

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 32, 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:

- 1 Delete the title and insert the following:  
 2 A BILL FOR AN ACT to amend the Indiana Code concerning civil law and  
 3 procedure.  
 4 Delete everything after the enacting clause and insert the following:  
 5 "SECTION 1. IC 34-23-2-1 IS AMENDED TO READ AS FOLLOWS  
 6 [EFFECTIVE SEPTEMBER 11, 2001 (RETROACTIVE)]; Sec. 1. (a) As used  
 7 in this section, "child" means an unmarried individual without dependents who is:  
 8 (1) less than twenty (20) years of age; ~~or~~  
 9 (2) less than twenty-three (23) years of age and is enrolled in an institution  
 10 of higher education or in a vocational school or program **or is engaged**  
 11 **in military service; or**  
 12 **(3) is a military veteran less than twenty-seven (27) years**  
 13 **of age and is enrolled in an institution of higher education**  
 14 **or vocational school following active military service.**  
 15 (b) An action may be maintained under this section against the person whose  
 16 wrongful act or omission caused the injury or death of a child. The action may be  
 17 maintained by:  
 18 (1) the father and mother jointly, or either of them by naming the other  
 19 parent as a codefendant to answer as to his or her interest;  
 20 (2) in case of divorce or dissolution of marriage, the person to whom  
 21 custody of the child was awarded; and  
 22 (3) a guardian, for the injury or death of a protected person.  
 23 (c) In case of death of the person to whom custody of a child was awarded,  
 24 a personal representative shall be appointed to maintain the action for the injury or  
 25 death of the child.

1 (d) In an action brought by a guardian for an injury to a protected person, the  
2 damages inure to the benefit of the protected person.

3 (e) In an action to recover for the death of a child, the plaintiff may recover  
4 damages:

5 (1) for the loss of the child's services;

6 (2) for the loss of the child's love and companionship; and

7 (3) to pay the expenses of:

8 (A) health care and hospitalization necessitated by the wrongful act  
9 or omission that caused the child's death;

10 (B) the child's funeral and burial;

11 (C) the reasonable expense of psychiatric and psychological  
12 counseling incurred by a surviving parent or minor sibling of the child  
13 that is required because of the death of the child;

14 (D) uninsured debts of the child, including debts for which a parent is  
15 obligated on behalf of the child; and

16 (E) the administration of the child's estate, including reasonable  
17 attorney's fees.

18 (f) Damages may be awarded under this section only with respect to the  
19 period of time from the death of the child until:

20 (1) the date that the child would have reached:

21 (A) twenty (20) years of age; ~~or~~

22 (B) twenty-three (23) years of age, if the child was enrolled in a  
23 institution of higher education or in a vocational school or ~~program;~~  
24 ~~or program or is engaged in military service; or~~

25 **(C) twenty-seven (27) years of age, if the child was a**  
26 **military veteran and was enrolled in an institution of**  
27 **higher education or vocational school following**  
28 **active military service; or**

29 (2) the date of the child's last surviving parent's death;

30 whichever first occurs.

31 (g) Damages may be awarded under subsection (e)(2) only with respect to  
32 the period of time from the death of the child until the date of the child's last  
33 surviving parent's death.

34 (h) Damages awarded under subsection (e)(1), (e)(2), (e)(3)(C), and  
35 (e)(3)(D) inure to the benefit of:

36 (1) the father and mother jointly if both parents had custody of the child;

37 (2) the custodial parent, or custodial grandparent, and the noncustodial  
38 parent of the deceased child as apportioned by the court according to their  
39 respective losses; or

40 (3) a custodial grandparent of the child if the child was not survived by a  
41 parent entitled to benefit under this section.

42 However, a parent or grandparent who abandoned a deceased child while the child  
43 was alive is not entitled to any recovery under this chapter.

44 SECTION 2. [EFFECTIVE UPON PASSAGE]: **IC 34-23-2-1, as**  
45 **amended by this act, applies to causes of action accruing after**  
46 **September 10, 2001.**

1 SECTION 3. **An emergency is declared for this act."**

(Reference is to SB 32 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Judiciary.**

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GARTON Chairperson