

What Families Need to Know About Wrongful Death Claims in Indiana

Our Fort Wayne Wrongful Death Lawyers Explain the Legal Process

Losing someone you love due to a preventable accident is devastating in every way. The grief is real, the financial consequences are immediate, and the idea of navigating a legal claim in the middle of all of it can feel confusing and overwhelming. Indiana's [wrongful death](#) laws exist precisely for this situation. They give families a legal avenue to hold the person or company responsible for a loved one's death financially accountable – and to recover the compensation needed to move forward.

The [Centers for Disease Control and Prevention \(CDC\)](#) tracks unintentional injury deaths across the United States through the [Web-based Injury Statistics Query and Reporting System \(WISQARS\)](#). Unintentional injuries are among the leading causes of death for adults at virtually every age. Many of these deaths involve negligence by another person, a company, or a property owner – negligence that Indiana law does not allow to go unanswered.

At [Boughter Sinak, LLC](#), our Indiana wrongful death attorneys represent families who have lost loved ones to someone else's negligence. We handle these cases from Fort Wayne and Warsaw, serving clients statewide. This article explains who can file a wrongful death claim in Indiana, what compensation is available, how the process works, and why these cases are often more legally complex than a standard personal injury claim.

What Is a Wrongful Death Claim Under Indiana Law?

A wrongful death claim is a civil lawsuit (a legal action in court, separate from any criminal case) brought on behalf of a person who died because of someone else's negligence (failure to act with reasonable care) or intentional wrongdoing. Indiana's wrongful death statutes are codified in [Title 34 of the Indiana Code](#), and they establish who can bring a claim, what damages (financial compensation) can be recovered and how the proceeds are distributed among survivors.

A wrongful death claim is different from the personal injury claim the deceased person would have filed had they survived. It is brought not by the injured person but by the estate or certain family members on behalf of the survivors who suffered losses as a result of the death. The damages available in a wrongful death case are also different from those in a standard injury case, and the procedural requirements are distinct.

One important distinction people often miss: a wrongful death claim is a civil matter, entirely separate from any criminal prosecution that may be pursued for the same death. A criminal case requires proof beyond a reasonable doubt and results in punishment. A civil wrongful death claim requires proof by a preponderance of the evidence (more likely than not) and results in financial compensation. A criminal acquittal does not prevent a wrongful death claim, and the two proceedings can move on separate tracks simultaneously.

Who Can File a Wrongful Death Claim in Indiana?

Indiana law establishes different types of wrongful death claims for different family situations, and understanding which type applies in a given case matters significantly. The type of claim determines who files it, who can receive compensation and what categories of damages are available.

For the death of an adult, the general Wrongful Death Act governs most cases. Under this framework, the personal representative (executor) of the deceased person's estate files the claim. The damages recovered are distributed to the surviving spouse and dependent children. If there is no surviving spouse or dependent children, other dependents may recover. Indiana courts have interpreted the Adult Wrongful Death Act to cap certain categories of damages in some circumstances, which is one reason these cases require careful analysis from the start.

When the person who died was a child, the Child Wrongful Death Act applies instead. This statute allows one or both parents to bring the claim directly, without the need to establish a formal estate. The damages available under the Child Wrongful Death Act differ from those under the general act, and the statute of limitations may also differ. The correct statute to proceed under depends on the specific facts of each case, and misidentifying which act governs can have serious consequences for the claim.

What Compensation Can a Family Recover in an Indiana Wrongful Death Case?

Wrongful death compensation (damages) in Indiana fall into two broad categories. The first covers the direct financial costs of the death itself – medical and hospital expenses incurred before death, funeral and burial costs, and the administrative expenses of the estate related to the wrongful death claim. These amounts are paid to the estate.

The second and typically more substantial category covers the financial losses the surviving family members sustain as a result of the death. This includes the wages, salary, benefits and other economic contributions the deceased would have provided to the spouse and dependent children over their working life. It also includes the loss of services, care, guidance and other non-economic contributions the deceased provided to the family. Indiana courts calculate these losses based on the deceased's earning history, expected future earnings, age, health and family circumstances.

Indiana's wrongful death statutes limit what certain survivors can recover in some situations, particularly under the Adult Wrongful Death Act where no spouse or dependent children survive. In those cases, the damages that can be recovered may be more restricted than a family might expect. Understanding those limits and working around them where the law allows is part of what an experienced wrongful death attorney does in evaluating and building a case.

What Makes Wrongful Death Cases More Complex Than Standard Personal Injury Claims?

Wrongful death cases in Indiana involve a combination of procedural requirements, statutory limitations and family-law considerations that do not arise in an ordinary personal injury case. Several factors consistently make these claims more complex to handle.

- **Multiple statutes apply depending on who died** – Indiana has separate wrongful death statutes for adults and children. The correct statute determines who can file, what damages are available and what limitations apply. Selecting the wrong framework can limit or eliminate recovery.
- **The estate must typically be opened first** – For adult wrongful death claims, the personal representative of the estate files the lawsuit. If no estate has been opened, one must be established before the claim can proceed. This adds a probate process that runs parallel to the wrongful death litigation.
- **Damages require detailed economic analysis** – Calculating the full value of a wrongful death claim requires projecting the deceased's lifetime earning capacity, benefits, future economic contributions and the non-economic value of care and guidance. Expert economists and vocational specialists are often needed to build that analysis.
- **Insurance defense begins immediately** – The responsible party's insurer typically launches its own investigation immediately after a fatal accident. Evidence can disappear, witnesses' memories fade and the defense narrative solidifies quickly if the family does not have legal representation moving at the same pace.
- **Compensation is distributed among survivors according to statute** – How wrongful death proceeds are distributed among surviving family members is governed by Indiana law, not by the family's own agreement. In cases with multiple survivors, understanding and managing the distribution can become a significant part of the legal process.

These complexities make it especially important to involve an experienced wrongful death attorney early. A lawyer who knows Indiana's wrongful death statutes can identify the correct legal framework, open the estate if needed, preserve evidence, retain the right experts and build the case while the family focuses on grieving and healing.

How Is Fault Established in an Indiana Wrongful Death Case?

Proving a wrongful death claim in Indiana requires establishing the same elements as a personal injury case: that the responsible party owed a duty of care to the deceased, that they breached that duty, and that the breach caused the death. The standard of proof is a preponderance of the evidence – meaning it must be more likely than not that the defendant's negligence caused the death.

In practice, proving fault in a wrongful death case is often more difficult than in a standard injury claim because the person who could provide the most direct account of what happened is no longer alive to testify. Evidence from the scene, physical evidence, witness testimony, records and expert analysis carry more weight in these cases as a result. Securing that evidence quickly – before it is lost, altered or destroyed – is one of the most critical early tasks.

Some wrongful death cases involve contested liability, where the defense argues that the deceased was partly or entirely responsible for what happened. Indiana follows a comparative fault rule, which means a family's recovery may be reduced by the percentage of fault attributed to the deceased. If the deceased is found to be more than 50 percent at fault, recovery may be barred entirely. Defending against these comparative fault arguments is an important part of building the strongest possible case for the family.

What Evidence Is Most Important in an Indiana Wrongful Death Case?

The strength of a wrongful death claim depends heavily on how quickly and thoroughly the evidence is gathered. Fatal accident scenes change rapidly. Vehicles are repaired or removed. Surveillance footage is overwritten. Witnesses' recollections become less precise over time. Acting quickly to identify and preserve the right evidence often determines whether a case can be successfully proven.

- **Official accident and incident reports** – Police reports, coroner's reports, OSHA incident reports and other official records document the immediate findings and identify witnesses. These records are a critical starting point for any wrongful death investigation.
- **Physical evidence from the scene** – Photographs, measurements, debris patterns, skid marks and vehicle damage can help reconstruct how the fatal event occurred. This evidence should be documented before the scene is altered or cleaned up.
- **Surveillance and video footage** – Traffic cameras, business security cameras, dashcams and residential cameras near the scene may have captured the event. Most surveillance systems overwrite footage within days, making immediate preservation requests essential.
- **Witness statements** – People who saw the accident, who were familiar with the conditions that caused it or who knew the parties involved can provide testimony that supports the liability case. Witnesses should be contacted while their memories are fresh.
- **Medical and autopsy records** – The medical records documenting the deceased's treatment before death, and the autopsy report if one was performed, can establish the cause of death and connect it to the responsible party's conduct.

- **Financial records of the deceased** – Tax returns, employment records, benefits documentation and other financial records help establish the economic losses the family has sustained. These records also inform the expert economic analysis that forms the basis of the damages calculation.

An attorney can send formal preservation notices to responsible parties and third parties – employers, property owners, other companies involved in the fatal event – requiring them to retain records and evidence. If a party destroys evidence after receiving that notice, that destruction can itself become a significant issue in the litigation.

How Long Does a Family Have to File a Wrongful Death Claim in Indiana?

Indiana's statute of limitations (the legal deadline for filing a lawsuit) for wrongful death claims under the general Adult Wrongful Death Act is generally two years from the date of death. The Child Wrongful Death Act has its own limitations period. The [Indiana Code governing wrongful death claims](#) sets these timelines, and missing the applicable deadline typically results in permanent loss of the right to file, regardless of how strong the underlying facts are.

Two years can move quickly when a family is dealing with grief, funeral arrangements, insurance claims and financial disruption simultaneously. In complex cases involving commercial vehicles, workplace fatalities, defective products or government entities, important procedural steps may need to happen even sooner. Claims against government entities in Indiana often require formal notice within a shorter window than the general two-year period.

The practical argument for acting well before the deadline is not just about filing. Evidence preservation, estate administration, expert retention and investigation all take time. A wrongful death case that is built carefully over many months is far stronger than one that is assembled in a rush as the deadline approaches. Contacting an attorney as early as possible after a fatal accident gives the legal team the time needed to do the work right.

How Can a Fort Wayne Wrongful Death Lawyer Help Your Family?

At [Boughter Sinak, LLC](#), we represent Indiana families who have lost loved ones to negligence. Our Indiana [wrongful death attorneys](#) handle every aspect of these cases – identifying the correct statute, opening the estate when needed, preserving evidence, retaining experts, managing the relationship between the wrongful death claim and any workers' compensation or insurance claims and taking the case to trial when the insurance company refuses to offer fair compensation. We fight for families while they focus on grieving and healing.

Our [case results](#) demonstrate our commitment to pursuing the full value of wrongful death claims. We obtained a \$300,000 settlement for the family of a pedestrian killed by a commercial vehicle – a case where the police report initially blamed the deceased – by proving the truck driver had THC in his system in violation of federal safety regulations. We also secured

an \$800,000 recovery for the family of a motorcyclist killed in a construction zone accident where the contractor denied all liability.

Indiana's wrongful death statute of limitations gives families a limited window to act, and the evidence that supports these cases can disappear long before that deadline arrives. [Contact us](#) today for a free and confidential consultation. We represent families throughout Indiana from our offices in Fort Wayne and Warsaw, and we handle all wrongful death cases on a contingency fee basis – meaning you pay nothing unless we recover compensation for your family. Call us. We can help.