



Reprinted  
February 8, 2000

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## HOUSE BILL No. 1300

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DIGEST OF HB 1300 (Updated February 7, 2000 9:17 PM - DI 69)

**Citations Affected:** IC 20-8.1; IC 20-10.1; IC 34-13; IC 34-30; IC 35-45.

**Synopsis:** School safety and employee matters. Requires consultation with a teacher acting in an advisory capacity before action is initiated to suspend or expel a student or to take other disciplinary action against a student. Requires the reporting of a threat or intimidation of a school employee. Requires the department of education to establish and seek the adoption as a local school policy of a parental declaration of responsibilities concerning the education of the parent's child. Removes a provision that allows a governmental entity to refuse to pay a judgment, compromise, or settlement of a claim or suit against an employee when the entity determines that paying is in the best interest of the entity. Establishes a specific actionable offense for communicating a threat by using school or other governmental property, including electronic equipment or systems.

**Effective:** July 1, 2000.

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January 11, 2000, read first time and referred to Committee on Education.  
January 24, 2000, reported — Do Pass.  
January 27, 2000, read second time, ordered engrossed. Engrossed.  
February 7, 2000, read third time, made special order of business for 7:30 p.m.  
Recommitted to Committee of One, amended; passed. Yeas 58, nays 36.

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February 8, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## HOUSE BILL No. 1300

A BILL FOR AN ACT to amend the Indiana Code concerning education and civil and criminal law and procedure.

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

1 SECTION 1. IC 20-8.1-5.1-7.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2000]: **Sec. 7.5. Before a person may initiate**  
4 **action to suspend or expel a student under this chapter, the person**  
5 **must consult the following in an advisory capacity:**

6 (1) **A teacher, if any, who is involved in the matter giving rise**  
7 **to possible disciplinary action against the student.**

8 (2) **A classroom teacher of the student.**

9 SECTION 2. IC 20-8.1-5.1-18 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. (a) This section  
11 applies to a person who:

12 (1) is a member of the administrative staff, a teacher, or other  
13 school staff member; and

14 (2) has students under the person's charge.

15 (b) A person may take disciplinary action in addition to suspension  
16 and expulsion that is necessary to ensure a safe, orderly, and effective  
17 educational environment. **However, if the person who wishes to take**

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1 **disciplinary action under this section is not a teacher of the**  
 2 **student, before the person may take disciplinary action under this**  
 3 **section, the person must consult the following in an advisory**  
 4 **capacity:**

5 **(1) A teacher, if any, who is involved in the matter giving rise**  
 6 **to possible disciplinary action against the student.**

7 **(2) A classroom teacher of the student.**

8 (c) Disciplinary action under this section may include the following:

9 (1) Counseling with a student or group of students.

10 (2) Conferences with a parent or group of parents.

11 (3) Assigning additional work.

12 (4) Rearranging class schedules.

13 (5) Requiring a student to remain in school after regular school  
 14 hours to do additional school work or for counseling.

15 (6) Restricting extracurricular activities.

16 (7) Removal of a student by a teacher from that teacher's class for  
 17 a period not to exceed:

18 (A) five (5) class periods for middle, junior high, or high  
 19 school students; or

20 (B) one (1) school day for elementary school students;

21 if the student is assigned regular or additional school work to  
 22 complete in another school setting.

23 (8) Assignment by the principal of:

24 (A) a special course of study;

25 (B) an alternative educational program; or

26 (C) an alternative school.

27 (9) Assignment by the principal of the school where the recipient  
 28 of the disciplinary action is enrolled of not more than one hundred  
 29 twenty (120) hours of service with a nonprofit organization  
 30 operating in or near the community where the school is located or  
 31 where the student resides. The following apply to service assigned  
 32 under this subdivision:

33 (A) A principal may not assign a student under this  
 34 subdivision unless the student's parent or guardian approves:

35 (i) the nonprofit organization where the student is assigned;  
 36 and

37 (ii) the plan described in clause (B)(i).

38 A student's parent or guardian may request or suggest that the  
 39 principal assign the student under this subdivision.

40 (B) The principal shall make arrangements for the student's  
 41 service with the nonprofit organization. Arrangements must  
 42 include the following:

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- 1 (i) A plan for the service that the student is expected to  
2 perform.
- 3 (ii) A description of the obligations of the nonprofit  
4 organization to the student, the student's parents, and the  
5 school corporation where the student is enrolled.
- 6 (iii) Monitoring of the student's performance of service by  
7 the principal or the principal's designee.
- 8 (iv) Periodic reports from the nonprofit organization to the  
9 principal and the student's parent or guardian of the student's  
10 performance of the service.
- 11 (C) The nonprofit organization must obtain liability insurance  
12 in the amount and of the type specified by the school  
13 corporation where the student is enrolled that is sufficient to  
14 cover liabilities that may be incurred by a student who  
15 performs service under this subdivision.
- 16 (D) Assignment of service under this subdivision suspends the  
17 implementation of a student's suspension or expulsion. A  
18 student's completion of service assigned under this subdivision  
19 to the satisfaction of the principal and the nonprofit  
20 organization terminates the student's suspension or expulsion.
- 21 (10) Removal of a student from school sponsored transportation.
- 22 (11) Referral to the juvenile court having jurisdiction over the  
23 student.
- 24 (⌘) (d) As used in this subsection, "physical assault" means the  
25 knowing or intentional touching of another person in a rude, insolent,  
26 or angry manner. When a student physically assaults a person having  
27 authority over the student, the principal of the school where the student  
28 is enrolled shall make a referral of the student to the juvenile court  
29 having jurisdiction over the student. However, a student with  
30 disabilities (as defined in IC 20-1-6.1-7) who physically assaults a  
31 person having authority over the student is subject to procedural  
32 safeguards under 20 U.S.C. 1415.
- 33 SECTION 3. IC 20-8.1-12.5 IS ADDED TO THE INDIANA CODE  
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2000]:
- 36 **Chapter 12.5. Reporting Requirements; Threat or Intimidation**  
37 **of a School Employee**
- 38 **Sec. 1. As used in this chapter, "intimidation" refers to**  
39 **intimidation under IC 35-45-2-1.**
- 40 **Sec. 2. As used in this chapter, "threat" has the meaning set**  
41 **forth in IC 35-45-2-1.**
- 42 **Sec. 3. In addition to any other duty to report arising under this**

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1 article, an individual who has reason to believe that a school  
2 employee has received a threat or is the victim of intimidation shall  
3 report that information as required by this article.

4 **Sec. 4. (a) If an individual who is required to make a report**  
5 **under this article is a member of the staff of a school, the**  
6 **individual shall make the report by immediately notifying the**  
7 **principal of the school that a school employee may have received**  
8 **a threat or may be the victim of intimidation.**

9 **(b) An individual who receives a report under subsection (a)**  
10 **shall immediately make a report or cause a report to be made**  
11 **under section 6 of this chapter.**

12 **Sec. 5. This chapter does not relieve an individual of the**  
13 **obligation to report a threat or intimidation on the individual's**  
14 **own behalf, unless a report has already been made to the best of**  
15 **the individual's belief.**

16 **Sec. 6. A person who has a duty under this chapter to report**  
17 **that a school employee may have received a threat or may be the**  
18 **victim of intimidation shall immediately make an oral report to the**  
19 **local law enforcement agency.**

20 **Sec. 7. Except as provided in section 8 of this chapter, a person,**  
21 **other than a person accused of making a threat or intimidating a**  
22 **school employee, who:**

- 23 (1) makes, or causes to be made, a report under this chapter;  
24 (2) participates in any judicial proceeding or other  
25 proceeding:

26 (A) resulting from a report under this chapter; or

27 (B) relating to the subject matter of the report;

28 is immune from any civil or criminal liability that might otherwise  
29 be imposed because of such actions.

30 **Sec. 8. A person who has acted maliciously or in bad faith is not**  
31 **immune from civil or criminal liability under this chapter.**

32 **Sec. 9. A person making a report under this chapter or assisting**  
33 **in any requirement of this chapter is presumed to have acted in**  
34 **good faith.**

35 SECTION 4. IC 20-10.1-30 IS ADDED TO THE INDIANA CODE  
36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2000]:

38 **Chapter 30. Parental Declaration of Responsibilities**

39 **Sec. 1. This chapter applies to public schools.**

40 **Sec. 2. As used in this chapter, "declaration" refers to a**  
41 **parental declaration of responsibilities created under this chapter.**

42 **Sec. 3. The department shall do the following:**

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- 1 (1) Work with parent and teacher organizations to create a  
 2 parental declaration of responsibilities that meets the  
 3 requirements of this chapter.  
 4 (2) Work with parent and teacher organizations to  
 5 periodically revise the declaration when the department  
 6 considers revision necessary.  
 7 (3) Encourage schools and school corporations to adopt the  
 8 declaration as a policy of the school or school corporation.  
 9 (4) Encourage parents at the beginning of each school year to  
 10 agree in writing to carry out to the best of the parents'  
 11 abilities the responsibilities set forth in the declaration.
- 12 **Sec. 4. A parental declaration of responsibilities created under**  
 13 **section 3 of this chapter must do the following:**
- 14 (1) Reflect the policy that there is no adequate substitute for  
 15 the involvement of a concerned and committed parent or  
 16 family in the education of a child.  
 17 (2) Reflect the policy that a school should welcome and foster  
 18 positive involvement in the school by parents and families.  
 19 (3) Encourage parents and families to become involved in the  
 20 education of children.  
 21 (4) Reflect the following elements as among the most  
 22 important elements of effective parental and family  
 23 involvement in education:
- 24 (A) Regular, two-way, meaningful communication between  
 25 parents and schools.  
 26 (B) Effective parenting skills exercised by parents for the  
 27 benefit of their children, and fostered by schools.  
 28 (C) Parental involvement in student learning in which  
 29 parents play an integral role in student learning by  
 30 emphasizing the importance of education, and in which  
 31 schools assist parents in this endeavor.  
 32 (D) Volunteerism in which parents are welcomed by  
 33 schools, and parents commit themselves to providing  
 34 support to their children's schools as volunteers.  
 35 (E) School based decision making in which parents involve  
 36 themselves in the educational decision making process at  
 37 the school and school corporation level and are welcomed  
 38 in that role by the schools.
- 39 (5) Identify the responsibilities of parents and families.  
 40 (6) Identify the responsibilities of schools in helping parents  
 41 and families meet parental responsibilities as stated in the  
 42 declaration.



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1           **(7) Include other elements of effective parental involvement**  
 2           **that the department identifies.**

3           SECTION 5. IC 34-13-3-5 IS AMENDED TO READ AS  
 4           FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) A judgment  
 5           rendered with respect to or a settlement made by a governmental entity  
 6           bars an action by the claimant against an employee whose conduct gave  
 7           rise to the claim resulting in that judgment or settlement. A lawsuit  
 8           alleging that an employee acted within the scope of the employee's  
 9           employment must be exclusive to the complaint and bars an action by  
 10          the claimant against the employee personally. However, if the  
 11          governmental entity answers that the employee acted outside the scope  
 12          of the employee's employment, the plaintiff may amend the complaint  
 13          and sue the employee personally. An amendment to the complaint by  
 14          the plaintiff under this subsection must be filed not later than one  
 15          hundred eighty (180) days from the date the answer was filed and may  
 16          be filed notwithstanding the fact that the statute of limitations has run.

17          (b) A lawsuit filed against an employee personally must allege that  
 18          an act or omission of the employee that causes a loss is:

- 19           (1) criminal;  
 20           (2) clearly outside the scope of the employee's employment;  
 21           (3) malicious;  
 22           (4) willful and wanton; or  
 23           (5) calculated to benefit the employee personally.

24          The complaint must contain a reasonable factual basis supporting the  
 25          allegations.

26          (c) Subject to the provisions of sections 4, 14, 15, and 16 of this  
 27          chapter, the governmental entity shall pay any judgment, compromise,  
 28          or settlement of a claim or suit against an employee when

29           (+) the act or omission causing the loss is within the scope of the  
 30           employee's employment, regardless of whether the employee can  
 31           or cannot be held personally liable for the loss. ~~and~~

32           (2) the:

33           (A) ~~governor in the ease of a claim or suit against a state~~  
 34           ~~employee; or~~

35           (B) ~~governing body of the political subdivision; in the case of~~  
 36           ~~a claim or suit against an employee of a political subdivision;~~  
 37           ~~determines that paying the judgment, compromise, or settlement~~  
 38           ~~is in the best interest of the governmental entity.~~

39          (d) The governmental entity shall provide counsel for and pay all  
 40          costs and fees incurred by or on behalf of an employee in defense of a  
 41          claim or suit for a loss occurring because of acts or omissions within  
 42          the scope of the employee's employment, regardless of whether the



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1 employee can or cannot be held personally liable for the loss.

2 (e) This chapter shall not be construed as:

- 3 (1) a waiver of the eleventh amendment to the Constitution of the  
4 United States;  
5 (2) consent by the state of Indiana or its employees to be sued in  
6 any federal court; or  
7 (3) consent to be sued in any state court beyond the boundaries of  
8 Indiana.

9 SECTION 6. IC 34-30-2-85.1 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
11 [EFFECTIVE JULY 1, 2000]: **Sec. 85.1. IC 20-8.1-12.5-7**  
12 **(Concerning a person who reports or causes a report to be made of**  
13 **a threat against, or intimidation of, a school employee.)**

14 SECTION 7. IC 35-45-2-1 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who  
16 communicates a threat to another person, with the intent that:

- 17 (1) the other person engage in conduct against ~~his~~ **the other**  
18 **person's** will; or  
19 (2) the other person be placed in fear of retaliation for a prior  
20 lawful act;

21 commits intimidation, a Class A misdemeanor.

22 (b) However, the offense is a:

23 (1) Class D felony if:

24 (A) the threat is to commit a forcible felony;

25 (B) the person to whom the threat is communicated:

26 (i) is a law enforcement officer;

27 (ii) is a judge or bailiff of any court;

28 (iii) is a witness (or the spouse or child of a witness) in any  
29 pending criminal proceeding against the person making the  
30 threat; or

31 (iv) is an employee of a school corporation; ~~or~~

32 (C) the person has a prior unrelated conviction for an offense  
33 under this section concerning the same victim; ~~and or~~

34 **(D) the threat is communicated using property, including**  
35 **electronic equipment or systems, of a school corporation or**  
36 **other governmental entity; and**

37 (2) Class C felony if, while committing it, the person draws or  
38 uses a deadly weapon.

39 (c) "Threat" means an expression, by words or action, of an  
40 intention to:

- 41 (1) unlawfully injure the person threatened or another person, or  
42 damage property;



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- 1 (2) unlawfully subject a person to physical confinement or
- 2 restraint;
- 3 (3) commit a crime;
- 4 (4) unlawfully withhold official action, or cause such withholding;
- 5 (5) unlawfully withhold testimony or information with respect to
- 6 another person's legal claim or defense, except for a reasonable
- 7 claim for witness fees or expenses;
- 8 (6) expose the person threatened to hatred, contempt, disgrace, or
- 9 ridicule; or
- 10 (7) falsely harm the credit or business reputation of the person
- 11 threatened.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1300, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PORTER, Chair

Committee Vote: yeas 7, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1300 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 5, after "following" insert "**in an advisory capacity**".

Page 1, delete lines 9 through 17.

Page 2, delete lines 1 through 19.

Page 2, line 31, after "following" insert "**in an advisory capacity**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1300 as printed January 25, 2000.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1300, begs leave to report that said bill has been amended as directed.

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