

January 27, 1998

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## HOUSE BILL No. 1144

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DIGEST OF HB 1144 (Updated January 22, 1998 3:05 pm - DI 69)

**Citations Affected:** IC 34-1; noncode.

**Synopsis:** Wrongful death. Provides that if the death of an unmarried adult individual without dependents is caused by the wrongful act or omission of another person, only the personal representative of the adult individual may maintain an action against the person whose wrongful act or omission caused the death of the adult individual. Provides that the damages that may be recovered in an action include: (1) reasonable medical, hospital, funeral, and burial expenses; (2) loss of the adult individual's love and companionship; and (3) expenses of administering the adult individual's estate, including reasonable attorney's fees. Specifies that damages other than reasonable medical, hospital, funeral, and burial expenses inure to the exclusive benefit of a parent or child of the adult individual. Provides that in a wrongful death action involving an unmarried adult individual without dependents: (1) the trier of fact must make a separate finding with  
(Continued next page)

**Effective:** July 1, 1998.

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**Villalpando, Steele, Stevenson,  
Keeler**

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January 8, 1998, read first time and referred to Committee on Judiciary.  
January 26, 1998, amended, reported — Do Pass.

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HB 1144—LS 6093/DI 69



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Digest Continued

respect to damages involving the loss of the adult individual's love and companionship until July 1, 2002; and (2) damages that may be recovered for the loss of the adult individual's love and companionship may not exceed \$300,000 before July 1, 2002.

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January 27, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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## HOUSE BILL No. 1144

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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 34-1-1-9 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1998]: **Sec. 9. (a) As used in this section, "adult person" means**  
4 **an unmarried individual:**  
5 (1) **who does not have any dependents; and**  
6 (2) **who is not a child (as defined in section 8 of this chapter).**  
7 (b) **If the death of an adult person is caused by the wrongful act**  
8 **or omission of another person, only the personal representative of**  
9 **the adult person may maintain an action against the person whose**  
10 **wrongful act or omission caused the death of the adult person.**  
11 (c) **In an action to recover damages for the death of an adult**  
12 **person, the damages:**  
13 (1) **must be in an amount determined by a:**  
14 (A) **court; or**  
15 (B) **jury; and**

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1 (2) may include but are not limited to the following:

2 (A) Reasonable medical, hospital, funeral, and burial  
3 expenses necessitated by the wrongful act or omission that  
4 caused the adult person's death.

5 (B) Loss of the adult person's love and companionship.

6 (d) Damages awarded under subsection (c)(2)(A) for medical,  
7 hospital, funeral, and burial expenses inure to the exclusive benefit  
8 of the adult person's estate for the payment of the expenses. The  
9 remainder of the damages inure to the exclusive benefit of a parent  
10 or child of the adult person.

11 (e) Damages may be awarded under this section only after  
12 payment of the following expenses associated with an action have  
13 been paid:

14 (1) Legal expenses.

15 (2) Litigation expenses incurred by a personal representative  
16 in maintaining the action.

17 (3) Any other costs incurred in bringing or maintaining the  
18 action.

19 SECTION 2. [EFFECTIVE JULY 1, 1998] IC 34-1-1-9, as added  
20 by this act, applies only to a cause of action that accrues after June  
21 30, 1998.

22 SECTION 3. [EFFECTIVE JULY 1, 1998] (a) In an action  
23 brought under IC 34-1-1-9, as added by this act, the trier of fact  
24 shall make a separate finding with respect to damages awarded  
25 under IC 34-1-1-9(c)(2)(B).

26 (b) This SECTION expires July 1, 2002.

27 SECTION 4. [EFFECTIVE JULY 1, 1998] (a) This subsection  
28 does not apply to a cause of action that accrues after June 30, 2002.  
29 Damages that may be recovered under IC 34-1-1-9(c)(2)(B) may  
30 not exceed three hundred thousand dollars (\$300,000).

31 (b) In an action brought under IC 34-1-1-9, as added by this act,  
32 the jury may not be advised of the monetary limits placed on  
33 damages under subsection (a). If the jury awards the plaintiff  
34 damages under IC 34-1-1-9(c)(2)(B) in an amount that exceeds  
35 three hundred thousand dollars (\$300,000), the court shall reduce  
36 that part of the damages awarded to the plaintiff to three hundred  
37 thousand dollars (\$300,000).

38 (c) This SECTION expires July 1, 2002.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1144, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 7 through 16.

Page 1, line 17, delete "(e)" and insert "(b)".

Page 2, line 1, delete "who was:" and insert ",".

Page 2, delete lines 2 through 3.

Page 2, line 4, delete "when the wrongful act or omission occurred,".

Page 2, delete lines 8 through 10.

Page 2, line 11, delete "(g)" and insert "(c)".

Page 2, line 20, delete "to the" and insert ".".

Page 2, delete lines 21 through 24.

Page 2, line 27, delete "(h)" and insert "(d)".

Page 2, line 27, delete "(g)(2)(A)" and insert "(c)(2)(A)".

Page 2, line 30, delete "presumptively".

Page 2, line 31, delete "the persons described in subsection (g)(2)(B) as follows:" and insert "**a parent or child of the adult person.**".

Page 2, delete lines 32 through 42.

Page 3, delete lines 1 through 21.

Page 3, line 22, delete "(j)" and insert "(e)".

Page 3, after line 32, begin a new paragraph and insert:

**"SECTION 3. [EFFECTIVE JULY 1, 1998] (a) In an action brought under IC 34-1-1-9, as added by this act, the trier of fact shall make a separate finding with respect to damages awarded under IC 34-1-1-9(c)(2)(B).**

**(b) This SECTION expires July 1, 2002.**

**SECTION 4. [EFFECTIVE JULY 1, 1998] (a) This subsection does not apply to a cause of action that accrues after June 30, 2002. Damages that may be recovered under IC 34-1-1-9(c)(2)(B) may not exceed three hundred thousand dollars (\$300,000).**

**(b) In an action brought under IC 34-1-1-9, as added by this act, the jury may not be advised of the monetary limits placed on damages under subsection (a). If the jury awards the plaintiff damages under IC 34-1-1-9(c)(2)(B) in an amount that exceeds three hundred thousand dollars (\$300,000), the court shall reduce that part of the damages awarded to the plaintiff to three hundred thousand dollars (\$300,000).**

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**(c) This SECTION expires July 1, 2002."**

and when so amended that said bill do pass.

(Reference is to House Bill 1144 as introduced.)

VILLALPANDO, Chair

Committee Vote: yeas 10, nays 4.

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