
HOUSE BILL No. 1417

AM141709 has been incorporated into January 27, 2026 printing.

Synopsis: Causes of action and damages.

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HB 1417—LS 7115/DI 149



January 27, 2026

Second Regular Session of the 124th General Assembly (2026)

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 2025 Regular Session of the General Assembly.

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HOUSE BILL No. 1417

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 34-6-2.1-59.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2026]: **Sec. 59.5. "Established public right",**
4 **for purposes of IC 34-11-10, has the meaning set forth in**
5 **IC 34-11-10-1.**

6 SECTION 2. IC 34-6-2.1-132, AS ADDED BY P.L.186-2025,
7 SECTION 176, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2026]: Sec. 132. "Noneconomic damages", for
9 purposes of IC 34-30-29.2 **and IC 34-51-1-4**, has the meaning set forth
10 in IC 34-30-29.2-2.

11 SECTION 3. IC 34-6-2.1-174.5 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2026]: **Sec. 174.5. "Public nuisance", for**
14 **purposes of IC 34-11-10, has the meaning set forth in**
15 **IC 34-11-10-1.**

16 SECTION 4. IC 34-6-2.1-207.5 IS ADDED TO THE INDIANA
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

[EFFECTIVE JULY 1, 2026]: **Sec. 207.5. "Unlawful condition", for purposes of IC 34-11-10, has the meaning set forth in IC 34-11-10-1.**

SECTION 5. IC 34-11-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Chapter 10. Limitations on a Public Nuisance Action

Sec. 1. The following definitions apply throughout this chapter:

(1) "Established public right" means a right, commonly held by all members of the public, to the use of public land, air, or water.

(2) "Governmental entity" means the state of Indiana or a state agency and does not mean a political subdivision, municipality, or unit.

(3) "Public nuisance" means an ongoing and unlawful condition that proximately causes an interference with an established public right.

(4) "Unlawful condition" means a circumstance that is expressly prohibited by state or federal law.

Sec. 2. For purposes of this chapter, an action or condition that is otherwise permitted by:

- (1) a local ordinance;
- (2) state or federal law; or
- (3) a court order;

is not a public nuisance.

Sec. 3. (a) A public nuisance cause of action is available to a governmental entity if the public nuisance is located within the jurisdiction of the governmental entity.

(b) Unless otherwise set forth in statute, a governmental entity may only bring a civil action concerning a public nuisance to seek prospective injunctive relief for abatement of the public nuisance.

(c) A governmental entity may only recover damages that are reasonably necessary to abate the public nuisance.

(d) A governmental entity may not recover money damages associated with a potential future harm.

Sec. 4. (a) Only one (1) public nuisance action may be brought against a defendant based on the same or substantially similar set of facts.

(b) A defendant may move to dismiss a second or subsequent public nuisance under subsection (a) if it is based on the same or substantially similar set of facts.

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1 **Sec. 5. Unless otherwise set forth in statute, it is an affirmative**
2 **defense to a cause of action brought under this chapter that the**
3 **defendant does not have actual control over the source of the**
4 **alleged public nuisance.**

5 **Sec. 6. (a) Except as provided in subsection (b), this chapter**
6 **shall not affect a local administrative code or ordinance, unless the**
7 **local administrative code or ordinance:**

- 8 **(1) provides for a civil cause of action; and**
- 9 **(2) is in conflict with the provisions of this chapter.**
- 10 **(b) Nothing in this chapter supersedes applicable building**
11 **codes, fire codes, or public health and safety laws.**

12 **Sec. 7. (a) This chapter applies to a cause of action filed on or**
13 **after July 1, 2026.**

14 **(b) Nothing in this chapter applies to a cause of action filed by**
15 **a private person, individual, or entity.**

16 SECTION 6. IC 34-50-1-6, AS AMENDED BY P.L.117-2024,
17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2026]: Sec. 6. (a) If:

- 19 (1) a recipient does not accept a qualified settlement offer; and
- 20 (2) the final judgment is less favorable to the recipient than the
- 21 terms of the qualified settlement offer;
- 22 the court shall award attorney's fees, costs, and expenses to the offeror
- 23 upon the offeror's motion.

24 (b) An award of attorney's fees, costs, and expenses under this
25 section must consist of attorney's fees at a rate of not more than two
26 hundred fifty dollars (\$250) per hour and other costs and expenses
27 incurred by the offeror after the date of the qualified settlement offer.
28 However, the award of attorney's fees, costs, and expenses may not
29 total more than ~~five thousand dollars (\$5,000):~~ **one hundred thousand**
30 **dollars (\$100,000).**

31 (c) A motion for an award of attorney's fees, costs, and expenses
32 under this section must be filed not more than thirty (30) days after
33 entry of judgment. The motion must be accompanied by an affidavit of
34 the offeror or the offeror's attorney establishing the amount of the
35 attorney's fees and other costs and expenses incurred by the offeror
36 after the date of the qualified settlement offer. The affidavit constitutes
37 prima facie proof of the reasonableness of the amount.

38 (d) Where appropriate, the court may order a judgment entered
39 against the offeror and in favor of the recipient reduced by the amount
40 of attorney's fees, costs, and expenses awarded to the offeror under this
41 section (or IC 34-4-44.6-8 before its repeal).

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