

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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 177

---

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

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

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

**Chapter 12. Requests for New Investigations Concerning Uncharged Deaths**

**Sec. 1. The superintendent of the department shall review a request for a new investigation concerning an uncharged death in accordance with IC 35-40-15.**

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

SECTION 3. IC 35-31.5-2-189.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 189.5. "Local law enforcement agency", for purposes of IC 35-40, has the meaning set forth in IC 35-40-4-4.7.**

SECTION 4. IC 35-31.5-2-267.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 267.7. "Reasonable suspicion",**

SEA 177 — Concur



for purposes of IC 35-40, has the meaning set forth in IC 35-40-4-7.3.

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

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

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

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

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

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

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

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

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

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

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

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

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

**has the right to request the superintendent of the state police**



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

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

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

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

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

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

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



earlier investigation.

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

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

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

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

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



---

President of the Senate

---

President Pro Tempore

---

Speaker of the House of Representatives

---

Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 177 — Concur**

