



Reprinted
February 17, 2012

ENGROSSED
SENATE BILL No. 157

DIGEST OF SB 157 (Updated February 16, 2012 10:58 am - DI 106)

Citations Affected: IC 30-5; noncode.

Synopsis: Power of attorney and attorney in fact. Provides that a copy of the power of attorney has the same force and effect as the original power of attorney if the person granting the power of attorney certifies that the copy is a true and correct copy. Specifies that a child of the principal may request an accounting with respect to transactions entered into by an attorney in fact. Urges the legislative council to study issues related to powers of attorney during the 2012 interim.

Effective: July 1, 2012.

Steele, Bray

(HOUSE SPONSORS — FOLEY, KOCH)

January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 23, 2012, amended, reported favorably — Do Pass.

January 26, 2012, read second time, ordered engrossed.

January 27, 2012, engrossed.

January 31, 2012, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

January 9, 2012, read first time and referred to Committee on Judiciary.

February 14, 2012, reported — Do Pass.

February 16, 2012, read second time, amended, ordered engrossed.

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ES 157—LS 6604/DI 106+



Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 157

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

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

- 1 SECTION 1. IC 30-5-6-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The attorney in fact shall keep
3 complete records of all transactions entered into by the attorney in fact
4 on behalf of the principal:
5 (1) for six (6) years after the date of the transaction; or
6 (2) until the records are delivered to the successor attorney in fact;
7 whichever occurs first.
8 (b) Except as otherwise stated in the power of attorney, the attorney
9 in fact is not required to render an accounting. The attorney in fact shall
10 render a written accounting if an accounting is ordered by a court,
11 requested by the principal, a guardian appointed for the principal, a
12 **child of the principal**, or, upon the death of the principal, the personal
13 representative of the principal's estate, or an heir or legatee of the
14 principal.
15 (c) An attorney in fact shall deliver an accounting requested under
16 subsection (b) to:
17 (1) the principal;

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1 (2) a guardian appointed for the principal;
 2 (3) the personal representative of the principal's estate;
 3 (4) an heir of the principal after the death of the principal; or
 4 (5) a legatee of the principal after the death of the principal;
 5 not later than sixty (60) days after the date the attorney in fact receives
 6 the written request for an accounting. In the event of the principal's
 7 death, an accounting under this subsection must be requested not later
 8 than nine (9) months after the date of the principal's death.
 9 (d) Not more than one (1) accounting is required under this section
 10 in each twelve (12) month period unless the court, in its discretion,
 11 orders additional accountings.
 12 (e) If an attorney in fact fails to deliver an accounting as required
 13 under subsection (c), the person requesting the accounting may initiate
 14 an action in mandamus to compel the attorney in fact to render the
 15 accounting. The court may award the attorney's fees and court costs
 16 incurred under this subsection to the person requesting the accounting
 17 if the court finds that the attorney in fact failed to render an accounting
 18 as required under this section without just cause.
 19 SECTION 2. IC 30-5-8-5 IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2012]: Sec. 5. A copy of the power of attorney
 21 has the same force and effect as the original power of attorney if the
 22 attorney in fact **or the person granting the power of attorney**
 23 certifies that the copy is a true and correct copy.
 24 SECTION 3. [EFFECTIVE JULY 1, 2012] **(a) The general**
 25 **assembly urges the legislative council to assign to an existing study**
 26 **committee, for study during the 2012 legislative interim, the topic**
 27 **of powers of attorney.**
 28 **(b) This SECTION expires December 31, 2012.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 157, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 30-5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The attorney in fact shall keep complete records of all transactions entered into by the attorney in fact on behalf of the principal:

(1) for six (6) years after the date of the transaction; or
 (2) until the records are delivered to the successor attorney in fact; whichever occurs first.

(b) Except as otherwise stated in the power of attorney, the attorney in fact is not required to render an accounting. The attorney in fact shall render a written accounting if an accounting is ordered by a court, requested by the principal, a guardian appointed for the principal, a **child of the principal**, or, upon the death of the principal, the personal representative of the principal's estate, or an heir or legatee of the principal.

(c) An attorney in fact shall deliver an accounting requested under subsection (b) to:

(1) the principal;
 (2) a guardian appointed for the principal;
 (3) the personal representative of the principal's estate;
 (4) an heir of the principal after the death of the principal; or
 (5) a legatee of the principal after the death of the principal;
 not later than sixty (60) days after the date the attorney in fact receives the written request for an accounting. In the event of the principal's death, an accounting under this subsection must be requested not later than nine (9) months after the date of the principal's death.

(d) Not more than one (1) accounting is required under this section in each twelve (12) month period unless the court, in its discretion, orders additional accountings.

(e) If an attorney in fact fails to deliver an accounting as required under subsection (c), the person requesting the accounting may initiate an action in mandamus to compel the attorney in fact to render the accounting. The court may award the attorney's fees and court costs incurred under this subsection to the person requesting the accounting

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if the court finds that the attorney in fact failed to render an accounting as required under this section without just cause."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 157 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 157, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 157 be amended to read as follows:

Page 2, after line 23, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2012] (a) **The general assembly urges the legislative council to assign to an existing study committee, for study during the 2012 legislative interim, the topic of powers of attorney.**

(b) **This SECTION expires December 31, 2012.**"

(Reference is to ESB 157 as printed February 14, 2012.)

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