

# SENATE BILL No. 311

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-1-1-9.

**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 who is either intoxicated or committing a felony, 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 person. 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 to the adult individual's parents, children, brothers, sisters, and grandparents; and (3) expenses of administering the adult individual's estate, including reasonable attorney's fees. Specifies the distribution of damages.

**Effective:** July 1, 1998.

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Dempsey, Alexa

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

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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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## SENATE BILL No. 311



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 34-1-1-9 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 1998]: **Sec. 9. (a) This section:**
- 4 **(1) only applies if the death of an adult person is caused by the**
- 5 **wrongful act or omission of another person while the other**
- 6 **person is:**
- 7 **(A) intoxicated (as defined in IC 9-13-2-86); or**
- 8 **(B) committing a felony; and**
- 9 **(2) does not apply to, and no cause of action is created in favor**
- 10 **of, an adult person whose death occurs:**
- 11 **(A) as a result of the adult person's intoxication; or**
- 12 **(B) during the commission of a felony by the adult person.**
- 13 **(b) As used in this section, "adult person" means an unmarried**
- 14 **individual:**
- 15 **(1) who does not have any dependents; and**
- 16 **(2) who is not a child (as defined in section 8 of this chapter).**
- 17 **(c) As used in this section, "Class A relation" refers to the**



- 1 following:
- 2 (1) A parent of an adult person.
- 3 (2) A child of an adult person.
- 4 (d) As used in this section, "Class B relation" refers to the
- 5 following:
- 6 (1) A brother of an adult person.
- 7 (2) A sister of an adult person.
- 8 (e) As used in this section, "Class C relation" refers to a
- 9 grandparent of an adult person.
- 10 (f) If the death of an adult person is caused by the wrongful act
- 11 or omission of another person, only the personal representative of
- 12 the adult person may maintain an action against the person whose
- 13 wrongful act or omission caused the death of the adult person.
- 14 (g) An action described in subsection (f) must be brought within
- 15 two (2) years after the date on which the wrongful act or omission
- 16 occurs.
- 17 (h) In an action to recover damages for the death of an adult
- 18 person, the damages:
- 19 (1) shall be in an amount determined by a:
- 20 (A) court; or
- 21 (B) jury; and
- 22 (2) may include, but are not limited to, the following:
- 23 (A) Reasonable medical, hospital, funeral, and burial
- 24 expenses necessitated by the wrongful act or omission that
- 25 caused the adult person's death.
- 26 (B) Loss of the adult person's love and companionship to
- 27 the following:
- 28 (i) A Class A relation.
- 29 (ii) A Class B relation.
- 30 (iii) A Class C relation.
- 31 (C) Expenses of administering the adult person's estate,
- 32 including reasonable attorney's fees.
- 33 (i) Damages awarded under subsection (h)(2)(A) for medical,
- 34 hospital, funeral, and burial expenses inure to the exclusive benefit
- 35 of the adult person's estate for the payment of the expenses. The
- 36 remainder of the damages presumptively inure to the exclusive
- 37 benefit of the persons described in subsection (h)(2)(B) as follows:
- 38 (1) Fifty percent (50%) of the damages inure to the benefit of
- 39 surviving Class A relations to be distributed in equal shares,
- 40 twenty-five percent (25%) of the damages inure to surviving
- 41 Class B relations to be distributed in equal shares, and
- 42 twenty-five percent (25%) of the damages inure to surviving



1           Class C relations to be distributed in equal shares.

2           (2) If there are no surviving Class B relations, seventy-five  
3           percent (75%) of the damages inure to the benefit of Class A  
4           relations to be distributed in equal shares and twenty-five  
5           percent (25%) of the damages inure to the benefit of surviving  
6           Class C relations to be distributed in equal shares.

7           (3) If there are no surviving Class C relations, seventy-five  
8           percent (75%) of the damages inure to the benefit of surviving  
9           Class A relations to be distributed in equal shares and  
10          twenty-five percent (25%) of the damages inure to the benefit  
11          of surviving Class B relations to be distributed in equal  
12          shares.

13          (4) If there are no surviving Class A relations, seventy-five  
14          percent (75%) of the damages inure to the benefit of surviving  
15          Class B relations to be distributed in equal shares and  
16          twenty-five percent (25%) of the damages inure to the benefit  
17          of surviving Class C relations to be distributed in equal  
18          shares.

19          (5) If the survivors are:

20                (A) only Class A relations;

21                (B) only Class B relations; or

22                (C) only Class C relations;

23          one hundred percent (100%) of the damages inure to the  
24          benefit of the survivors in that class to be distributed in equal  
25          shares.

26          (j) Any objection to the presumptive distribution of damages in  
27          subsection (i) must be presented to the probate court before the  
28          entry of an order for the fair and equitable distribution of the  
29          damages.

30          (k) Damages may be awarded under this section only after  
31          payment of the following expenses associated with an action have  
32          been paid:

33                (1) Legal expenses.

34                (2) Litigation expenses incurred by a personal representative  
35                in maintaining the action.

36                (3) Any other costs incurred in bringing or maintaining the  
37                action.

38          SECTION 2. [EFFECTIVE JULY 1, 1998] IC 34-1-1-9, as added  
39          by this act, applies only to a cause of action that accrues after June  
40          30, 1998.

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