
HOUSE BILL No. 1502

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-6-2; IC 34-31-10.

Synopsis: Limited liability arising from trespassing. Provides that a person who possesses real property, including an owner, a lessee, a renter, or another lawful occupant of the real property, does not owe a duty of care to: (1) a trespasser, except to refrain from willfully or wantonly injuring the trespasser, after the trespasser has been discovered; or (2) an undiscovered trespasser; on the real property possessed by the person. Provides that a person who possesses real property may be subject to liability for bodily injury to or the death of a trespasser on the real property if: (1) the trespasser was a child and the injury or death was caused by specified conditions on the property; or (2) a structure or condition on the real property was in violation of a zoning ordinance at the time of the trespass.

Effective: July 1, 2013.

Morrison, McMillin

January 22, 2013, read first time and referred to Committee on Judiciary.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1502



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 34-6-2-21 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. (a) "Child", for
3 purposes of IC 34-23-2, has the meaning set forth in ~~IC 34-23-2~~.
4 **IC 34-23-2-1.**

5 (b) "Child", for purposes of IC 34-30-11, includes a child of any
6 age.

7 (c) "Child", for purposes of IC 34-31-4, means an unemancipated
8 person who is less than eighteen (18) years of age.

9 (d) **"Child", for purposes of IC 34-31-10, has the meaning set
10 forth in IC 34-31-10-1.**

11 SECTION 2. IC 34-6-2-143.9 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2013]: **Sec. 143.9. "Trespasser", for purposes
14 of IC 34-31-10, has the meaning set forth in IC 34-31-10-2.**

15 SECTION 3. IC 34-31-10 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]:



Chapter 10. Limited Liability Arising from Trespassing

Sec. 1. For purposes of this chapter, "child" means a person who is less than eighteen (18) years of age.

Sec. 2. For the purposes of this chapter, "trespasser" means a person who enters or remains on real property possessed by another person without:

- (1) a right to enter or remain on the real property;**
- (2) the consent of the other person; or**
- (3) an actual or implied invitation from the other person.**

Sec. 3. Except as provided in sections 4 and 5 of this chapter, a person who possesses real property, including an owner, a lessee, a renter, or another lawful occupant of the real property, does not owe a duty of care to:

- (1) a trespasser, except to refrain from willfully or wantonly injuring the trespasser, after the trespasser has been discovered; or**
 - (2) an undiscovered trespasser;**
- on the real property possessed by the person.**

Sec. 4. Notwithstanding section 3 of this chapter, a person who possesses real property may be subject to liability for bodily injury to or the death of a trespasser who is a child if all of the following apply:

- (1) The person who possessed the real property:**
 - (A) maintained or allowed a structure or condition on the real property; or**
 - (B) should have known that the structure or condition was present on the real property.**
- (2) The structure or condition on the real property described in subdivision (1) resulted in the bodily injury to or death of a trespasser who was a child.**
- (3) The structure or condition was particularly dangerous to a child.**
- (4) The danger described in subdivision (3) was latent, uncommon to nature, and unlikely to be comprehended by a child.**
- (5) The structure or condition:**
 - (A) was particularly attractive to a child; and**
 - (B) provided a special enticement for a child to enter or play upon.**
- (6) The bodily injury to or death of the child was a foreseeable result of maintaining or allowing the structure or condition on the real property.**

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1 **Sec. 5. Notwithstanding section 3 of this chapter, a person who**
2 **possesses real property may be subject to liability for bodily injury**
3 **to or the death of a trespasser on the real property if a structure or**
4 **condition on the real property was in violation of a zoning**
5 **ordinance at the time of the trespass.**

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