

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 191**

Citations Affected: IC 4-23-6.5; IC 36-2-14.

Synopsis: Coroner issues. Conference committee report for ESB 191. Prohibits disturbing a body, any evidence, and the scene of death until the coroner has photographed the body and law enforcement and the coroner have finished their investigation. Requires the coroner to positively identify a dead person by one of four specified methods. Requires the coroners training board (board), in consultation with the Indiana law enforcement academy, to create and offer an introductory training course and an annual training course for coroners and deputy coroners. Provides that the courses must include instruction regarding death investigation, crime scenes, and preservation of evidence at a crime scene for police and crime lab technicians. Requires the board to consult with a pathologist in creating the training courses. Requires each coroner and each deputy coroner to successfully complete: (1) the introductory training course; and (2) the annual training course. Provides that a coroner's or deputy coroner's paycheck shall be withheld for failing to successfully complete the training course or for failing to release specified reports unless certain conditions are met. Requires certain autopsy reports to be released to certain entities. Requires specified information concerning autopsy reports to be completed and available within a specified time frame. Allows a prosecuting attorney to petition a court to prohibit a coroner from releasing specified information if the release of the information would create a significant risk of harm to the criminal investigation of the death. (The introduced version of this bill was prepared by the interim committee on criminal justice matters.) **(This conference committee report does the following: Removes certain provisions relating to the Dr. Martin Luther King Jr. Indiana Holiday Commission. Provides that a coroner's or deputy coroner's paycheck shall be withheld for failing to successfully complete the training course or for failing to release specified reports unless certain conditions are met.)**

Effective: July 1, 2007.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 191 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 4-23-6.5-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board shall
4 adopt rules under IC 4-22-2 for the following:
5 (1) Standards for continuing education and training for county
6 coroners, **including education and training requirements set
7 forth in IC 36-2-14.**
8 (2) Mandatory training and continuing education requirements for
9 deputy coroners, **including education and training
10 requirements set forth in IC 36-2-14.**
11 (3) Minimum requirements for continuing education instructors
12 approved by the board.
13 (4) The necessary administration of this chapter.
14 SECTION 2. IC 4-23-6.5-10 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2007]: **Sec. 10. The board shall consult with the Indiana law
17 enforcement academy under IC 36-2-14-22.2 concerning criminal
18 investigations in the creation of:**
19 (1) **the training course for coroners and deputy coroners
20 under IC 36-2-14-22.2(a); and**
21 (2) **the annual training course for coroners and deputy
22 coroners under IC 36-2-14-22.2(b).**

1 SECTION 5. IC 36-2-14-6 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Whenever the
 3 coroner is notified that a person in the county:

- 4 (1) has died from violence;
- 5 (2) has died by casualty;
- 6 (3) has died when apparently in good health;
- 7 (4) has died in an apparently suspicious, unusual, or unnatural
- 8 manner; or
- 9 (5) has been found dead;

10 ~~he~~ **the coroner** shall, before the scene of the death is disturbed, notify
 11 a law enforcement agency having jurisdiction in that area. The agency
 12 shall assist the coroner in conducting an investigation of how the
 13 person died and a medical investigation of the cause of death.

14 (b) The coroner shall file with the person in charge of interment a
 15 coroner's certificate of death within seventy-two (72) hours after being
 16 notified of the death. If the cause of death is not established with
 17 reasonable certainty within seventy-two (72) hours, the coroner shall
 18 file with the person in charge of interment a coroner's certificate of
 19 death, with the cause of death designated as "deferred pending further
 20 action". As soon as ~~he~~ **the coroner** determines the cause of death, the
 21 coroner shall file a supplemental report indicating ~~his~~ **the** exact
 22 findings with the local health officer having jurisdiction, who shall
 23 make it part of ~~his~~ **the health officer's** official records.

24 (c) If this section applies, the body and the scene of death may not
 25 be disturbed until:

- 26 (1) the coroner has photographed them in the manner that most
- 27 fully discloses how the person died; **and**
- 28 (2) **law enforcement and the coroner have finished their initial**
- 29 **assessment of the scene of death.**

30 However, a coroner or law enforcement officer may order a body to be
 31 moved before photographs are taken if the position or location of the
 32 body unduly interferes with activities carried on where the body is
 33 found, but the body may not be moved from the immediate area and
 34 must be moved without substantially destroying or altering the
 35 evidence present.

36 (d) When acting under this section, if the coroner considers it
 37 necessary to have an autopsy performed, is required to perform an
 38 autopsy under subsection (f), or is requested by the prosecuting
 39 attorney of the county to perform an autopsy, the coroner shall employ
 40 a physician:

- 41 (1) certified by the American Board of Pathology; or
- 42 (2) holding an unlimited license to practice medicine in Indiana
- 43 and acting under the direction of a physician certified by the
- 44 American Board of Pathology;

45 to perform the autopsy. The physician performing the autopsy shall be
 46 paid a fee of at least fifty dollars (\$50) from the county treasury. A
 47 coroner may employ the services of the medical examiner system,
 48 provided for in IC 4-23-6-6, when an autopsy is required, as long as
 49 this subsection is met.

50 (e) If:

- 51 (1) at the request of:

- 1 (A) the decedent's spouse;
 2 (B) a child of the decedent, if the decedent does not have a
 3 spouse;
 4 (C) a parent of the decedent, if the decedent does not have a
 5 spouse or children;
 6 (D) a brother or sister of the decedent, if the decedent does not
 7 have a spouse, children, or parents; or
 8 (E) a grandparent of the decedent, if the decedent does not
 9 have a spouse, children, parents, brothers, or sisters;
 10 (2) in any death where two (2) or more witnesses who corroborate
 11 the circumstances surrounding death are present; and
 12 (3) two (2) physicians who are licensed to practice medicine in
 13 the state and who have made separate examinations of the
 14 decedent certify the same cause of death in an affidavit within
 15 twenty-four (24) hours after death;
 16 an autopsy need not be performed. The affidavits shall be filed with the
 17 circuit court clerk.

18 (f) A county coroner may not certify the cause of death in the case
 19 of the sudden and unexpected death of a child who is at least one (1)
 20 week old and not more than three (3) years old unless an autopsy is
 21 performed at county expense. However, a coroner may certify the cause
 22 of death of a child described in this subsection without the performance
 23 of an autopsy if subsection (e) applies to the death of the child.

24 SECTION 6. IC 36-2-14-6.5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2007]: **Sec. 6.5. (a) As used in this section, "DNA analysis" means**
 27 **an identification process in which the unique genetic code of an**
 28 **individual that is carried by the individual's deoxyribonucleic acid**
 29 **(DNA) is compared to genetic codes carried in DNA found in bodily**
 30 **substance samples obtained by a law enforcement agency in the**
 31 **exercise of the law enforcement agency's investigative function.**

32 (b) **As used in this section, "immediate family member" means,**
 33 **with respect to a particular dead person, an individual who is at**
 34 **least eighteen (18) years of age and who is one (1) of the following:**

- 35 (1) **The dead person's spouse.**
 36 (2) **The dead person's child.**
 37 (3) **The dead person's parent.**
 38 (4) **The dead person's grandparent.**
 39 (5) **The dead person's sibling.**

40 (c) **The coroner shall make a positive identification of a dead**
 41 **person unless extraordinary circumstances described in subsection**
 42 **(d) exist. In making a positive identification, the coroner shall**
 43 **determine the identity of a dead person by one (1) of the following**
 44 **methods:**

- 45 (1) **Fingerprint identification.**
 46 (2) **DNA analysis.**
 47 (3) **Dental record analysis.**
 48 (4) **Positive identification by at least one (1) of the dead**
 49 **person's immediate family members if the dead person's body**
 50 **is in a physical condition that would allow for the dead person**
 51 **to be reasonably recognized.**

1 **(d) For the purposes of subsection (c), extraordinary**
 2 **circumstances exist if, after a thorough investigation, the coroner**
 3 **determines that identification of the dead person is not possible**
 4 **under any of the four (4) methods described in subsection (c).**

5 SECTION 7. IC 36-2-14-18, AS AMENDED BY P.L.141-2006,
 6 SECTION 113, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) Notwithstanding
 8 IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the
 9 coroner is required to make available for public inspection and copying
 10 the following:

- 11 (1) The name, age, address, sex, and race of the deceased.
- 12 (2) The address where the dead body was found, or if there is no
 13 address the location where the dead body was found and, if
 14 different, the address where the death occurred, or if there is no
 15 address the location where the death occurred.
- 16 (3) The name of the agency to which the death was reported and
 17 the name of the person reporting the death.
- 18 (4) The name of any public official or governmental employee
 19 present at the scene of the death and the name of the person
 20 certifying or pronouncing the death.
- 21 (5) Information regarding an autopsy (requested or performed)
 22 limited to the date, the person who performed the autopsy, where
 23 the autopsy was performed, and a conclusion as to:
 - 24 (A) the probable cause of death;
 - 25 (B) the probable manner of death; and
 - 26 (C) the probable mechanism of death.
- 27 (6) The location to which the body was removed, the person
 28 determining the location to which the body was removed, and the
 29 authority under which the decision to remove the body was made.
- 30 (7) The records required to be filed by a coroner under section 6
 31 of this chapter and the verdict and the written report required
 32 under section 10 of this chapter.

33 (b) A county coroner or a coroner's deputy who receives an
 34 investigatory record from a law enforcement agency shall treat the
 35 investigatory record with the same confidentiality as the law
 36 enforcement agency would treat the investigatory record.

37 (c) Notwithstanding any other provision of this section, a coroner
 38 shall make available a full copy of an autopsy report, other than a
 39 photograph, video recording, or audio recording of the autopsy, upon
 40 the written request of the next of kin of the decedent or of an insurance
 41 company investigating a claim arising from the death of the individual
 42 upon whom the autopsy was performed. The insurance company is
 43 prohibited from publicly disclosing any information contained in the
 44 report beyond that information that may otherwise be disclosed by a
 45 coroner under this section. This prohibition does not apply to
 46 information disclosed in communications in conjunction with the
 47 investigation, settlement, or payment of the claim.

48 (d) Notwithstanding any other provision of this section, a coroner
 49 shall make available a full copy of an autopsy report, other than a
 50 photograph, video recording, or audio recording of the autopsy, upon
 51 the written request of:

- 1 (1) the director of the division of disability and rehabilitative
 2 services established by IC 12-9-1-1;
 3 (2) the director of the division of mental health and addiction
 4 established by IC 12-21-1-1; or
 5 (3) the director of the division of aging established by
 6 IC 12-9.1-1-1;

7 in connection with a division's review of the circumstances surrounding
 8 the death of an individual who received services from a division or
 9 through a division at the time of the individual's death.

10 **(e) Notwithstanding any other provision of this section, a**
 11 **coroner shall make available, upon written request, a full copy of**
 12 **an autopsy report, including a photograph, a video recording, or**
 13 **an audio recording of the autopsy, to:**

- 14 (1) the department of child services established by
 15 IC 31-25-1-1, including an office of the department located in
 16 the county where the death occurred;
 17 (2) the statewide child fatality review committee established
 18 by IC 31-33-25-6; or
 19 (3) a county child fatality review team or regional child
 20 fatality review team established under IC 31-33-24-6 by the
 21 county or for the county where the death occurred;

22 **for purposes of the entities described in subdivisions (1) through**
 23 **(3) conducting a review or an investigation of the circumstances**
 24 **surrounding the death of a child (as defined in IC 31-9-2-13(d)(1))**
 25 **and making a determination whether the death of the child was a**
 26 **result of abuse, abandonment, or neglect.**

27 **(f) Except as provided in subsection (g), the information**
 28 **required to be available under subsection (a) must be completed**
 29 **not later than fourteen (14) days after the completion of:**

- 30 (1) the autopsy report; or
 31 (2) if applicable, any other report, including a toxicology
 32 report, requested by the coroner as part of the coroner's
 33 investigation;

34 **whichever is completed last.**

35 **(g) The prosecuting attorney may petition a circuit or superior**
 36 **court for an order prohibiting the coroner from publicly disclosing**
 37 **the information required in subsection (a). The prosecuting**
 38 **attorney shall serve a copy of the petition on the coroner.**

39 **(h) Upon receipt of a copy of the petition described in subsection**
 40 **(g), the coroner shall keep the information confidential until the**
 41 **court rules on the petition.**

42 **(i) The court shall grant a petition filed under subsection (g) if**
 43 **the prosecuting attorney proves by a preponderance of the**
 44 **evidence that public access or dissemination of the information**
 45 **specified in subsection (a) would create a significant risk of harm**
 46 **to the criminal investigation of the death. The court shall state in**
 47 **the order the reasons for granting or denying the petition. An**
 48 **order issued under this subsection must use the least restrictive**
 49 **means and duration possible when restricting access to the**
 50 **information. Information to which access is restricted under this**
 51 **subsection is confidential.**

1 (j) Any person may petition the court to modify or terminate an
2 order issued under subsection (i). The petition for modification or
3 termination must allege facts demonstrating that:

- 4 (1) the public interest will be served by allowing access; and
5 (2) access to the information specified in subsection (a) would
6 not create a significant risk to the criminal investigation of the
7 death.

8 The person petitioning the court for modification or termination
9 shall serve a copy of the petition on the prosecuting attorney and
10 the coroner.

11 (k) Upon receipt of a petition for modification or termination
12 filed under subsection (j), the court may:

- 13 (1) summarily grant, modify, or dismiss the petition; or
14 (2) set the matter for hearing.

15 If the court sets the matter for hearing, upon the motion of any
16 party or upon the court's own motion, the court may close the
17 hearing to the public.

18 (l) If the person filing the petition for modification or
19 termination proves by a preponderance of the evidence that:

- 20 (1) the public interest will be served by allowing access; and
21 (2) access to the information specified in subsection (a) would
22 not create a significant risk to the criminal investigation of the
23 death;

24 the court shall modify or terminate its order restricting access to
25 the information. In ruling on a request under this subsection, the
26 court shall state the court's reasons for granting or denying the
27 request.

28 SECTION 8. IC 36-2-14-22.2 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2007]: Sec. 22.2. (a) The coroners training
31 board established by IC 4-23-6.5-3, in consultation with the
32 Indiana law enforcement academy, shall create and offer a training
33 course for coroners and deputy coroners. The training course must
34 include:

- 35 (1) at least forty (40) hours of instruction; and
36 (2) instruction regarding:
37 (A) death investigation;
38 (B) crime scenes; and
39 (C) preservation of evidence at a crime scene for police and
40 crime lab technicians.

41 (b) The coroners training board, in consultation with the
42 Indiana law enforcement academy shall create and offer an annual
43 training course for coroners and deputy coroners. The annual
44 training course must:

- 45 (1) include at least eight (8) hours of instruction; and
46 (2) cover recent developments in:
47 (A) death investigation;
48 (B) crime scenes; and
49 (C) preservation of evidence at a crime scene for police and
50 crime lab technicians.

51 (c) In creating the courses under subsections (a) and (b), the

1 coroners training board shall consult with a pathologist certified
2 by the American Board of Pathology regarding medical issues that
3 are a part of the training courses.

4 (d) All training in the courses offered under subsections (a) and
5 (b) that involves medical issues must be approved by a pathologist
6 certified by the American Board of Pathology.

7 (e) All training in the courses offered under subsections (a) and
8 (b) that involves crime scenes and evidence preservation must be
9 approved by a law enforcement officer.

10 (f) The coroners training board shall issue a coroner or deputy
11 coroner a certificate upon successful completion of the courses
12 described in subsections (a) and (b).

13 SECTION 9. IC 36-2-14-23 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2007]: Sec. 23. (a) Each coroner shall successfully complete the
16 training course offered under section 22.2(a) of this chapter within
17 six (6) months after taking office.

18 (b) Each deputy coroner shall successfully complete the training
19 course offered under section 22.2(a) of this chapter within one (1)
20 year after beginning employment with a coroner's office.

21 (c) Each coroner and each deputy coroner shall successfully
22 complete the annual training course offered under section 22.2(b)
23 of this chapter each year after the year in which the coroner or
24 deputy coroner received the training required by section 22.2(a) of
25 this chapter.

26 (d) After a coroner or deputy coroner has:

- 27 (1) successfully completed the training course as required
- 28 under subsection (a) or (b); and
- 29 (2) successfully completed the annual training course as
- 30 required under subsection (c);

31 the coroner or deputy coroner shall present a certificate or other
32 evidence to the county executive, or in the case of a county that
33 contains a consolidated city, the city-county council, that the
34 coroner or deputy coroner has successfully completed the training
35 required under subsection (a), (b), or (c).

36 (e) If a coroner or deputy coroner does not present a certificate
37 or other evidence to the county executive, or in the case of a county
38 that contains a consolidated city, the city-county council, that the
39 coroner or deputy coroner has successfully completed the training
40 required under subsection (a), (b), or (c), the county executive or
41 city-county council shall order the auditor to withhold the
42 paycheck of the coroner or deputy coroner until the coroner or
43 deputy coroner satisfies the respective training requirements under
44 subsections (a), (b), and (c), unless the county executive or
45 city-county council adopts a resolution finding that:

- 46 (1) the failure of the coroner or deputy coroner to complete
- 47 the respective training requirements under subsections (a),
- 48 (b), and (c) is the result of unusual circumstances;
- 49 (2) the coroner or deputy coroner is making reasonable
- 50 progress, under the circumstances, toward completing the
- 51 respective training requirements under subsections (a), (b),

1 **and (c); and**

2 **(3) in light of the unusual circumstances described in**
 3 **subdivision (1), withholding the paycheck of the coroner or**
 4 **deputy coroner would be unjust.**

5 **(f) If the county executive or city-county council orders an**
 6 **auditor to withhold a paycheck under subsection (e) and a coroner**
 7 **or deputy coroner later presents a certificate or other evidence to**
 8 **the county executive or city-county council that the coroner or**
 9 **deputy coroner has successfully completed training required under**
 10 **subsection (a), (b), or (c), the county executive or city-county**
 11 **council shall order the auditor to release all of the coroner's or**
 12 **deputy coroner's paychecks that were withheld from the coroner**
 13 **or deputy coroner.**

14 SECTION 10. IC 36-2-14-24 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2007]: **Sec. 24. (a) Except as provided in**
 17 **subsection (b), if a coroner does not release a written report**
 18 **required under section 10 of this chapter or a full copy of an**
 19 **autopsy report required under section 18 of this chapter as**
 20 **required by law, the county executive, or in the case of a county**
 21 **containing a consolidated city, the city-county council, shall order**
 22 **the auditor to withhold the paycheck of the coroner until the**
 23 **coroner properly releases the written report or full autopsy report,**
 24 **unless the county executive or city-county council adopts a**
 25 **resolution finding that:**

26 **(1) the failure of the coroner or deputy coroner to release the**
 27 **written report or full autopsy report is the result of unusual**
 28 **circumstances;**

29 **(2) the coroner or deputy coroner is making reasonable**
 30 **progress, under the circumstances, toward completing and**
 31 **releasing the written report or full autopsy report; and**

32 **(3) in light of the unusual circumstances described in**
 33 **subdivision (1), withholding the paycheck of the coroner or**
 34 **deputy coroner would be unjust.**

35 **(b) A county auditor may not withhold the paycheck of a**
 36 **coroner if a coroner is legally prohibited from releasing a written**
 37 **report or from releasing a full autopsy report. However, a coroner**
 38 **is required to release a written report or full autopsy report as**
 39 **soon as possible after the legal prohibition on releasing the written**
 40 **report or full autopsy report ceases to exist.**

41 **(c) If the county executive or city-county council orders an**
 42 **auditor to withhold a paycheck under subsection (a) and a coroner**
 43 **properly releases the written report or full autopsy report, the**
 44 **county executive or city-county council shall order the auditor to**
 45 **release all of the coroner's paychecks that were withheld from the**
 46 **coroner.**

(Reference is to ESB 191 as reprinted April 6, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 191

Signed by:

Senator Miller
Chairperson

Representative Tincher

Senator Sipes

Representative Buell

Senate Conferees

House Conferees