



Reprinted
March 6, 2001

HOUSE BILL No. 1221

DIGEST OF HB 1221 (Updated March 5, 2001 2:16 PM - DI 106)

Citations Affected: IC 20-8.1; IC 31-37; IC 34-31.

Synopsis: Supervision of suspended or expelled children. Provides that a student who has been suspended or expelled from school is required to remain at the student's residence during school hours, with certain exceptions. The parents or guardian of a student who has violated this chapter may be liable for up to \$10,000 in damages resulting from a violation of this chapter. Makes suspension truancy a delinquent act. Requires a school to notify the juvenile court if a child is suspended or expelled. Makes conforming amendments.

Effective: July 1, 2001.

Mellinger, Burton, Duncan

January 9, 2001, read first time and referred to Committee on Human Affairs.
February 22, 2001, amended, reported — Do Pass.
March 5, 2001, read second time, amended, ordered engrossed.

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HB 1221—LS 6993/DI 51+



Reprinted
March 6, 2001

First Regular Session 112th General Assembly (2001)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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HOUSE BILL No. 1221

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

- 1 SECTION 1. IC 20-8.1-5.1-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) A principal may
3 suspend a student for not more than ten (10) school days under section
4 8, 9, or 10 of this chapter. However, the student may be suspended for
5 more than ten (10) school days under section 16 of this chapter.
6 (b) A principal may not suspend a student before the principal
7 affords the student an opportunity for a meeting during which the
8 student is entitled to the following:
9 (1) A written or an oral statement of the charges against the
10 student.
11 (2) If the student denies the charges, a summary of the evidence
12 against the student.
13 (3) An opportunity for the student to explain the student's
14 conduct.
15 (c) When misconduct requires immediate removal of a student, the
16 meeting under subsection (b) shall commence as soon as reasonably
17 possible after the student's suspension.

HB 1221—LS 6993/DI 51+



1 (d) Following a suspension, the principal shall **immediately** send a
 2 written statement to the parent of the suspended student **and to the**
 3 **juvenile court** describing the following:

- 4 (1) The student's misconduct.
 5 (2) The action taken by the principal.

6 **(3) The increased liability cap under IC 31-37-3.5.**

7 SECTION 2. IC 20-8.1-5.1-13 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) A
 9 superintendent of a school corporation may conduct an expulsion
 10 meeting or appoint one (1) of the following to conduct an expulsion
 11 meeting:

- 12 (1) Legal counsel.
 13 (2) A member of the administrative staff if the member:
 14 (A) has not expelled the student during the current school
 15 year; and
 16 (B) was not involved in the events giving rise to the expulsion.

17 The superintendent or a person designated under this subsection may
 18 issue subpoenas, compel the attendance of witnesses, and administer
 19 oaths to persons giving testimony at an expulsion meeting.

20 (b) An expulsion may take place only after the student and the
 21 student's parent are given notice of their right to appear at an expulsion
 22 meeting with the superintendent or a person designated under
 23 subsection (a). Notice of the right to appear at an expulsion meeting
 24 shall:

- 25 (1) be made by certified mail or by personal delivery;
 26 (2) contain the reasons for the expulsion; and
 27 (3) contain the procedure for requesting an expulsion meeting.

28 (c) The person conducting an expulsion meeting:

- 29 (1) shall make a written summary of the evidence heard at the
 30 expulsion meeting;
 31 (2) may take action that the person finds appropriate; and
 32 (3) must give notice of the action taken under subdivision (2) to
 33 the student, ~~and~~ the student's parent, **and the juvenile court**
 34 **having jurisdiction over the student.**

35 (d) If the student or the student's parent within ten (10) days of
 36 receipt of a notice of action taken under subsection (c) makes a written
 37 appeal to the governing body, the governing body:

- 38 (1) shall hold a meeting to consider:
 39 (A) the written summary of evidence prepared under
 40 subsection (c)(1); and
 41 (B) the arguments of the principal and the student or the
 42 student's parent;

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1 unless the governing body has voted under subsection (f) not to
 2 hear appeals of actions taken under subsection (c); and
 3 (2) may take action that the governing body finds appropriate.
 4 The decision of the governing body may be appealed only under
 5 section 15 of this chapter.

6 (e) A student or a student's parent who fails to request and appear
 7 at an expulsion meeting after receipt of notice of the right to appear at
 8 an expulsion meeting forfeits all rights administratively to contest and
 9 appeal the expulsion. For purposes of this section, notice of the right to
 10 appear at an expulsion meeting or notice of the action taken at an
 11 expulsion meeting is effectively given at the time when the request or
 12 notice is delivered personally or sent by certified mail to a student and
 13 the student's parent.

14 (f) The governing body may vote not to hear appeals of actions
 15 taken under subsection (c). If the governing body votes not to hear
 16 appeals, after the date on which the vote is taken a student or parent
 17 may appeal only under section 15 of this chapter.

18 SECTION 3. IC 31-37-2-7 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2001]: **Sec. 7. A child commits a delinquent act if, before
 21 becoming eighteen (18) years of age, the child commits suspension
 22 truancy under IC 31-37-3.5.**

23 SECTION 4. IC 31-37-3.5 IS ADDED TO THE INDIANA CODE
 24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2001]:

26 **Chapter 3.5. Suspension Truancy**

27 **Sec. 1. (a) Except as provided in subsection (b), a student who:**

28 **(1) has been suspended or expelled from school; and**

29 **(2) leaves the student's residence or property:**

30 **(A) while the student is suspended or expelled; or**

31 **(B) while the school from which the student has been
 32 suspended or expelled is in session;**

33 **commits suspension truancy.**

34 **(b) A student who has been suspended or expelled from school
 35 does not commit suspension truancy under subsection (a) if the
 36 student leaves the student's residence or property while:**

37 **(1) accompanied by the student's parent, guardian, or
 38 custodian;**

39 **(2) accompanied by an adult specified by the child's parent,
 40 guardian, or custodian;**

41 **(3) participating in, going to, or returning from:**

42 **(A) lawful employment;**

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- 1 (B) a school sanctioned activity;
- 2 (C) a religious event;
- 3 (D) an emergency involving the protection of a person or
- 4 property from an imminent threat of serious bodily injury
- 5 or substantial damage;
- 6 (E) an activity involving the exercise of the child's rights
- 7 protected under the First Amendment to the United States
- 8 Constitution or Article 1, Section 31 of the Constitution of
- 9 the State of Indiana, or both, such as freedom of speech
- 10 and the right of assembly; or
- 11 (F) an activity conducted by a nonprofit or governmental
- 12 entity that provides recreation, education, training, or
- 13 other care under the supervision of one (1) or more adults;
- 14 (4) engaged in interstate or international travel from a
- 15 location outside Indiana to another location outside Indiana;
- 16 or
- 17 (5) responding to an emergency that requires the student to
- 18 leave the student's residence.

19 **Sec. 2. (a) A law enforcement officer who observes a student**
 20 **committing suspension truancy shall:**

- 21 (1) issue a citation to the student;
- 22 (2) return the student to the student's residence; and
- 23 (3) notify the student's parent, guardian, or custodian as soon
- 24 as practically possible.

25 (b) After taking the actions required by subsection (a), a law
 26 enforcement officer who observes a violation of this chapter shall
 27 forward:

- 28 (1) a copy of the citation; and
- 29 (2) a report of the incident;

30 to the juvenile court of the county.

31 **Sec. 3. If a student has committed three (3) or more violations**
 32 **under this chapter, the court may file a report of abuse or neglect**
 33 **with the county office of family and children to determine whether**
 34 **the student is a child in need of services under IC 31-34-1.**

35 **Sec. 4. The parent or guardian of a student who commits**
 36 **suspension truancy may be held civilly liable for not more than ten**
 37 **thousand dollars (\$10,000) in actual damages arising from harm to**
 38 **a person or property caused by the student's commission of**
 39 **suspension truancy.**

40 SECTION 5. IC 34-31-4-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. Except as provided
 42 in section 2 of this chapter or in IC 31-37-3.5, a parent is liable for not

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1 more than five thousand dollars (\$5,000) in actual damages arising
2 from harm to a person or damage to property knowingly, intentionally,
3 or recklessly caused by the parent's child if:
4 (1) the parent has custody of the child; and
5 (2) the child is living with the parent.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1221 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-8.1-5.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) A principal may suspend a student for not more than ten (10) school days under section 8, 9, or 10 of this chapter. However, the student may be suspended for more than ten (10) school days under section 16 of this chapter.

(b) A principal may not suspend a student before the principal affords the student an opportunity for a meeting during which the student is entitled to the following:

(1) A written or an oral statement of the charges against the student.

(2) If the student denies the charges, a summary of the evidence against the student.

(3) An opportunity for the student to explain the student's conduct.

(c) When misconduct requires immediate removal of a student, the meeting under subsection (b) shall commence as soon as reasonably possible after the student's suspension.

(d) Following a suspension, the principal shall **immediately** send a written statement to the parent of the suspended student **and to the juvenile court** describing the following:

(1) The student's misconduct.

(2) The action taken by the principal.

(3) The increased liability cap under IC 31-37-3.5.

SECTION 2. IC 20-8.1-5.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) A superintendent of a school corporation may conduct an expulsion meeting or appoint one (1) of the following to conduct an expulsion meeting:

(1) Legal counsel.

(2) A member of the administrative staff if the member:

(A) has not expelled the student during the current school year; and

(B) was not involved in the events giving rise to the expulsion.

The superintendent or a person designated under this subsection may issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at an expulsion meeting.

(b) An expulsion may take place only after the student and the

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student's parent are given notice of their right to appear at an expulsion meeting with the superintendent or a person designated under subsection (a). Notice of the right to appear at an expulsion meeting shall:

- (1) be made by certified mail or by personal delivery;
 - (2) contain the reasons for the expulsion; and
 - (3) contain the procedure for requesting an expulsion meeting.
- (c) The person conducting an expulsion meeting:
- (1) shall make a written summary of the evidence heard at the expulsion meeting;
 - (2) may take action that the person finds appropriate; and
 - (3) must give notice of the action taken under subdivision (2) to the student, **and** the student's parent, **and the juvenile court having jurisdiction over the student.**

(d) If the student or the student's parent within ten (10) days of receipt of a notice of action taken under subsection (c) makes a written appeal to the governing body, the governing body:

- (1) shall hold a meeting to consider:
 - (A) the written summary of evidence prepared under subsection (c)(1); and
 - (B) the arguments of the principal and the student or the student's parent;

unless the governing body has voted under subsection (f) not to hear appeals of actions taken under subsection (c); and

- (2) may take action that the governing body finds appropriate.

The decision of the governing body may be appealed only under section 15 of this chapter.

(e) A student or a student's parent who fails to request and appear at an expulsion meeting after receipt of notice of the right to appear at an expulsion meeting forfeits all rights administratively to contest and appeal the expulsion. For purposes of this section, notice of the right to appear at an expulsion meeting or notice of the action taken at an expulsion meeting is effectively given at the time when the request or notice is delivered personally or sent by certified mail to a student and the student's parent.

(f) The governing body may vote not to hear appeals of actions taken under subsection (c). If the governing body votes not to hear appeals, after the date on which the vote is taken a student or parent may appeal only under section 15 of this chapter."

Page 1, delete lines 10 through 17 and insert:

**"Sec. 1. (a) Except as provided in subsection (b), a student who:
(1) has been suspended or expelled from school; and**

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- (2) leaves the student's residence or property:
 - (A) while the student is suspended or expelled; or
 - (B) while the school from which the student has been suspended or expelled is in session;
 commits suspension truancy.
- (b) A student who has been suspended or expelled from school does not commit suspension truancy under subsection (a) if the student leaves the student's residence or property while:
 - (1) accompanied by the student's parent, guardian, or custodian;
 - (2) accompanied by an adult specified by the child's parent, guardian, or custodian;
 - (3) participating in, going to, or returning from:
 - (A) lawful employment;
 - (B) a school sanctioned activity;
 - (C) a religious event;
 - (D) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (E) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or
 - (F) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
 - (4) engaged in interstate or international travel from a location outside Indiana to another location outside Indiana; or
 - (5) responding to an emergency that requires the student to leave the student's residence."

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Page 2, delete lines 1 through 6.

Page 2, line 7, delete "Sec. 3." and insert "Sec. 2."

Page 2, line 13, delete "A" and insert "After taking the actions required by subsection (a), a".

Page 2, line 13, delete "has observed" and insert "observes".

Page 2, line 17, delete "probation department" and insert "court".

Page 2, delete lines 18 through 27.

Page 2, line 28, delete "(b)" and insert "Sec. 3."

Page 2, line 29, delete "shall" and insert "may".

Page 2, line 29, after "report" insert "of abuse or neglect".



Page 2, between lines 31 and 32, begin a new paragraph and insert:
"Sec. 4. The parent or guardian of a student who commits suspension truancy may be held civilly liable for not more than ten thousand dollars (\$10,000) in actual damages arising from harm to a person or property caused by the student's commission of suspension truancy."

Renumber all SECTIONS consecutively.

(Reference is to HB 1221 as printed February 23, 2001.)

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