

HOUSE BILL No. 1033

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-11-10; IC 34-12-4.

Synopsis: Causes of action. Prohibits causes of action against a property owner, a business owner, or a third party business operator for a criminal act committed by another person on the property, at the business, or on premises owned by another person. Provides limitations on actions related to public nuisances.

Effective: July 1, 2024.

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January 8, 2024, read first time and referred to Committee on Judiciary.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1033

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

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

1 SECTION 1. IC 34-11-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]:
4 **Chapter 10. Limitations on Actions Related to Public Nuisances**
5 **Sec. 1. The following definitions apply throughout this chapter:**
6 (1) "Established public right" means a right, commonly held
7 by all members of the public, to the use of public land, air, or
8 water.
9 (2) "Public nuisance" means an ongoing and unlawful
10 condition that proximately causes an interference with an
11 established public right.
12 (3) "Unlawful condition" means a circumstance or effect of an
13 instrumentality that is expressly prohibited by the laws of this
14 state or the laws of the United States.
15 **Sec. 2. Unless otherwise set forth in statute, and in addition to**
16 **any other action or condition not recognized under common law or**
17 **the definition set forth in section 1 of this chapter as a public**



1 nuisance, the following shall not constitute a public nuisance for
2 purposes of a legal action in this state:

3 (1) An action or condition that is permitted, authorized,
4 approved, or mandated by a statute, ordinance, regulation,
5 permit, order, rule, court order, or other similar measure
6 issued, adopted, promulgated, or approved by a federal, state,
7 or local governmental entity.

8 (2) A product or the distribution, sale, labeling, promotion, or
9 marketing of a product.

10 (3) The manufacturing of a product, unless the act itself of
11 manufacturing a product creates a public nuisance as defined
12 in section 1 of this chapter.

13 Sec. 3. (a) A public nuisance cause of action shall only be
14 available to a governmental entity if the source of the ongoing and
15 unlawful condition is within the jurisdiction of the governmental
16 entity.

17 (b) Past, current, or future financial expenditures made by the
18 state, an agency of the state, or a political subdivision of the state
19 related to an injunction of, or any other response to, an ongoing
20 and unlawful condition does not itself confer standing to file or
21 maintain a public nuisance action.

22 Sec. 4. (a) Unless otherwise set forth in statute, in a public
23 nuisance action brought by the state, an agency of the state, or a
24 political subdivision of the state, the remedies available to the
25 governmental entity are limited to injunctive relief, including
26 prospective abatement only.

27 (b) A governmental entity may not recover economic,
28 noneconomic, or exemplary damages or costs associated with
29 potential future harms.

30 Sec. 5. (a) A public nuisance cause of action shall only be
31 available to a private citizen if the injury suffered by the individual
32 is proximately caused by the ongoing and unlawful condition and
33 is different in kind, not just in degree, from an injury suffered by
34 other persons exercising the same established public right.

35 (b) Interference with the personal, spiritual, cultural, or
36 emotional use of public land, air, or water does not constitute a
37 special injury for purposes of availability of a public nuisance
38 cause of action to a private citizen.

39 (c) Financial expenditures made by an individual related to an
40 injunction of, or any other response to, an unlawful condition does
41 not constitute a special injury sufficient to confer standing to file
42 or maintain a public nuisance action.



1 (d) Aggregation of multiple individual injuries or private
2 nuisances does not constitute a public nuisance.

3 Sec. 6. In a public nuisance action brought by a private citizen,
4 the remedy available to that individual is limited solely to
5 compensatory damages.

6 Sec. 7. Unless otherwise set forth in statute, it is an affirmative
7 defense to any claim under this chapter that the defendant does not
8 have actual control over the source of the alleged public nuisance.

9 Sec. 8. (a) The provisions set forth in this chapter shall apply
10 only to a cause of action that accrues on or after July 1, 2024.

11 (b) A cause of action that accrues prior to July 1, 2024, is
12 governed by the law applicable to the cause of action immediately
13 before this chapter becomes effective.

14 SECTION 2. IC 34-12-4 IS ADDED TO THE INDIANA CODE AS
15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2024]:

17 **Chapter 4. Prohibited Legal Action Involving Crimes on Private**
18 **Property**

19 **Sec. 1. This chapter does not apply to a criminal act committed**
20 **by an employee or an agent of a:**

- 21 (1) person who owns or has an interest in land;
22 (2) person who owns or operates a business;
23 (3) third party business operator; or
24 (4) property manager.

25 **Sec. 2. A person may not bring or maintain an action against a:**

- 26 (1) person who owns property, for a criminal act committed
27 by another person on the property;
28 (2) person who owns a business, for a criminal act committed
29 by another person at the business; or
30 (3) third party business operator who conducts business on
31 any premises owned by another person, for a criminal act
32 committed by another person on premises owned by another
33 person.

