



January 28, 2000

---

---

## SENATE BILL No. 414

---

DIGEST OF SB 414 (Updated January 26, 2000 1:31 PM - DI 51)

**Citations Affected:** IC 34-10.

**Synopsis:** Indigent parties in civil actions. Allows a court the option of appointing an attorney at no expense to an indigent person for the purpose of prosecuting or defending the person's interests in a civil action when the court determines exceptional circumstances exist that justify the appointment. Requires the court to pay the reasonable attorneys fees and litigation expenses incurred by the appointed attorney.

**Effective:** Upon passage.

---

---

### Lanane

---

---

January 10, 2000, read first time and referred to Committee on Judiciary.  
January 27, 2000, amended, reported favorably — Do Pass.

---

---

C  
o  
p  
y

SB 414—LS 7137/DI 76+



January 28, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

C  
O  
P  
Y

## SENATE BILL No. 414



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 34-10-1-2 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **This section**
- 3 **shall not be construed to prohibit a court from participating in a**
- 4 **pro bono legal services program or other program that provides**
- 5 **legal services to litigants without charge or at a reduced fee.**
- 6 (b) If the court is satisfied that a person who makes an application
- 7 described in section 1 of this chapter does not have sufficient means to
- 8 prosecute or defend the action, the court: ~~shall:~~
- 9 (1) **shall** admit the applicant to prosecute or defend as an indigent
- 10 person; and
- 11 (2) **may, under exceptional circumstances,** assign an attorney
- 12 to defend or prosecute the cause.
- 13 (c) **The factors that a court may consider under subsection**
- 14 **(b)(2) include the following:**
- 15 (1) **The likelihood that the applicant will prevail on the merits**
- 16 **of the applicant's claim or defense.**
- 17 (2) **The applicant's ability to investigate and present the**

SB 414—LS 7137/DI 76+



1           applicant's claims or defenses without an attorney given the  
2           type and the complexity of the facts and legal issues in the  
3           action.  
4           (d) The court shall deny an application made under section 1 of  
5           this chapter if the court determines any of the following:  
6           (1) The applicant failed to make a diligent effort to obtain an  
7           attorney before filing an application.  
8           (2)The applicant is unlikely to prevail on the applicant's claim  
9           or defense.  
10          (e) All officers required to prosecute or defend the action shall do  
11          their duty in the case without taking any fee or reward from the  
12          indigent person.  
13          (f) The reasonable attorney's fees and expenses of an attorney  
14          appointed to represent an applicant under section 1 of this chapter  
15          shall be paid from the money appropriated to the court:  
16          (1) appointing the attorney, if the action was not transferred  
17          to another county; or  
18          (2) from which the action was transferred, if the action was  
19          transferred to another county.  
20          SECTION 2. An emergency is declared for this act.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 414, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 2, delete "[EFFECTIVE JULY 1, 2000]" and insert "[EFFECTIVE UPON PASSAGE]".

Page 1, line 2, after "2." insert "**(a) This section shall not be construed to prohibit a court from participating in a pro bono legal services program or other program that provides legal services to litigants without charge or at a reduced fee.**

**(b)**".

Page 1, line 5, after "court" insert ":".

Page 1, line 5, delete "may:".

Page 1, line 6, after "(1)" insert "**shall**".

Page 1, line 8, after "(2)" insert "**may, under exceptional circumstances,**".

Page 1, between lines 8 and 9, begin a new paragraph and insert:

**"(c) The factors that a court may consider under subsection (b)(2) include the following:**

**(1) The likelihood that the applicant will prevail on the merits of the applicant's claim or defense.**

**(2) The applicant's ability to investigate and present the applicant's claims or defenses without an attorney given the type and the complexity of the facts and legal issues in the action.**

**(d) The court shall deny an application made under section 1 of this chapter if the court determines any of the following:**

**(1) The applicant failed to make a diligent effort to obtain an attorney before filing an application.**

**(2) The applicant is unlikely to prevail on the applicant's claim or defense."**

Page 1, line 9, before "All" begin a new paragraph and insert:

**"(e)**".

Page 1, after line 11, begin a new paragraph and insert:

**"(f) The reasonable attorney's fees and expenses of an attorney appointed to represent an applicant under section 1 of this chapter shall be paid from the money appropriated to the court:**

**(1) appointing the attorney, if the action was not transferred to another county; or**

**(2) from which the action was transferred, if the action was transferred to another county.**

C  
O  
P  
Y

**SECTION 2. An emergency is declared for this act. "**

and when so amended that said bill do pass.

(Reference is to SB 414 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 1.

C  
o  
p  
y

