

# HOUSE BILL No. 1602

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2; IC 12-13-5-1; IC 12-14-6; 12-14-17; IC 12-14-27; IC 12-20-16-12; IC 12-24-9; IC 12-24-16-1; IC 25-15-9-18; IC 29-1-14-9; IC 36-2-14-16.

**Synopsis:** Indigent funeral expenses. Provides for payment of funeral expenses of certain indigent persons. Establishes the minimum and maximum amounts to be paid for those expenses. Provides for an annual increase in the maximum amounts based upon the consumer price index. Requires the county office of family and children of the county in which the individual resided before death, or the county in which the individual died if the county of residence is unknown, to pay the expenses with reimbursement from the division of family and children. Provides that the county health officer is responsible for arranging the disposition of a decedent if there is no surviving spouse, adult child, parent, or personal representative. Allows a funeral director  
(Continued next page)

**Effective:** July 1, 1999.

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**Crooks**

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January 21, 1999, read first time and referred to Committee on Public Health.

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Digest Continued

to require the use of an alternative container, to limit the time for visitation, and to refuse to provide cremation in certain situations. Repeals current provisions regarding the payment of funeral expenses for certain indigent persons.

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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.

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## HOUSE BILL No. 1602

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A BILL FOR AN ACT to amend the Indiana Code concerning human services.

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

1 SECTION 1. IC 12-7-2-53.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
3 1, 1999]: **Sec. 53.5. "Decedent", for purposes of IC 12-14-27, has**  
4 **the meaning set forth in IC 12-14-27-2.**

5 SECTION 2. IC 12-7-2-91.1 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
7 1, 1999]: **Sec. 91.1. "Funeral", for purposes of IC 12-14-27, has the**  
8 **meaning set forth in IC 12-14-27-3.**

9 SECTION 3. IC 12-7-2-91.2 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
11 1, 1999]: **Sec. 91.2. "Funeral expenses", for purposes of**  
12 **IC 12-14-27, has the meaning set forth in IC 12-14-27-4.**

13 SECTION 4. IC 12-13-5-1 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The division shall  
15 administer or supervise the public welfare activities of the state. The



- 1 division has the following powers and duties:
- 2 (1) The administration of old age assistance, aid to dependent
- 3 children, and assistance to the needy blind and persons with
- 4 disabilities, excluding assistance to children with special health
- 5 care needs.
- 6 (2) The administration of the following:
- 7 (A) Any public child welfare service.
- 8 (B) The licensing and inspection under IC 12-17.2 and
- 9 IC 12-17.4.
- 10 (C) The care of dependent and neglected children in foster
- 11 family homes or institutions, especially children placed for
- 12 adoption or those born out of wedlock.
- 13 (D) The interstate placement of children.
- 14 (3) The provision of services to county governments, including
- 15 the following:
- 16 (A) Organizing and supervising county offices for the effective
- 17 administration of public welfare functions.
- 18 (B) Compiling statistics and necessary information concerning
- 19 public welfare problems throughout Indiana.
- 20 (C) Researching and encouraging research into crime,
- 21 delinquency, physical and mental disability, and the cause of
- 22 dependency.
- 23 (4) Prescribing the form of, printing, and supplying to the county
- 24 departments blanks for applications, reports, affidavits, and other
- 25 forms the division considers necessary and advisable.
- 26 (5) Cooperating with the federal Social Security Administration
- 27 and with any other agency of the federal government in any
- 28 reasonable manner necessary and in conformity with IC 12-13
- 29 through IC 12-19 to qualify for federal aid for assistance to
- 30 persons who are entitled to assistance under the federal Social
- 31 Security Act. The responsibilities include the following:
- 32 (A) Making reports in the form and containing the information
- 33 that the federal Social Security Administration Board or any
- 34 other agency of the federal government requires.
- 35 (B) Complying with the requirements that a board or agency
- 36 finds necessary to assure the correctness and verification of
- 37 reports.
- 38 (6) Appointing, from eligible lists established by the state
- 39 personnel board, employees of the division necessary to
- 40 effectively carry out IC 12-13 through IC 12-19. The division may
- 41 not appoint a person who is not a citizen of the United States and
- 42 who has not been a resident of Indiana for at least one (1) year

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1 immediately preceding the person's appointment unless a  
 2 qualified person cannot be found in Indiana for a position as a  
 3 result of holding an open competitive examination.

4 (7) Assisting the office of Medicaid policy and planning in fixing  
 5 fees to be paid to ophthalmologists and optometrists for the  
 6 examination of applicants for and recipients of assistance as  
 7 needy blind persons.

8 (8) When requested, assisting other departments, agencies,  
 9 divisions, and institutions of the state and federal government in  
 10 performing services consistent with this article.

11 (9) Acting as the agent of the federal government for the  
 12 following:

13 (A) In welfare matters of mutual concern under IC 12-13  
 14 through IC 12-19.

15 (B) In the administration of federal money granted to Indiana  
 16 in aiding welfare functions of the state government.

17 (10) Administering additional public welfare functions vested in  
 18 the division by law and providing for the progressive codification  
 19 of the laws the division is required to administer.

20 (11) Transferring to each county that is required to submit a  
 21 schedule under IC 12-19-1-9(d) an amount equal to the scheduled  
 22 amount of the county's lease and rental obligations as provided in  
 23 IC 12-19-1-9.

24 (12) Supervising day care centers and child placing agencies.

25 (13) Supervising the licensing and inspection of all public child  
 26 caring agencies.

27 (14) Supervising the care of delinquent children and children in  
 28 need of services.

29 (15) Assisting juvenile courts as required by IC 31-30 through  
 30 IC 31-40.

31 (16) Supervising the care of dependent children and children  
 32 placed for adoption.

33 (17) Compiling information and statistics concerning the ethnicity  
 34 and gender of a program or service recipient.

35 (18) Providing permanency planning services for children in need  
 36 of services, including:

37 (A) making children legally available for adoption; and

38 (B) placing children in adoptive homes;

39 in a timely manner.

40 **(19) Reimbursing the county offices for payment of funeral**  
 41 **expenses under IC 12-14-27.**

42 SECTION 5. IC 12-14-27 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 1999]:

3 **Chapter 27. Funeral Expenses for Indigent Individuals**

4 **Sec. 1. This chapter applies upon the death of an individual**  
5 **described in section 2 of this chapter if:**

- 6 (1) the estate of the decedent is insufficient to pay the funeral  
7 expenses; and  
8 (2) the person legally responsible for the burial of the  
9 decedent is unable to pay the funeral expenses.

10 **Sec. 2. As used in this chapter, "decedent" means the following**  
11 **deceased individuals:**

- 12 (1) An individual who received:  
13 (A) aid to families with dependent children under  
14 IC 12-14-1; or  
15 (B) supplemental assistance to:  
16 (i) the aged (IC 12-14-13);  
17 (ii) the blind (IC 12-14-14); or  
18 (iii) the disabled (IC 12-14-15).  
19 (2) An aged, blind, or disabled individual who, at the time of  
20 death, was eligible for Medicaid.  
21 (3) A patient in a state institution.  
22 (4) A resident of a special institution governed by IC 16-33.  
23 (5) An individual for whom:  
24 (A) a person cannot be located to take custody of the body;  
25 or  
26 (B) there is a person to take custody of the body, but that  
27 person is unable to assume financial responsibility for the  
28 body.  
29 (6) An individual who dies without leaving:  
30 (A) money;  
31 (B) real or personal property;  
32 (C) other assets that may be liquidated; or  
33 (D) other means necessary to defray funeral expenses.

34 **Sec. 3. As used in this chapter, "funeral" has the meaning set**  
35 **forth in IC 25-15-2-11.**

36 **Sec. 4. As used in this chapter, "funeral expenses" means the**  
37 **expenses incurred for funeral services (as defined by**  
38 **IC 25-15-2-17).**

39 **Sec. 5. The county office of the county in which the individual:**

- 40 (1) resided before the individual's death; or  
41 (2) died, if the county of residence of the decedent is unknown;  
42 shall pay the funeral expenses of the decedent.



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1           **Sec. 6. (a) The county office shall pay the lesser of the following**  
 2 **for funeral services:**

3           **(1) The actual cost to the funeral director of the goods and**  
 4 **services provided.**

5           **(2) For calendar year 1999:**

6           **(A) two thousand four hundred dollars (\$2,400), if a**  
 7 **funeral is provided; or**

8           **(B) one thousand nine hundred dollars (\$1,900), if a**  
 9 **funeral is not provided.**

10           **(3) For calendar years after 1999, the amount set forth in**  
 11 **subdivision (2)(A), as adjusted under subsection (b).**

12           **(b) The amount under subsection (a)(2) must be annually**  
 13 **adjusted for inflation by multiplying:**

14           **(1) the amount listed; by**

15           **(2) one (1) plus the average percentage increase in funeral**  
 16 **expense prices using the most recent annual reference to the**  
 17 **Consumer Price Index for Funeral Expenses as published by**  
 18 **the Bureau of Labor Statistics, United States Department of**  
 19 **Labor.**

20           **(c) In addition to the amount under subsection (a), the county**  
 21 **office shall pay a funeral director a mileage fee of one dollar (\$1)**  
 22 **for each mile over twenty-five (25) miles that the funeral director**  
 23 **transports a decedent's body from one (1) location to another.**

24           **Sec. 7. (a) This section applies if the decedent is an individual**  
 25 **described in section 2(1) or 2(2) of this chapter.**

26           **(b) In addition to the amount paid under section 6 of this**  
 27 **chapter, the county office shall pay not more than four hundred**  
 28 **dollars (\$400) for the following:**

29           **(1) To cover provision of burial rights, if necessary.**

30           **(2) To open and close a burial plot and provide an outer**  
 31 **container.**

32           **(3) Service required by cemetery authorities.**

33           **(c) An amount in the aggregate of not more than seven hundred**  
 34 **fifty dollars (\$750) that is contributed by:**

35           **(1) friends;**

36           **(2) relatives; and**

37           **(3) the resources of the decedent;**

38 **may not be considered when determining the amount to be paid**  
 39 **under this section. However, the resources of the decedent may not**  
 40 **be included in the aggregate amount under this subsection if the**  
 41 **decedent has prepaid funeral expenses that were excluded as a**  
 42 **resource for Medicaid eligibility under IC 12-15-2.**



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1           **Sec. 8. (a) The county office shall pay the expenses authorized**  
 2 **under this chapter out of the county welfare fund in the same**  
 3 **manner as other claims for public welfare.**

4           **(b) The county office shall submit to the division an itemized**  
 5 **claim for reimbursement of funeral expenses paid under this**  
 6 **chapter.**

7           **(c) Upon receipt of an itemized claim from a county office, the**  
 8 **division shall reimburse the county office out of any available**  
 9 **funds appropriated to the division.**

10           **Sec. 9. If the division or county office has reason to believe that**  
 11 **a person legally responsible for the burial of a decedent was**  
 12 **reasonably able to pay any expense paid under this chapter, the**  
 13 **division or county office may initiate an action against the person**  
 14 **legally responsible for those expenses not later than one (1) year**  
 15 **after the date of the individual's death.**

16           **Sec. 10. A funeral director licensed under IC 25-15 who is**  
 17 **engaged to provide funeral services under this chapter:**

18           **(1) may require the use of an alternative container (as defined**  
 19 **by IC 25-15-2-2);**

20           **(2) may limit the time allowed for visitation to a two (2) hour**  
 21 **period immediately preceding the funeral; and**

22           **(3) is not required to provide cremation services if providing**  
 23 **such services would increase the funeral director's costs over**  
 24 **the payment limits provided by this chapter.**

25           **Sec. 11. The division shall adopt rules under IC 4-22-2 to**  
 26 **implement this chapter.**

27           **SECTION 6. IC 12-24-16-1 IS AMENDED TO READ AS**  
 28 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. This chapter applies**  
 29 **to taxable costs and expenses under the following statutes:**

30           **(1) IC 12-24-8.**

31           **(2) ~~IC 12-24-9~~ IC 12-14-27.**

32           **(3) IC 12-24-17-8.**

33           **SECTION 7. IC 25-15-9-18 IS AMENDED TO READ AS**  
 34 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. The following**  
 35 **persons, in the order of priority indicated, have the authority to**  
 36 **designate the manner, type, and selection of the final disposition and**  
 37 **interment of human remains, including the selection of the funeral**  
 38 **director and funeral home:**

39           **(1) The decedent's surviving spouse.**

40           **(2) The decedent's surviving adult child or children. However, if**  
 41 **the children cannot agree on the manner of final disposition, the**  
 42 **personal representative of the decedent's estate.**



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1 (3) The decedent's surviving parents.

2 (4) The personal representative of the decedent's estate.

3 **(5) The county health officer of the county in which a**  
 4 **decedent (as defined in IC 12-14-27-2):**

5 **(A) resided before the decedent's death; or**

6 **(B) died, if the county of residence of the decedent is**  
 7 **unknown.**

8 SECTION 8. IC 29-1-14-9 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) All claims shall  
 10 be classified in one (1) of the following classes. If the applicable assets  
 11 of the estate are insufficient to pay all claims in full, the personal  
 12 representative shall make payment in the following order:

13 (1) Costs and expenses of administration.

14 (2) Reasonable funeral expenses. However, in any estate in which  
 15 the decedent was a recipient of public assistance under IC 12-1-1  
 16 through IC 12-1-12 (before ~~its~~ **their** repeal) or any of the  
 17 following, the amount of funeral expenses having priority over  
 18 any claim for the recovery of public assistance shall not exceed  
 19 the limitations provided for under ~~IC 12-14-6, IC 12-14-17~~  
 20 **IC 12-14-27** and IC 12-14-21:

21 AFDC assistance.

22 AFDC burials.

23 AFDC IMPACT/J.O.B.S.

24 AFDC-UP assistance.

25 ARCH.

26 Blind relief.

27 Child care.

28 Child welfare adoption assistance.

29 Child welfare adoption opportunities.

30 Child welfare assistance.

31 Child welfare child care improvement.

32 Child welfare child abuse.

33 Child welfare child abuse and neglect prevention.

34 Child welfare children's victim advocacy program.

35 Child welfare foster care assistance.

36 Child welfare independent living.

37 Child welfare medical assistance to wards.

38 Child welfare program review action group (PRAG).

39 Child welfare special needs adoption.

40 Food Stamp administration.

41 Health care for indigent (HCI).

42 ICES.

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- 1 IMPACT (food stamps).  
 2 Title IV-D (ICETS).  
 3 Title IV-D child support administration.  
 4 Title IV-D child support enforcement (parent locator).  
 5 Medicaid assistance.  
 6 Medical services for inmates and patients (590).  
 7 Room and board assistance (RBA).  
 8 Refugee social service.  
 9 Refugee resettlement.  
 10 Repatriated citizens.  
 11 SSI burials and disabled examinations.  
 12 Title XIX certification.
- 13 (3) Allowances made under IC 29-1-4-1.  
 14 (4) All debts and taxes having preference under the laws of the  
 15 United States.  
 16 (5) Reasonable and necessary medical expenses of the last  
 17 sickness of the decedent, including compensation of persons  
 18 attending ~~him~~: **the decedent**.  
 19 (6) All debts and taxes having preference under the laws of this  
 20 state; , but no personal representative shall be required to pay any  
 21 taxes on any property of the decedent unless such taxes are due  
 22 and payable before possession thereof is delivered by the personal  
 23 representative pursuant to the provisions of IC 29-1.  
 24 (7) All other claims allowed.
- 25 (b) No preference shall be given in the payment of any claim over  
 26 any other claim of the same class, nor shall a claim due and payable be  
 27 entitled to a preference over claims not due.
- 28 SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 29 JULY 1, 1999]: IC 12-14-6; 12-14-17; IC 12-20-16-12; IC 12-24-9;  
 30 IC 36-2-14-16.

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