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# HOUSE BILL No. 1300

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-8.1; IC 20-10.1-30; IC 34-13-3-5; IC 34-30-2-85.1; IC 35-45-2-1.

**Synopsis:** School safety and employee matters. Requires consultation with a teacher before action is initiated to suspend or expel a student or to take other disciplinary action against a student. Requires a one year expulsion for bringing a deadly weapon to school property or possessing a deadly weapon on school property. (Current law provides this penalty for a firearm only, not for other deadly weapons.) 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.

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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.

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# 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:**

- 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 20-8.1-5.1-10 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. ~~(a) As used in this~~  
11 ~~section, "firearm" has the meaning set forth in IC 35-47-1-5.~~

12 ~~(b) (a) As used in this section, "deadly weapon" has the meaning set~~  
13 ~~forth in IC 35-41-1-8. The term does not include a firearm.~~

- 14 ~~(c) (b) Notwithstanding section 14 of this chapter, a student who is:~~  
15 (1) identified as bringing a ~~firearm~~ **deadly weapon** to school or  
16 on school property; or
- 17 (2) in possession of a ~~firearm~~ **deadly weapon** on school property;



1 must be expelled for a period of at least one (1) calendar year, with the  
 2 return of the student to be at the beginning of the first school semester  
 3 after the end of the one (1) year period.

4 ~~(d)~~ (c) The superintendent may, on a case-by-case basis, modify the  
 5 period of expulsion under subsection ~~(c)~~ (b) for a student who is  
 6 expelled under this section.

7 ~~(e)~~ Notwithstanding section 14 of this chapter, a student who is:

8 (1) identified as bringing a deadly weapon to school or on school  
 9 property; or

10 (2) in possession of a deadly weapon on school property;  
 11 may be expelled for a period of not more than one (1) calendar year.

12 ~~(f)~~ (d) A superintendent shall notify the prosecuting attorney of the  
 13 county in which the school is located if a student is expelled under  
 14 subsection ~~(e)~~ or ~~(c)~~: **this section**. Upon receiving notification under  
 15 this subsection, the prosecuting attorney shall begin an investigation  
 16 and take appropriate action.

17 ~~(g)~~ (e) A student with disabilities (as defined in IC 20-1-6.1-7) who  
 18 possesses a **firearm deadly weapon** on school property is subject to  
 19 procedural safeguards under 20 U.S.C. 1415.

20 SECTION 3. IC 20-8.1-5.1-18 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. (a) This section  
 22 applies to a person who:

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

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

26 (b) A person may take disciplinary action in addition to suspension  
 27 and expulsion that is necessary to ensure a safe, orderly, and effective  
 28 educational environment. **However, if the person who wishes to take**  
 29 **disciplinary action under this section is not a teacher of the**  
 30 **student, before the person may take disciplinary action under this**  
 31 **section, the person must consult the following:**

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

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

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

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

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

38 (3) Assigning additional work.

39 (4) Rearranging class schedules.

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

42 (6) Restricting extracurricular activities.



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- 1 (7) Removal of a student by a teacher from that teacher's class for  
 2 a period not to exceed:  
 3 (A) five (5) class periods for middle, junior high, or high  
 4 school students; or  
 5 (B) one (1) school day for elementary school students;  
 6 if the student is assigned regular or additional school work to  
 7 complete in another school setting.
- 8 (8) Assignment by the principal of:  
 9 (A) a special course of study;  
 10 (B) an alternative educational program; or  
 11 (C) an alternative school.
- 12 (9) Assignment by the principal of the school where the recipient  
 13 of the disciplinary action is enrolled of not more than one hundred  
 14 twenty (120) hours of service with a nonprofit organization  
 15 operating in or near the community where the school is located or  
 16 where the student resides. The following apply to service assigned  
 17 under this subdivision:  
 18 (A) A principal may not assign a student under this  
 19 subdivision unless the student's parent or guardian approves:  
 20 (i) the nonprofit organization where the student is assigned;  
 21 and  
 22 (ii) the plan described in clause (B)(i).  
 23 A student's parent or guardian may request or suggest that the  
 24 principal assign the student under this subdivision.
- 25 (B) The principal shall make arrangements for the student's  
 26 service with the nonprofit organization. Arrangements must  
 27 include the following:  
 28 (i) A plan for the service that the student is expected to  
 29 perform.  
 30 (ii) A description of the obligations of the nonprofit  
 31 organization to the student, the student's parents, and the  
 32 school corporation where the student is enrolled.  
 33 (iii) Monitoring of the student's performance of service by  
 34 the principal or the principal's designee.  
 35 (iv) Periodic reports from the nonprofit organization to the  
 36 principal and the student's parent or guardian of the student's  
 37 performance of the service.
- 38 (C) The nonprofit organization must obtain liability insurance  
 39 in the amount and of the type specified by the school  
 40 corporation where the student is enrolled that is sufficient to  
 41 cover liabilities that may be incurred by a student who  
 42 performs service under this subdivision.

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- 1 (D) Assignment of service under this subdivision suspends the  
 2 implementation of a student's suspension or expulsion. A  
 3 student's completion of service assigned under this subdivision  
 4 to the satisfaction of the principal and the nonprofit  
 5 organization terminates the student's suspension or expulsion.  
 6 (10) Removal of a student from school sponsored transportation.  
 7 (11) Referral to the juvenile court having jurisdiction over the  
 8 student.

9 (e) (d) As used in this subsection, "physical assault" means the  
 10 knowing or intentional touching of another person in a rude, insolent,  
 11 or angry manner. When a student physically assaults a person having  
 12 authority over the student, the principal of the school where the student  
 13 is enrolled shall make a referral of the student to the juvenile court  
 14 having jurisdiction over the student. However, a student with  
 15 disabilities (as defined in IC 20-1-6.1-7) who physically assaults a  
 16 person having authority over the student is subject to procedural  
 17 safeguards under 20 U.S.C. 1415.

18 SECTION 4. IC 20-8.1-12.5 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2000]:

21 **Chapter 12.5. Reporting Requirements; Threat or Intimidation**  
 22 **of a School Employee**

23 **Sec. 1. As used in this chapter, "intimidation" refers to**  
 24 **intimidation under IC 35-45-2-1.**

25 **Sec. 2. As used in this chapter, "threat" has the meaning set**  
 26 **forth in IC 35-45-2-1.**

27 **Sec. 3. In addition to any other duty to report arising under this**  
 28 **article, an individual who has reason to believe that a school**  
 29 **employee has received a threat or is the victim of intimidation shall**  
 30 **report that information as required by this article.**

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

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

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



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

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

8           (1) makes, or causes to be made, a report under this chapter;

9           (2) participates in any judicial proceeding or other  
 10 proceeding:

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

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

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

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

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

20           SECTION 5. IC 20-10.1-30 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2000]:

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

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

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

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

28           (1) Work with parent and teacher organizations to create a  
 29 parental declaration of responsibilities that meets the  
 30 requirements of this chapter.

31           (2) Work with parent and teacher organizations to  
 32 periodically revise the declaration when the department  
 33 considers revision necessary.

34           (3) Encourage schools and school corporations to adopt the  
 35 declaration as a policy of the school or school corporation.

36           (4) Encourage parents at the beginning of each school year to  
 37 agree in writing to carry out to the best of the parents'  
 38 abilities the responsibilities set forth in the declaration.

39           **Sec. 4.** A parental declaration of responsibilities created under  
 40 section 3 of this chapter must do the following:

41           (1) Reflect the policy that there is no adequate substitute for  
 42 the involvement of a concerned and committed parent or

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1 family in the education of a child.

2 (2) Reflect the policy that a school should welcome and foster  
3 positive involvement in the school by parents and families.

4 (3) Encourage parents and families to become involved in the  
5 education of children.

6 (4) Reflect the following elements as among the most  
7 important elements of effective parental and family  
8 involvement in education:

9 (A) Regular, two-way, meaningful communication between  
10 parents and schools.

11 (B) Effective parenting skills exercised by parents for the  
12 benefit of their children, and fostered by schools.

13 (C) Parental involvement in student learning in which  
14 parents play an integral role in student learning by  
15 emphasizing the importance of education, and in which  
16 schools assist parents in this endeavor.

17 (D) Volunteerism in which parents are welcomed by  
18 schools, and parents commit themselves to providing  
19 support to their children's schools as volunteers.

20 (E) School based decision making in which parents involve  
21 themselves in the educational decision making process at  
22 the school and school corporation level and are welcomed  
23 in that role by the schools.

24 (5) Identify the responsibilities of parents and families.

25 (6) Identify the responsibilities of schools in helping parents  
26 and families meet parental responsibilities as stated in the  
27 declaration.

28 (7) Include other elements of effective parental involvement  
29 that the department identifies.

30 SECTION 6. IC 34-13-3-5 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) A judgment  
32 rendered with respect to or a settlement made by a governmental entity  
33 bars an action by the claimant against an employee whose conduct gave  
34 rise to the claim resulting in that judgment or settlement. A lawsuit  
35 alleging that an employee acted within the scope of the employee's  
36 employment must be exclusive to the complaint and bars an action by  
37 the claimant against the employee personally. However, if the  
38 governmental entity answers that the employee acted outside the scope  
39 of the employee's employment, the plaintiff may amend the complaint  
40 and sue the employee personally. An amendment to the complaint by  
41 the plaintiff under this subsection must be filed not later than one  
42 hundred eighty (180) days from the date the answer was filed and may



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1 be filed notwithstanding the fact that the statute of limitations has run.

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

- 4 (1) criminal;  
5 (2) clearly outside the scope of the employee's employment;  
6 (3) malicious;  
7 (4) willful and wanton; or  
8 (5) calculated to benefit the employee personally.

9 The complaint must contain a reasonable factual basis supporting the  
10 allegations.

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

14 ~~(1) the act or omission causing the loss is within the scope of the~~  
15 ~~employee's employment, regardless of whether the employee can~~  
16 ~~or cannot be held personally liable for the loss. and~~

17 ~~(2) the:~~

18 ~~(A) governor in the case of a claim or suit against a state~~  
19 ~~employee; or~~

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

24 (d) The governmental entity shall provide counsel for and pay all  
25 costs and fees incurred by or on behalf of an employee in defense of a  
26 claim or suit for a loss occurring because of acts or omissions within  
27 the scope of the employee's employment, regardless of whether the  
28 employee can or cannot be held personally liable for the loss.

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

- 30 (1) a waiver of the eleventh amendment to the Constitution of the  
31 United States;  
32 (2) consent by the state of Indiana or its employees to be sued in  
33 any federal court; or  
34 (3) consent to be sued in any state court beyond the boundaries of  
35 Indiana.

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

41 SECTION 8. IC 35-45-2-1 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who

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- 1 communicates a threat to another person, with the intent that:  
 2 (1) the other person engage in conduct against ~~his~~ **the other**  
 3 **person's** will; or  
 4 (2) the other person be placed in fear of retaliation for a prior  
 5 lawful act;  
 6 commits intimidation, a Class A misdemeanor.  
 7 (b) However, the offense is a:  
 8 (1) Class D felony if:  
 9 (A) the threat is to commit a forcible felony;  
 10 (B) the person to whom the threat is communicated:  
 11 (i) is a law enforcement officer;  
 12 (ii) is a judge or bailiff of any court;  
 13 (iii) is a witness (or the spouse or child of a witness) in any  
 14 pending criminal proceeding against the person making the  
 15 threat; or  
 16 (iv) is an employee of a school corporation; ~~or~~  
 17 (C) the person has a prior unrelated conviction for an offense  
 18 under this section concerning the same victim; **and or**  
 19 **(D) the threat is communicated using property, including**  
 20 **electronic equipment or systems, of a school corporation or**  
 21 **other governmental entity; and**  
 22 (2) Class C felony if, while committing it, the person draws or  
 23 uses a deadly weapon.  
 24 (c) "Threat" means an expression, by words or action, of an  
 25 intention to:  
 26 (1) unlawfully injure the person threatened or another person, or  
 27 damage property;  
 28 (2) unlawfully subject a person to physical confinement or  
 29 restraint;  
 30 (3) commit a crime;  
 31 (4) unlawfully withhold official action, or cause such withholding;  
 32 (5) unlawfully withhold testimony or information with respect to  
 33 another person's legal claim or defense, except for a reasonable  
 34 claim for witness fees or expenses;  
 35 (6) expose the person threatened to hatred, contempt, disgrace, or  
 36 ridicule; or  
 37 (7) falsely harm the credit or business reputation of the person  
 38 threatened.

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