Reprinted
March 24, 2009

ENGROSSED
SENATE BILL No. 342

DIGEST OF SB 342 (Updated March 23, 2009 3:00 pm - DI 107)

Citations Affected: IC 5-2; IC 35-33.

Synopsis: Compensation for victims of violent crimes. Allows the Indiana criminal justice institute (CJI) to pay funeral, burial, or cremation expenses from the violent crime victims compensation fund (fund) for the victims of certain crimes involving motor vehicle accidents. Allows the CJI to pay funeral, burial, or cremation expenses from the fund regardless of whether the victim was married. (Current law allows the payment only if the victim was unmarried.) Increases from $4,000 to $5,000 the maximum amount of expenses for which the CJI may compensate a claimant from the fund for the funeral, burial, or cremation of a victim. Provides that the CJI may award compensation from the fund in connection with a violent crime if the violent crime was reported to a law enforcement officer not more than 72 hours after the occurrence of the crime. (Under current law, the time limit is 48 hours.) Provides that expenses for necessary medical and hospital services and prescription drugs must be incurred within 180

(Continued next page)

Effective: July 1, 2009.

Becker, Lawson C, Steele,
Lanane, Head
(HOUSE SPONSORS — LAWSON L, CROUCH, RIECKEN)

January 8, 2009, read first time and referred to Committee on Judiciary.
February 12, 2009, reported favorably — Do Pass.
February 16, 2009, read second time, ordered engrossed.
February 17, 2009, engrossed. Read third time, passed. Yeas 48, nays 1.

HOUSE ACTION
March 2, 2009, read first time and referred to Committee on Judiciary.
March 19, 2009, amended, reported — Do Pass.
March 23, 2009, read second time, amended, ordered engrossed.

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Digest Continued

days after the crime to be compensable from the fund, but that an extension of the 180 day period may be granted under certain circumstances. Allows the CJI to compensate a crime victim for up to $3,000 of the cost of outpatient mental health counseling related to the crime. Removes provisions requiring a sex crime victim to cooperate with law enforcement. Relocates a definition. Prohibits an owner or agent of a store from asking a person to make a statement that acknowledges that the person shoplifted in the store or waives any of the person's legal rights if: (1) the person is less than 18 years of age; and (2) the person has not been afforded meaningful consultation with his or her parent, guardian, custodian, or guardian ad litem.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 342

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-6.1-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.7. As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based.**

SECTION 2. IC 5-2-6.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. As used in this chapter, "violent crime" means the following:

(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:

(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.

(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated

(IC 35-42-1-4).

(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).

(D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 3. IC 5-2-6.1-15, AS AMENDED BY P.L.121-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) If ~~an unmarried~~ **a** victim of a violent crime dies as a result of the crime, the division may pay the reasonable expenses incurred for funeral, burial, or cremation.

(b) The division shall adopt guidelines to determine when the payment of expenses under subsection (a) is appropriate. In adopting guidelines under this subsection, the division shall consider the availability of other sources of compensation, including township assistance and federal programs.

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SECTION 4. IC 5-2-6.1-17, AS AMENDED BY P.L.121-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than ~~forty-eight (48)~~ **seventy-two (72)** hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

(1) law enforcement and other records concerning the circumstances of the crime are available; and

(2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney.

SECTION 5. IC 5-2-6.1-21, AS AMENDED BY P.L.121-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) This section applies to claims filed with the division after December 31, 2005, **and before July 1, 2009.**

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter. ~~As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to the victim as a result of the bodily injury or death upon which the application is based.~~

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars ($100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income the:

(A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or

(B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.

A claimant seeking reimbursement under this subdivision must

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provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars ($1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars ($4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars ($2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

SECTION 6. IC 5-2-6.1-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to claims filed with the division after June 30, 2009.**

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars ($100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred within one hundred eighty (180) days after the date of the violent crime for necessary:

(A) medical, chiropractic, hospital, dental, optometric, and ambulance services;

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(B) prescription drugs; and

(C) prosthetic devices;

that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income:

(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; or

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars ($1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars ($5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars ($3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

(g) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for a period

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not to exceed two (2) years after the date of the violent crime if:

(1) the victim or the victim's representative requests the extension; and

(2) medical records and other documentation provided by the attending medical providers indicate that an extension is appropriate.

(h) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for outpatient mental health counseling, established by subsection (d)(7), if the victim:

(1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);

(2) was under eighteen (18) years of age at the time of the alleged crime; and

(3) did not reveal the crime within two (2) years after the date of the alleged crime.

SECTION 7. IC 5-2-6.1-39, AS AMENDED BY P.L.41-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides **a forensic medical exam to an alleged sex crime victim, the hospital may also furnish** additional forensic services to ~~an~~ **the** alleged sex crime victim. ~~who cooperates with law enforcement under IC 16-21-8-5(b),~~ **However,** the ~~hospital shall furnish the~~ additional forensic services, **if furnished, shall be furnished** without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(c) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate~~

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~~with law enforcement under IC 16-21-8-5(b), the hospital may, with the victim's consent, seek reimbursement directly from the victim or any third party payer for any additional forensic services rendered by the hospital.~~

~~(d)~~ **(c)** Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

~~(e)~~ **(d)** When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(f)~~ **(e)** When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, ~~who cooperates with law enforcement under IC 16-21-8-5(b),~~ the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(g) When a medical service provider acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), the medical service provider may, with the victim's consent, seek reimbursement directly from the victim or any third party payer for additional forensic services rendered by the medical service provider.~~

~~(h)~~ **(f)** The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of

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the sex crime must be made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

~~(i)~~ **(g)** Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

SECTION 8. IC 35-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An owner or agent of a store who has probable cause to believe that a theft has occurred or is occurring on or about the store and who has probable cause to believe that a specific person has committed or is committing the theft:

(1) may:

~~(1)~~ **(A)** detain the person and request the person to identify himself **or herself;**

~~(2)~~ **(B)** verify the identification;

~~(3)~~ **(C)** determine whether the person has in ~~his~~ **the person's** possession unpurchased merchandise taken from the store;

~~(4)~~ **(D)** inform the appropriate law enforcement officers; and

~~(5)~~ **(E)** inform the **person's** parents or others interested in the person's welfare that the person has been detained; **but**

(2) shall not ask the person to make a statement that acknowledges that the person committed the theft or conversion or waives any of the person's legal rights if:

(A) the person is less than eighteen (18) years of age; and

(B) the person has not been afforded an opportunity to have a meaningful consultation with his or her parent, guardian, custodian, or guardian ad litem.

(b) **A statement acknowledging that a child committed theft or conversion in violation of subdivision (a)(2) cannot be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.**

(c) The detention must:

(1) be reasonable and last only for a reasonable time; and

(2) not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever first occurs.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 342, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 342 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 342, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, after line 11, begin a new paragraph and insert:

"SECTION 8. IC 35-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An owner or agent of a store who has probable cause to believe that a theft has occurred or is occurring on or about the store and who has probable cause to believe that a specific person has committed or is committing the theft:

(1) may:

~~(1)~~ **(A)** detain the person and request the person to identify himself **or herself;**

~~(2)~~ **(B)** verify the identification;

~~(3)~~ **(C)** determine whether the person has in ~~his~~ **the person's** possession unpurchased merchandise taken from the store;

~~(4)~~ **(D)** inform the appropriate law enforcement officers; and

~~(5)~~ **(E)** inform the **person's** parents or others interested in the person's welfare that the person has been detained; **but**

(2) shall not ask the person to sign a written instrument that acknowledges that the person committed the theft or waives any of the person's legal rights if:

(A) the person is less than eighteen (18) years of age; and

(B) no parent or guardian of the person is present at the time the person is asked to sign the written instrument.

(b) The detention must:

(1) be reasonable and last only for a reasonable time; and

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(2) not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever first occurs.".

and when so amended that said bill do pass.

(Reference is to SB 342 as printed February 13, 2009.)

LAWSON L, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 342 be amended to read as follows:

Page 8, line 27, delete "sign" and insert "**make**".

Page 8, line 27, delete "written instrument" and insert "**statement**".

Page 8, line 28, after "theft" insert "**or conversion**".

Page 8, line 31, delete "no parent or guardian of the person is present at the" and insert "**the person has not been afforded an opportunity to have a meaningful consultation with his or her parent, guardian, custodian, or guardian ad litem.**".

Page 8, delete line 32.

Page 8, line 33, after "(b)" insert "**A statement acknowledging that a child committed theft or conversion in violation of subdivision (a)(2) cannot be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.**

(c)".

(Reference is to ESB 342 as printed March 20, 2009.)

RIECKEN

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