

## SENATE BILL No. 96

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-4-16.5-3.

**Synopsis:** State immunity for computer errors. Grants immunity to the state of Indiana, a political subdivision, and any employee of the state or a political subdivision from tort and contract liability that is caused by an incorrect date being produced, calculated, or generated by a computer or other information system. Requires state and local contracts entered into after June 30, 1998, to include a provision granting immunity to the state and political subdivisions for a breach of contract resulting from an incorrect date being produced, calculated, or generated by a computer or other information system. Provides that this immunity applies to contracts entered into after June 30, 1998.

**Effective:** July 1, 1998.

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## Kenley

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January 8, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Introduced

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.

## SENATE BILL No. 96

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

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

- 1 SECTION 1. IC 34-4-16.5-3, AS AMENDED BY P.L.151-1996,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 3. A governmental entity or an employee acting  
4 within the scope of the employee's employment is not liable if a loss  
5 results from:  
6 (1) the natural condition of unimproved property;  
7 (2) the condition of a reservoir, dam, canal, conduit, drain, or  
8 similar structure when used by a person for a purpose which is not  
9 foreseeable;  
10 (3) the temporary condition of a public thoroughfare which results  
11 from weather;  
12 (4) the condition of an unpaved road, trail, or footpath, the  
13 purpose of which is to provide access to a recreation or scenic  
14 area;  
15 (5) the initiation of a judicial or an administrative proceeding;  
16 (6) the performance of a discretionary function; however, the  
17 provision of medical or optical care, as provided in section 2(b)

1998

IN 96—LS 6623/DI 51+



- 1 of this chapter, shall be considered as a ministerial act;
- 2 (7) the adoption and enforcement of or failure to adopt or enforce
- 3 a law (including rules and regulations), unless the act of
- 4 enforcement constitutes false arrest or false imprisonment;
- 5 (8) an act or omission performed in good faith and without malice
- 6 under the apparent authority of a statute which is invalid, if the
- 7 employee would not have been liable had the statute been valid;
- 8 (9) the act or omission of anyone other than the governmental
- 9 entity or the governmental entity's employee;
- 10 (10) the issuance, denial, suspension, or revocation of, or failure
- 11 or refusal to issue, deny, suspend, or revoke, any permit, license,
- 12 certificate, approval, order, or similar authorization, where the
- 13 authority is discretionary under the law;
- 14 (11) failure to make an inspection, or making an inadequate or
- 15 negligent inspection, of any property, other than the property of
- 16 a governmental entity, to determine whether the property
- 17 complied with or violates any law or contains a hazard to health
- 18 or safety;
- 19 (12) entry upon any property where the entry is expressly or
- 20 impliedly authorized by law;
- 21 (13) misrepresentation if unintentional;
- 22 (14) theft by another person of money in the employee's official
- 23 custody, unless the loss was sustained because of the employee's
- 24 own negligent or wrongful act or omission;
- 25 (15) injury to the property of a person under the jurisdiction and
- 26 control of the department of correction if the person has not
- 27 exhausted the administrative remedies and procedures provided
- 28 by section 6.5 of this chapter;
- 29 (16) injury to the person or property of a person under supervision
- 30 of a governmental entity and who is:
- 31 (A) on probation; or
- 32 (B) assigned to an alcohol and drug services program under
- 33 IC 12-23, a minimum security release program under
- 34 IC 11-10-8, or a community corrections program under
- 35 IC 11-12;
- 36 (17) design of a highway (as defined in IC 9-13-2-73), if the
- 37 claimed loss occurs at least twenty (20) years after the public
- 38 highway was designed or substantially redesigned; except that
- 39 this subdivision shall not be construed to relieve a responsible
- 40 governmental entity from the continuing duty to provide and
- 41 maintain public highways in a reasonably safe condition;
- 42 (18) development, adoption, implementation, operation,



- 1 maintenance, or use of an enhanced emergency communication  
 2 system; **or**  
 3 (19) injury to a student or a student's property by an employee of  
 4 a school corporation if the employee is acting reasonably under a  
 5 discipline policy adopted under IC 20-8.1-5.1-7(b); **or**  
 6 **(20) an incorrect date being produced, calculated, or**  
 7 **generated before January 1, 2010, by a computer or other**  
 8 **information system that is owned or operated by a**  
 9 **governmental entity or another person under contract with a**  
 10 **governmental entity, regardless of the cause of the error.**  
 11 SECTION 2. [EFFECTIVE JULY 1, 1998] (a) **The definitions in**  
 12 **IC 34-4-16.5-2 apply throughout this SECTION.**  
 13 (b) **As used in this SECTION, "contract" means a contract**  
 14 **entered into by or on behalf of a governmental entity or an officer**  
 15 **or employee of a governmental entity after June 30, 1998.**  
 16 (c) **A contract must include a provision that provides immunity**  
 17 **to a governmental entity or an officer or employee of a**  
 18 **governmental entity for any breach of contract that is caused by an**  
 19 **incorrect date being produced, calculated, or generated by a**  
 20 **computer or other information system that is owned or operated**  
 21 **by a governmental entity or another person under contract with a**  
 22 **governmental entity, regardless of the cause of the error.**  
 23 (d) **A contract has the legal effect of including the immunity**  
 24 **described in subsection (c). Any provision of the contract that is in**  
 25 **conflict with this SECTION is void.**  
 26 (e) **This SECTION expires January 1, 2006.**

