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HOUSE BILL No. 1417

Proposed Changes to January 27, 2026 printing by AM141709

DIGEST OF PROPOSED AMENDMENT

Private cause of action. Specifies that the limitations on a public nuisance action may only be brought by the state and do not apply to a cause of action filed by a private person. Removes the language from the bill concerning an award of attorney's fees, costs, and expenses as related to a qualified settlement offer.

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
- 18 [EFFECTIVE JULY 1, 2026]: **Sec. 207.5. "Unlawful condition",** for

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1 purposes of IC 34-11-10, has the meaning set forth in
2 IC 34-11-10-1.

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

6 **Chapter 10. Limitations on a Public Nuisance Action**

7 **Sec. 1. The following definitions apply throughout this**
8 **chapter:**

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

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

15 [(~~3~~) "Public nuisance" means an ongoing and unlawful
16 condition that proximately causes an interference with an
17 established public right.

18 (~~4~~) "Unlawful condition" means a circumstance that is
19 expressly prohibited by state or federal law.

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

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

25 is not a public nuisance.

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

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

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

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

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

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

42 ~~(c) A private person may only seek the following damages in a~~

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1 ~~cause of action brought under this section:~~
 2 ~~— (1) Prospective injunctive relief for abatement of the public~~
 3 ~~nuisance:~~
 4 ~~— (2) Compensatory damages:~~
 5 **>[] Sec. 5. Unless otherwise set forth in statute, it is an affirmative**
 6 **defense to a cause of action brought under this chapter that the**
 7 **defendant does not have actual control over the source of the**
 8 **alleged public nuisance.**
 9 **Sec. 6. (a) Except as provided in subsection (b), this chapter**
 10 **shall not affect a local administrative code or ordinance, unless the**
 11 **local administrative code or ordinance:**
 12 **(1) provides for a civil cause of action; and**
 13 **(2) is in conflict with the provisions of this chapter.**
 14 **(b) Nothing in this chapter supersedes applicable building**
 15 **codes, fire codes, or public health and safety laws.**
 16 **Sec. 7. [(a)] This chapter applies to a cause of action filed on or**
 17 **after July 1, 2026.**
 18 **[(b) Nothing in this chapter applies to a cause of action filed by**
 19 **a private person, individual, or entity.**
 20 **] SECTION 6. IC 34-50-1-6, AS AMENDED BY P.L.117-2024,**
 21 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 22 **JULY 1, 2026]: Sec. 6. (a) If:**
 23 **(1) a recipient does not accept a qualified settlement offer; and**
 24 **(2) the final judgment is less favorable to the recipient than the**
 25 **terms of the qualified settlement offer;**
 26 **the court shall award attorney's fees, costs, and expenses to the offeror**
 27 **upon the offeror's motion.**
 28 **(b) An award of attorney's fees, costs, and expenses under this**
 29 **section must consist of attorney's fees at a rate of not more than two**
 30 **hundred fifty dollars (\$250) per hour and other costs and expenses**
 31 **incurred by the offeror after the date of the qualified settlement offer.**
 32 **However, the award of attorney's fees, costs, and expenses may not**
 33 **total more than five thousand dollars (\$5,000): one hundred thousand**
 34 **dollars (\$100,000).**
 35 **(c) A motion for an award of attorney's fees, costs, and expenses**
 36 **under this section must be filed not more than thirty (30) days after**
 37 **entry of judgment. The motion must be accompanied by an affidavit of**
 38 **the offeror or the offeror's attorney establishing the amount of the**
 39 **attorney's fees and other costs and expenses incurred by the offeror**
 40 **after the date of the qualified settlement offer. The affidavit constitutes**
 41 **prima facie proof of the reasonableness of the amount.**
 42 **(d) Where appropriate, the court may order a judgment entered**

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1 against the offeror and in favor of the recipient reduced by the amount
2 of attorney's fees, costs, and expenses awarded to the offeror under this
3 section (or IC 34-4-44.6-8 before its repeal).
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