

# HOUSE BILL No. 1090

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-6-2-21.5; IC 34-6-2-21.6; IC 34-13-3-3.3; IC 34-51-2-20.

**Synopsis:** Tort claims, comparative fault, and suicide. Establishes rebuttable presumptions under the law concerning tort claims against the state and political subdivisions of the state and public employees that if the death of or any part of an injury suffered by a person occurred while the person was committing or attempting to commit suicide while under the custodial care or control of a governmental entity: (1) the person's contributory fault is greater than the fault of the governmental entity, a public employee acting within the scope of the employee's employment, or any other person whose fault proximately contributed to the claimant's damages; and (2) the person, in taking the first step toward the commission or attempted commission of suicide,  
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**Effective:** July 1, 1999.

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January 6, 1999, read first time and referred to Committee on Judiciary.

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knowingly and voluntarily waived the person's or the person's representative's right to recover damages sustained by the person during the commission or attempted commission of suicide. Establishes rebuttable presumptions in actions based on fault that if the death of or any part of an injury suffered by a person occurred while the person was committing or attempting to commit suicide while under the custodial care or control of another person: (1) the person's contributory fault is greater than the fault of all other persons whose fault proximately contributed to the person's damages; and (2) the person, in taking the first step toward the commission or attempted commission of suicide, knowingly and voluntarily waived the person's or the person's representative's right to recover damages sustained by the person during the commission or attempted commission of suicide.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## HOUSE BILL No. 1090

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 34-6-2-21.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **Sec. 21.5. (a) "Claimant", for purposes of IC 34-13-3-3.3,**  
4 **has the meaning set forth in IC 34-13-3-3.3(b).**

5 (b) "Claimant", for purposes of IC 34-51-2-20, has the meaning  
6 set forth in IC 34-51-2-20(b).

7 SECTION 2. IC 34-6-2-21.6 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 1999]: **Sec. 21.6. (a) "Claimant's representative", for purposes**  
10 **of IC 34-13-3-3.3, has the meaning set forth in IC 34-13-3-3.3(c).**

11 (b) "Claimant's representative", for purposes of IC 34-51-2-20,  
12 has the meaning set forth in IC 34-51-2-20(c).

13 SECTION 3. IC 34-13-3-3.3 IS ADDED TO THE INDIANA CODE  
14 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 1999]: **Sec. 3.3. (a) This section applies to a:**



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- 1 (1) cause of action brought by a claimant or a claimant's  
 2 representative; or  
 3 (2) counterclaim made by a claimant or a claimant's  
 4 representative.  
 5 (b) As used in this section, "claimant" refers to a person who is  
 6 injured or killed while:  
 7 (1) committing or attempting to commit suicide; and  
 8 (2) under the custodial care or control of a governmental  
 9 entity.  
 10 (c) As used in this section, "claimant's representative" includes  
 11 a claimant's:  
 12 (1) spouse;  
 13 (2) child;  
 14 (3) dependent; or  
 15 (4) personal representative.  
 16 (d) If the death of or any part of an injury suffered by a  
 17 claimant occurred while the claimant was committing or  
 18 attempting to commit suicide while under the custodial care or  
 19 control of a governmental entity, the finder of fact shall presume  
 20 that:  
 21 (1) the claimant's contributory fault is greater than the fault  
 22 of:  
 23 (A) the governmental entity;  
 24 (B) an employee acting within the scope of the employee's  
 25 employment; or  
 26 (C) any other person whose fault proximately contributed  
 27 to the claimant's damages; and  
 28 (2) the claimant, in taking the first step toward the  
 29 commission or attempted commission of suicide, knowingly  
 30 and voluntarily waived the claimant's or the claimant's  
 31 representative's right to recover damages sustained by the  
 32 claimant during the commission or attempted commission of  
 33 suicide.  
 34 (e) A presumption under subsection (d) is rebuttable.  
 35 (f) If there is a claimant's representative, the finder of fact shall  
 36 attribute a claimant's contributory fault under subsection (d) to the  
 37 claimant's representative.  
 38 SECTION 4. IC 34-51-2-20 IS ADDED TO THE INDIANA CODE  
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 40 1, 1999]: **Sec. 20. (a) This section applies to a:**  
 41 (1) cause of action brought by a claimant or a claimant's  
 42 representative; or



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- 1           (2) counterclaim made by a claimant or a claimant's  
2           representative.
- 3           (b) As used in this section, "claimant" refers to a person who is  
4           injured or killed while:
- 5           (1) committing or attempting to commit suicide; and  
6           (2) under the custodial care or control of another person.
- 7           (c) As used in this section, "claimant's representative" includes  
8           a claimant's:
- 9           (1) spouse;  
10           (2) child;  
11           (3) dependent; or  
12           (4) personal representative.
- 13           (d) In an action based on fault, if the death of or any part of an  
14           injury suffered by a claimant occurred while the claimant was  
15           committing or attempting to commit suicide while under the  
16           custodial control of another person, the finder of fact shall presume  
17           that:
- 18           (1) the claimant's contributory fault is greater than the fault  
19           of all other persons whose fault proximately contributed to  
20           the claimant's damages; and  
21           (2) the claimant, in taking the first step toward the  
22           commission or attempted commission of suicide, knowingly  
23           and voluntarily waived the claimant's or the claimant's  
24           representative's right to recover damages sustained by the  
25           claimant during the commission or attempted commission of  
26           suicide.
- 27           (e) A presumption under subsection (d) is rebuttable.
- 28           (f) If there is a claimant's representative, the finder of fact shall  
29           attribute a claimant's contributory fault under subsection (d) to the  
30           claimant's representative.
- 31           SECTION 5. [EFFECTIVE JULY 1, 1999] This act applies only to  
32           a cause of action that accrues after June 30, 1999.

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