



December 11, 2025

SENATE BILL No. 71

DIGEST OF SB 71 (Updated December 9, 2025 4:19 pm - DI 140)

Citations Affected: IC 2-5; IC 29-3; IC 30-2; IC 30-4; IC 30-5; IC 32-17; IC 32-28.

Synopsis: Various probate matters. Establishes the guardianship code revision task force (task force) to study a recodification of the current guardianship code with any necessary changes. Sets forth the membership, and requires the task force to issue a report to the general assembly and the governor. Allows a person indebted to a minor or having possession of property belonging to a minor to pay the debt or deliver the property without a court order in an amount up to \$25,000 and to pay the debt or deliver the property to a custodian under the Indiana Uniform Transfers to Minors Act. Specifies that a court may do the following when issuing a protective order: (1) authorize delivery of property to a custodian under the Indiana Uniform Transfers to Minors Act; and (2) order a trustee, custodian, or other person to file periodic reports concerning certain property transactions of a minor. Allows a person having the care and custody of a minor with whom the minor resides to petition a court to compromise a claim on behalf of the minor. Requires a court to hold a hearing on certain petitions concerning a proposal to compromise a claim on behalf of a minor and allows a court to appoint a guardian ad litem, an attorney, or other representative to represent the best interest of the minor in the proceeding. Provides that, under the Indiana Uniform Transfers to Minors Act, a trustee or administrator of certain plans may transfer funds due under a plan to the custodian of a minor who is designated as a beneficiary. Allows a custodian to transfer part or all of the minor's custodial property out of the custodial form under the Indiana Uniform

(Continued next page)

Effective: July 1, 2026.

Carrasco, Koch

December 8, 2025, read first time and referred to Committee on Judiciary.
December 10, 2025, reported favorably — Do Pass.

SB 71—LS 6102/DI 149



Transfers to Minors Act to certain types of trusts or accounts without a court order. Provides that when a power of appointment in a trust (earlier power) is exercised to create another power of appointment (subsequent power) or another nonvested property interest, then the subsequent power or nonvested property interest created through the exercise of the earlier power is considered to have been created at the time of the creation of the earlier power, unless: (1) the instrument creating the earlier power; or (2) the instrument exercising the earlier power; explicitly provides that the subsequent power or nonvested property interest is considered to have been created at the time of the irrevocable exercise of the earlier power. Specifies that language conferring general authority in a power of attorney with respect to personal or family maintenance authorizes an attorney in fact to take certain actions on behalf of the principal for the benefit of the principal and the principal's spouse, children, and other persons customarily supported by the principal. Removes the authorization to employ or contract with servants or companions from the description of health care powers. Provides that the application is only to a lifetime or inter vivos transfer of property to a trust or similar arrangement under which the spouse of the transferor is granted an earlier power that can be exercised during the spouse's lifetime or upon the spouse's death to create a subsequent limited power of appointment or another nonvested property interest. Provides that the exercise of the earlier power or another nonvested property interest is considered to have been created at the time of the creation of the earlier power by the transferor. Specifies that certain written agreements executed between an owner of residential real property and a family member, attorney in fact, health care representative, or guardian that provide for an ownership interest in the residential real property are not prohibited residential real estate service agreements. (The introduced version of this bill was prepared by the probate code study committee.)



December 11, 2025

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.

SENATE BILL No. 71

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

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

1 SECTION 1. IC 2-5-56 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2026]:

4 **Chapter 56. Guardianship Code Revision Task Force**

5 **Sec. 1. As used in this chapter, "task force" refers to the**
6 **guardianship code revision task force established by section 2 of**
7 **this chapter.**

8 **Sec. 2. The guardianship code revision task force is established**
9 **as a temporary task force serving the general assembly.**

10 **Sec. 3. (a) The task force consists of the following eleven (11)**
11 **voting members:**

12 **(1) Two (2) members of the senate, appointed as follows:**

13 **(A) One (1) member appointed by the president pro**
14 **tempore.**

15 **(B) One (1) member appointed by the minority leader of**

SB 71—LS 6102/DI 149



- 1 the senate.
- 2 (2) Two (2) members of the house of representatives,
- 3 appointed as follows:
- 4 (A) One (1) member appointed by the speaker.
- 5 (B) One (1) member appointed by the minority leader of
- 6 the house of representatives.
- 7 (3) A representative from an area agency on aging appointed
- 8 by the governor.
- 9 (4) A representative of the Indiana supreme court's adult
- 10 guardianship office.
- 11 (5) Two (2) private attorneys who practice guardianship or
- 12 elder law appointed by the governor.
- 13 (6) A manager or trained volunteer from a volunteer
- 14 advocates for seniors and incapacitated adults (VASIA)
- 15 recipient program appointed by the governor.
- 16 (7) One (1) probate court judge appointed by the governor.
- 17 (8) A representative of Indiana Disability Rights.
- 18 (b) Not later than July 31, 2026, the:
- 19 (1) chairperson of the legislative council shall select a member
- 20 of the task force to serve as the chairperson of the task force;
- 21 and
- 22 (2) vice chairperson of the legislative council shall select a
- 23 member of the task force to serve as the vice chairperson of
- 24 the task force.
- 25 The members selected under subdivisions (1) and (2) shall serve as
- 26 chairperson and vice chairperson, respectively, for the duration of
- 27 the task force.
- 28 (c) A member of the task force serves for the duration of the
- 29 task force.
- 30 (d) If a vacancy occurs on the task force, the appointing
- 31 authority that appointed the member whose position is vacant shall
- 32 appoint an individual to fill the vacancy. An individual appointed
- 33 to fill a vacancy must have the qualifications that the vacating
- 34 member must have. An individual appointed to fill a vacancy
- 35 serves for the remainder of the task force's duration.
- 36 (e) Appointments to the task force under this section must be
- 37 made not later than July 30, 2026.
- 38 Sec. 4. (a) Six (6) members of the task force constitute a quorum.
- 39 (b) The affirmative vote of at least a majority of the members at
- 40 a meeting at which a quorum is present is necessary for the task
- 41 force to take action on any measure, including final reports, other
- 42 than to meet and take testimony.



(c) The task force shall meet at the call of the chairperson.

Sec. 5. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force shall be subject to the requirements of IC 5-14-3.

Sec. 6. The task force shall study the following:

(1) Recodification of IC 29-3 (guardianships and protective proceedings) in a style that is clear, concise, and easy to interpret and apply.

(2) Improvements to the guardianship code that:

(A) increase procedural protections for minors and adults who are subject to a guardianship procedure, including enforcement mechanisms concerning supported decision making;

(B) clearly distinguish between adult and minor guardianships; and

(C) update terminology, including the use of people first and person centered language.

Sec. 7. The task force shall make recommendations based upon the study conducted under section 6 of this chapter.

Sec. 8. (a) The task force may, not later than November 1, 2026, prepare a status report describing the progress made under section 6 of this chapter. The status report may also contain proposed legislation based on recommendations made under this chapter.

(b) If the report submitted under subsection (a), does not contain proposed legislation, the task force shall, not later than November 1, 2027, submit a report of proposed legislation based on recommendations made under this chapter.

(c) A report issued under this section must be submitted:

(1) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly; and

(2) to the governor.

Sec. 9. The legislative services agency shall provide staff support to the task force.

Sec. 10. (a) Each legislative member and each lay member of the task force is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on an interim study committee established by the legislative council.

(b) A member of the task force who is a state employee is not entitled to a per diem. However, the member is entitled to receive the same travel allowances paid to members of the task force



described in subsection (a).

Sec. 11. The task force's expenses, including the payment of per diem, mileage, and travel allowances under section 10 of this chapter, are payable from amounts appropriated to the legislative council.

Sec. 12. This chapter expires December 31, 2027.

SECTION 2. IC 29-3-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) Any person indebted to a minor or having possession of property belonging to a minor in an amount not exceeding ~~ten~~ **twenty-five** thousand dollars ~~(\$10,000)~~ **(\$25,000)** may pay the debt or deliver the property without the appointment of a guardian, giving of bond, or other order of court directly to:

(1) any person having the care and custody of the minor with whom the minor resides; **or**

(2) a custodian for the benefit of the minor under IC 30-2-8.5.

(b) Persons receiving property for a minor under this section are obligated to apply the property to the support, use, and benefit of the minor.

(c) This section does not apply if the person paying or delivering the property knows that a guardian has been appointed for the minor or that proceedings for appointment of a guardian for the minor are pending.

(d) A person who pays or delivers property in accordance with this section in good faith is not responsible for the proper application of that property.

SECTION 3. IC 29-3-4-1, AS AMENDED BY P.L.6-2010, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) Upon petition by any person and after a hearing under IC 29-3-5, the court may issue, without the appointment of a guardian, any protective order for the benefit of a person who has been adjudicated an incapacitated person or is a minor.

(b) Notice of the filing of a petition under this chapter for the issuance of a protective order and the hearing on the petition shall be given under IC 29-3-6.

(c) Incapacitated persons and minors have the same rights at the hearing on a petition filed under this chapter for the issuance of a protective order as they would have at a hearing for the appointment of a guardian.

(d) The court may issue a protective order concerning an incapacitated person if the court finds that:

(1) the incapacitated person:

(A) owns property or has income requiring management or



- 1 protection that cannot otherwise be provided;
- 2 (B) has or may have financial or business affairs that may be
- 3 jeopardized or impaired; or
- 4 (C) has property that needs to be managed to provide for the
- 5 support or protection of the incapacitated person;
- 6 (2) the incapacitated person is unable to manage the incapacitated
- 7 person's property and financial or business affairs effectively; and
- 8 (3) the protection sought is necessary.

9 The court shall make the orders that it considers proper and appropriate
10 to protect the person, business affairs, and property of the incapacitated
11 person.

12 (e) The court may issue a protective order concerning a minor if the
13 court finds that:

- 14 (1) the minor:
 - 15 (A) owns property or has income requiring management or
 - 16 protection that cannot otherwise be provided;
 - 17 (B) has or may have financial or business affairs that may be
 - 18 jeopardized or impaired; or
 - 19 (C) has property that needs to be managed to provide for the
 - 20 support or protection of the minor; and
- 21 (2) the protection sought is necessary.

22 The court shall make the orders it considers proper and appropriate to
23 protect the person, business affairs, and property of the minor.

24 (f) If the court finds grounds for a protective order under subsection
25 (d) or (e), it may, without appointing a guardian, declare the person to
26 be a protected person and authorize or ratify any transaction necessary
27 or desirable to meet the needs of the protected person. Protective
28 arrangements include the following:

- 29 (1) The payment, delivery, deposit, or retention of property,
- 30 **including delivery of property to a custodian under**
- 31 **IC 30-2-8.5.**
- 32 (2) The sale, mortgage, lease, or other transfer of property.
- 33 (3) The entry into an annuity contract, a contract for life care, a
- 34 deposit contract, or a contract for training and educating a person.
- 35 (4) The addition to or establishment of a suitable trust.

36 **A court may order a trustee, custodian, or other person to file**
37 **periodic reports concerning a transaction involving property of a**
38 **minor ordered under subdivisions (1) through (4).**

39 SECTION 4. IC 29-3-9-7, AS AMENDED BY P.L.56-2020,
40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2026]: Sec. 7. (a) Whenever it is proposed to compromise any
42 claim by or against a protected person or the protected person's



property, the court, on petition of the guardian, may enter an order authorizing the compromise to be made if satisfied that the compromise will be in the best interest of the protected person.

(b) Whenever a minor has a disputed claim against another person, whether arising in contract, tort, or otherwise, and a guardian for the minor and the minor's property has not been appointed:

(1) the parents of the minor; or

(2) any other person having the care and custody of the minor with whom the minor resides;

may ~~petition a court to~~ compromise the claim. ~~However, before the compromise is valid, it must be approved by the court upon filing of a petition requesting the court's approval. A petition filed under this subsection may be combined with a petition for a protective order filed under IC 29-3-4-1. The court must hold a hearing on a petition filed under this subsection before issuing an order to approve the compromise. A guardian ad litem, an attorney, or another representative may be appointed to represent the best interest of the minor in a proceeding held under this subsection.~~

(c) If the court approves the compromise, it may direct that the settlement be paid in accordance with IC 29-3-3-1 **or in accordance with a protective order entered under IC 29-3-4-1.** If IC 29-3-3-1 **is or IC 29-3-4-1** are not applicable, the court shall require that a guardian be appointed and that the settlement be delivered to the guardian upon the terms that the court directs.

~~(c)~~ **(d)** Any exhibit demonstrating a compromise on behalf of a protected person or a minor and any testimony related to such compromise that is offered or admitted into evidence in a legal proceeding commenced under this section shall be maintained by the court as a confidential court record. The confidential exhibits and record may not be used in any other proceeding or for any other person.

~~(d)~~ **(e)** Subsection ~~(c)~~ **(d)** does not prohibit the following persons from having access to the confidential exhibits and record for the purpose of learning, confirming, and enforcing the economic terms of the compromise, for the purpose of enforcing or modifying any trust that is funded under the compromise, or for the purpose of obtaining a qualified order with respect to a structured settlement under IC 34-50-2 and 26 U.S.C. 5891(b):

(1) The attorney of record for the incapacitated person or minor.

(2) A guardian or guardian ad litem appointed for the incapacitated person or minor by a court of competent jurisdiction, and the attorney, if any, for the guardian or guardian ad litem.



(3) Each current trustee or trust director that participates in the administration of a trust funded under the compromise and the attorneys of record for each current trustee or trust director.

(4) A prospective successor trustee or successor trust director that is proposed to serve in the administration of a trust funded under the compromise.

SECTION 5. IC 30-2-8.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 22. (a) A person not subject to section 20 or 21 of this chapter that holds property of or owes a liquidated debt to a minor not having a guardian may make an irrevocable transfer to a custodian for the benefit of the minor under section 24 of this chapter.

(b) If a person having the right to nominate a custodian under section 18 of this chapter has nominated a custodian under that section to receive the custodial property, the transfer shall be made to the custodian.

(c) A trustee or administrator of a retirement plan, life insurance plan, or employee profit or stock sharing plan of which a minor is a designated beneficiary may transfer funds due under the plan to the minor under subsection (a).

SECTION 6. IC 30-2-8.5-29, AS AMENDED BY P.L.95-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 29. (a) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(1) the duty or ability of the custodian personally or of any other person to support the minor; or

(2) any other income or property of the minor that may be applicable or available for the support of the minor.

(b) At any time and without a court order, a custodian may transfer part or all of the custodial property to:

(1) a trust, including a trust created by the custodian, in which:

(1) (A) the minor is the sole beneficiary of the trust; and

(2) (B) the terms of the trust satisfy the requirements of Section 2503(c) of the Internal Revenue Code and the regulations under that section.

~~The transfer terminates the custodianship of the property to the extent of the transfer:~~

(2) an account, including an account created by the custodian, in which:

(A) the minor is the sole beneficiary of the account; and



- (B) the terms of the account satisfy the requirements of:
- (i) Section 529 of the Internal Revenue Code; or
 - (ii) IC 21-9 (education savings programs);
- (3) a qualified disability trust, including a qualified disability trust created by the custodian, in which:
- (A) the minor, who has been determined to have a qualifying disability, is the sole beneficiary of the qualified disability trust; and
 - (B) the terms of the qualified disability trust satisfy the requirements of Section 642(b)(2)(C)(ii) of the Internal Revenue Code;
- (4) an account established within a pooled trust managed by a nonprofit organization in which:
- (A) the minor, who has been determined to have a qualifying disability, is the sole beneficiary of the account; and
 - (B) the pooled trust satisfies the requirements of 42 U.S.C. 1396p(d)(4)(C); or
- (5) a qualified ABLE account, including an ABLE account created by a custodian, in which:
- (A) the minor is the exclusive designated beneficiary of the ABLE account; and
 - (B) the ABLE account satisfies the requirements of:
 - (i) Section 529A of the Internal Revenue Code; and
 - (ii) IC 12-11-14 (Achieving a Better Life Experience (ABLE) program).

A transfer made under this subsection terminates the custodianship of the property to the extent of the transfer.

(c) On petition of an interested person or the minor if the minor is at least fourteen (14) years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

(d) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect an obligation of a person to support the minor. **A custodian may not use custodial property to satisfy any legal support obligation owed to the minor by the custodian.**

SECTION 7. IC 30-4-5-26, AS ADDED BY P.L.61-2024, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 26. (a) If the trustee has the full, unrestricted power to alienate trust property and the trust expressly states that this



exception applies to the trust, IC 32-17-8-3 shall apply to a nonvested property interest or power of appointment contained in the trust by substituting three hundred sixty (360) years instead of ninety (90) years in each place where the term appears in IC 32-17-8-3, unless the terms of the trust require that all beneficial interests in the trust vest or terminate within a lesser period.

(b) When a power of appointment in a trust ("~~first power~~") ("**earlier power**") is exercised to create another power of appointment ("~~second power~~"), ("**subsequent power**") or **another nonvested property interest**, then ~~a the subsequent power or~~ nonvested property interest ~~or second power~~ created through the exercise of the ~~first~~ **earlier** power is considered to have been created at the time of ~~irrevocable exercise~~ **the creation** of the ~~first~~ **earlier** power, unless:

(1) the instrument ~~exercising creating~~ the ~~first~~ **earlier** power; or

(2) **the instrument exercising the earlier power;**

explicitly provides that the ~~second subsequent~~ power ~~was or~~ **nonvested property interest is considered to have been** created at the time of ~~creation the irrevocable exercise~~ of the ~~first~~ **earlier** power.

SECTION 8. IC 30-5-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 12. (a) Language conferring general authority with respect to **personal maintenance or** family maintenance means the principal authorizes the attorney in fact to do the following:

(1) Perform acts necessary for maintaining the customary standard of living of the **principal and the principal's** spouse, children, and other persons customarily supported by the principal, including the power to provide the following:

(A) Living quarters by purchase, lease, or other contract, or by payment of operating costs, including interest, amortization payments, repairs, and taxes on premises owned by the principal and occupied by the **principal or the** principal's family, or dependents.

(B) Normal domestic help for the operation of the household.

(C) Usual vacation and travel expenses.

(D) Usual educational facilities.

(E) Funds for all the current living costs of the **principal and the principal's** spouse, children, and other dependents, including shelter, clothing, food, and incidentals.

(2) Pay for necessary medical, dental, and surgical care, hospitalization and custodial care for the **principal and the principal's** spouse, children, and other dependents. ~~of the principal.~~



1 (3) Continue provisions made by the principal before or after the
2 execution of the power of attorney for the **principal and the**
3 principal's spouse, children, and other persons customarily
4 supported by the principal with respect to automobiles or other
5 means of transportation, including the power to license, insure,
6 and replace automobiles owned by the principal and customarily
7 used by the **principal or the principal's** spouse, children, or
8 other persons customarily supported by the principal.

9 (4) Continue charge accounts that have been operated by the
10 principal before or after the execution of the power of attorney for
11 the convenience of the **principal or the** principal's spouse,
12 children, or other persons customarily supported by the principal,
13 open new accounts the attorney in fact considers desirable to
14 accomplish a purpose permitted under this section and pay the
15 items charged on those accounts by a person authorized or
16 permitted by the principal to make charges prior to the execution
17 of the power of attorney.

18 (5) Continue payments incidental to membership or affiliation of
19 the principal in a church, a club, a society, an order, or other
20 organization and continue contributions to those organizations.

21 (6) Demand, receive, or obtain by action or proceeding money or
22 other things of value to which the principal is or may become
23 entitled as salary, wages, commission, or other remuneration for
24 services performed, as a dividend or distribution on a stock, as
25 interest or principal on an indebtedness, or as a periodic
26 distribution of profits for a partnership or business in which the
27 principal has or claims an interest and endorse, collect, or
28 otherwise realize upon an instrument for the payment received.

29 (7) Use an asset of the principal for the performance of a power
30 permitted under this section, including the power to draw money
31 by check or otherwise from a bank deposit of the principal, sell an
32 interest in real property, a bond, a share, a commodity interest,
33 tangible personal property, or other asset of the principal, borrow
34 money and pledge as security for a loan an asset, including
35 insurance, that belongs to the principal.

36 (8) Execute, acknowledge, verify, seal, file, and deliver an
37 application, a consent, a petition, a notice, a release, a waiver, an
38 agreement, or other instrument that the attorney in fact considers
39 useful to accomplish a purpose permitted under this section.

40 (9) Hire, discharge, and compensate an attorney, accountant,
41 expert witness, or other assistant when the attorney in fact
42 considers the action to be desirable for the proper execution by



the attorney in fact of a power described in this section and keep needed records.

(10) Perform any other acts for the welfare of the spouse, children, or other persons customarily supported by the principal or for the preservation and maintenance of other personal relationships of the principal to parents, relatives, friends, and organizations as are appropriate.

(b) The powers described in this section are exercisable equally whether the acts required for their execution relate to real or personal property owned by the principal at the time of the giving of the power of attorney or acquired after that time, whether located in Indiana or in another jurisdiction.

SECTION 9. IC 30-5-5-16, AS AMENDED BY P.L.38-2023, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 16. (a) This section does not prohibit an individual capable of consenting to the individual's own health care or to the health care of another from consenting to health care administered in good faith under the religious tenets and practices of the individual requiring health care.

(b) Language conferring general authority with respect to health care powers means the principal authorizes the attorney in fact to do the following:

(1) Employ or contract with ~~servants, companions, or~~ health care providers to care for the principal.

(2) Consent to or refuse health care for the principal who is an individual in accordance with IC 16-36-4 and IC 16-36-1 by properly executing and attaching to the power of attorney a declaration or appointment, or both.

(3) Admit or release the principal from a hospital or health care facility.

(4) Have access to records, including medical records, concerning the principal's condition.

(5) Make anatomical gifts on the principal's behalf.

(6) Request an autopsy.

(7) Make plans for the disposition of the principal's body, including executing a funeral planning declaration on behalf of the principal in accordance with IC 29-2-19.

(c) Except as provided in subsection (d), if an individual has executed both:

(1) a power of attorney under this article that authorizes an attorney in fact to apply for public benefits on behalf of the individual; and



(2) an advance directive under IC 16-36-7 that authorizes a health care representative to apply for public benefits on behalf of the individual under IC 16-36-7-36(a)(6);
the authority of the attorney in fact described in subdivision (1) to apply for public benefits on behalf of the individual and to access the individual's assets, income, and banking and financial assets supersedes the authority of the health care representative described in subdivision (2).

(d) The authority of a health care representative described in subsection (c)(2) supersedes the authority of an attorney in fact described in subsection (c)(1) to apply for public benefits on behalf of the individual if the individual has specifically granted the authority of the health care representative to supersede the authority of the attorney in fact in the executed power of attorney.

(e) Notwithstanding any other law, a document granting health care powers to an attorney in fact for health care may not be executed under this chapter after December 31, 2022. However, if a power of attorney that is executed after December 31, 2022, is written to grant both:

(1) health care powers; and

(2) nonhealth care powers under this chapter;

to an attorney in fact, the health care powers are void, but all other powers granted by the power of attorney will remain effective and enforceable under this article.

SECTION 10. IC 32-17-8-3.5, AS ADDED BY P.L.61-2024, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3.5. When ~~the an~~ initial power of appointment in a ~~legacy~~ trust is exercised to create a ~~second~~ **subsequent** power of appointment **or nonvested property interest, the subsequent power of appointment or a nonvested property interest or the second power of appointment** created through the exercise of the initial power of appointment is considered to have been created at the time of the ~~irrevocable exercise creation~~ of the initial power of appointment, unless:

(1) the instrument ~~exercising creating~~ the initial power of appointment; **or**

(2) **the instrument exercising the initial power of appointment;**

explicitly provides that the ~~second subsequent~~ power of appointment ~~was is considered to have been~~ created at the time of the ~~creation~~ **irrevocable exercise** of the initial power of appointment.

SECTION 11. IC 32-17-8-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2026]: **Sec. 4.5. For all purposes under this chapter and IC 30-4-5-26, this section applies only to a lifetime or inter vivos transfer of property to a trust or similar arrangement under which the spouse of the transferor is granted a limited power of appointment ("earlier power") that can be exercised during the spouse's lifetime or upon the spouse's death to create a subsequent limited power of appointment or another nonvested property interest. The exercise of the earlier power or another nonvested property interest is considered to have been created at the time of the creation of the earlier power by the transferor.**

SECTION 12. IC 32-28-15-1, AS ADDED BY P.L.62-2024, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) Except as otherwise provided in this chapter, this chapter does not apply to a residential real estate service agreement entered into before March 15, 2024.

(b) This chapter does not apply to any of the following:

(1) A home warranty or similar product that covers the cost of maintenance of a major home system, such as:

(A) a plumbing system;

(B) a heating, cooling, and ventilation system; or

(C) electrical wiring;

for a fixed period.

(2) An insurance contract.

(3) An option to purchase residential real estate or a right of refusal to purchase residential real estate.

(4) A declaration that is created in the formation of:

(A) an association of co-owners (as defined in IC 32-25-2-2) for a condominium (as defined in IC 32-25-2-7); or

(B) a homeowners association (as defined in IC 32-25.5-2-4); including any amendment to the declaration.

(5) A maintenance or repair agreement entered into by:

(A) an association of co-owners (as defined in IC 32-25-2-2) for a condominium (as defined in IC 32-25-2-7); or

(B) a homeowners association (as defined in IC 32-25.5-2-4).

(6) A mortgage loan or a commitment to make or receive a mortgage loan.

(7) A security agreement under IC 26-1 concerning the sale or rental of personal property or fixtures.

(8) Providers of:

(A) utility services, including water, sewer, gas, or electric service; or

(B) communications service (as defined in IC 8-1-32.5-3).



- 1 (9) A land contract (as defined in IC 24-9-2-9.5).
- 2 (10) An attorney's lien authorized by IC 33-43-4.
- 3 (11) A statutory lien authorized by this article, including:
- 4 (A) the lien of a broker company (as defined in
- 5 IC 32-28-12.5-0.5) upon commercial real estate under
- 6 IC 32-28-12.5-5; or
- 7 (B) a mechanic's or materialman's lien under IC 32-28-3.
- 8 **(12) A written agreement executed between an individual who**
- 9 **owns residential real property and:**
- 10 **(A) a family member of the individual;**
- 11 **(B) the individual's attorney in fact through a power of**
- 12 **attorney;**
- 13 **(C) the individual's health care representative through a**
- 14 **health care advanced directive; or**
- 15 **(D) a guardian of the individual's person or estate;**
- 16 **in which the person described in clauses (A) through (D)**
- 17 **agrees to pay or provide for the maintenance, repair, costs, or**
- 18 **upkeep of the residential real property. An agreement under**
- 19 **this subdivision may grant or convey an interest in the**
- 20 **residential real property to a person described in clauses (A)**
- 21 **through (D) or the interest in the residential real property**
- 22 **may be secured by a lien.**



COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 71 as introduced.)

BROWN L, Chairperson

Committee Vote: Yeas 8, Nays 0

SB 71—LS 6102/DI 149

