remains of the decedent while the parties are in dispute, the funeral home may collect any applicable fees for storing the remains, including legal fees that are incurred.

(i) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(j) A spouse seeking a judicial determination under subsection (a)(3)(A) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by





filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee."

Page 20, line 5, delete "(8)" and insert "(7)".

Renumber all SECTIONS consecutively.

(Reference is to SB 371 as printed January 26, 2016.)

BRAY

---

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 371, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 371 as reprinted January 29, 2016.)

STEUERWALD

Committee Vote: Yeas 13, Nays 0

