



Reprinted  
January 19, 2024

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## HOUSE BILL No. 1338

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DIGEST OF HB 1338 (Updated January 18, 2024 11:59 am - DI 92)

**Citations Affected:** IC 5-14; IC 35-43.

**Synopsis:** Security of property and meeting decorum. Allows the governing bodies of certain local government agencies (local agencies) to adopt rules or policies governing the conduct of meetings. Provides that a rule or policy may provide that the presiding member of the governing body of the local agency may: (1) issue warnings to disruptive attendees and direct them to leave the meeting on the third warning; and (2) direct a law enforcement officer to remove disruptive attendees. Provides that the rules and policies must be posted at the meeting entrance or announced before taking public testimony. Specifies that a provision of the tort claims law providing immunity to a government entity or employee in adopting and enforcing a law or rule applies. Provides that a person who knowingly or intentionally enters or refuses to leave certain restricted areas of a property commits the offense of criminal trespass.

**Effective:** July 1, 2024.

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### Prescott, Meltzer

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January 10, 2024, read first time and referred to Committee on Government and Regulatory Reform.

January 16, 2024, amended, reported — Do Pass.

January 18, 2024, read second time, amended, ordered engrossed.

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HB 1338—LS 7057/DI 149





Reprinted  
January 19, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## HOUSE BILL No. 1338

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 5-14-1.5-3.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2024]: **Sec. 3.3. (a) This section applies only**  
4 **to a meeting of the governing body of an entity described in section**  
5 **2(a)(2) or 2(a)(3) of this chapter.**  
6 **(b) This section does not apply to a meeting of the governing**  
7 **body of a school corporation or charter school.**  
8 **(c) As used in this section, "attende" means a member of the**  
9 **public who is physically present at a meeting of a governing body.**  
10 **(d) If a governing body allows attendees to speak on a topic at**  
11 **a meeting, the governing body may designate:**  
12 **(1) a period for taking public testimony that is:**  
13 **(A) before or during the governing body's discussion or**  
14 **consideration of the topic; and**  
15 **(B) before the governing body takes final action on the**  
16 **topic; and**  
17 **(2) the amount of time allotted for attendees to speak on the**

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- 1           **topic.**
- 2           **(e) A governing body may adopt reasonable rules or policies**
- 3 **governing the conduct of a meeting, including any of the following:**
- 4           **(1) Reasonable restrictions on the time allotted for attendees**
- 5 **to speak on a topic.**
- 6           **(2) Reasonable steps to maintain order during a meeting with**
- 7 **respect to attendees and the elected officials of the governing**
- 8 **body.**
- 9           **(3) A procedure for the presiding member of the governing**
- 10 **body to issue warnings to attendees who disrupt a meeting.**
- 11 **Subject to subsection (g), the procedure may provide that if**
- 12 **an attendee receives three (3) warnings, the presiding member**
- 13 **of the governing body may upon the issuing the third warning,**
- 14 **direct:**
- 15           **(A) the attendee to leave the meeting; and**
- 16           **(B) a law enforcement officer to remove the attendee from**
- 17 **the meeting, if the attendee refuses to leave when directed**
- 18 **by the presiding member.**
- 19           **(f) The governing body must notify attendees of any rules or**
- 20 **policies that are adopted under this section by:**
- 21           **(1) posting the rules or policies in a visible area at the**
- 22 **entrance to the meeting location; or**
- 23           **(2) making an announcement of the rules or policies at the**
- 24 **meeting before taking oral public comment.**
- 25           **(g) Nothing in this section may be construed to prohibit a law**
- 26 **enforcement officer from immediately removing an attendee from**
- 27 **a meeting if:**
- 28           **(1) removal of the attendee is necessary to maintain order or**
- 29 **ensure the safety of another person; or**
- 30           **(2) the attendee commits a criminal offense.**
- 31           **(h) IC 34-13-3-3(a)(8) applies to this section.**
- 32           SECTION 2. IC 35-43-2-2, AS AMENDED BY P.L.79-2023,
- 33 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2024]: Sec. 2. (a) As used in this section, "authorized person"
- 35 means a person authorized by an agricultural operation or a scientific
- 36 research facility to act on behalf of the agricultural operation or the
- 37 scientific research facility.
- 38           (b) A person who:
- 39           (1) not having a contractual interest in the property, knowingly or
- 40 intentionally enters the real property of another person after
- 41 having been denied entry by the other person or that person's
- 42 agent;



- 1 (2) not having a contractual interest in the property, knowingly or  
2 intentionally refuses to leave the real property of another person  
3 after having been asked to leave by the other person or that  
4 person's agent;
- 5 (3) accompanies another person in a vehicle, with knowledge that  
6 the other person knowingly or intentionally is exerting  
7 unauthorized control over the vehicle;
- 8 (4) knowingly or intentionally interferes with the possession or  
9 use of the property of another person without the person's consent;
- 10 (5) not having a contractual interest in the property, knowingly or  
11 intentionally enters the:
- 12 (A) property of an agricultural operation that is used for the  
13 production, processing, propagation, packaging, cultivation,  
14 harvesting, care, management, or storage of an animal, plant,  
15 or other agricultural product, including any pasturage or land  
16 used for timber management, without the consent of the owner  
17 of the agricultural operation or an authorized person; or  
18 (B) dwelling of another person without the person's consent;
- 19 (6) knowingly or intentionally:
- 20 (A) travels by train without lawful authority or the railroad  
21 carrier's consent; and  
22 (B) rides on the outside of a train or inside a passenger car,  
23 locomotive, or freight car, including a boxcar, flatbed, or  
24 container without lawful authority or the railroad carrier's  
25 consent;
- 26 (7) not having a contractual interest in the property, knowingly or  
27 intentionally enters or refuses to leave the property of another  
28 person after having been prohibited from entering or asked to  
29 leave the property by a law enforcement officer when the property  
30 is:
- 31 (A) vacant real property (as defined in IC 36-7-36-5) or a  
32 vacant structure (as defined in IC 36-7-36-6); or  
33 (B) designated by a municipality or county enforcement  
34 authority to be:
- 35 (i) abandoned property or an abandoned structure (as  
36 defined in IC 36-7-36-1); or  
37 (ii) an unsafe building or an unsafe premises (as described  
38 in IC 36-7-9);
- 39 (8) not having a contractual interest in the property, knowingly or  
40 intentionally enters the real property of an agricultural operation  
41 (as defined in IC 32-30-6-1) without the permission of the owner  
42 of the agricultural operation or an authorized person, and



- 1 knowingly or intentionally engages in conduct that causes  
 2 property damage to:
- 3 (A) the owner of or a person having a contractual interest in
  - 4 the agricultural operation;
  - 5 (B) the operator of the agricultural operation; or
  - 6 (C) a person having personal property located on the property
  - 7 of the agricultural operation;
- 8 (9) not having a contractual interest in the property, knowingly or  
 9 intentionally enters the real property of a scientific research  
 10 facility (as defined in IC 35-31.5-2-287) without the permission  
 11 of, or with permission which was fraudulently obtained from, the  
 12 owner of the scientific research facility or an authorized person,  
 13 and knowingly or intentionally engages in conduct that causes  
 14 property damage to:
- 15 (A) the owner of or a person having a contractual interest in
  - 16 the scientific research facility;
  - 17 (B) the operator of the scientific research facility; or
  - 18 (C) a person having personal property located on the property
  - 19 of the scientific research facility;
- 20 (10) knowingly or intentionally enters the property of another  
 21 person after being denied entry by a court order that has been  
 22 issued to the person or issued to the general public by  
 23 conspicuous posting on or around the premises in areas where a  
 24 person can observe the order when the property has been  
 25 designated by a municipality or county enforcement authority to  
 26 be:
- 27 (A) a vacant property;
  - 28 (B) an abandoned property;
  - 29 (C) an abandoned structure (as defined in IC 36-7-36-1); or
  - 30 (D) an unsafe building or an unsafe premises (as described in
  - 31 IC 36-7-9); ~~or~~
- 32 (11) knowingly or intentionally enters or refuses to leave the polls  
 33 (as defined in IC 3-5-2-39) or chute (as defined in IC 3-5-2-10)  
 34 after having been prohibited from entering or asked to leave the  
 35 polls or chute by a precinct election officer (as defined in  
 36 IC 3-5-2-40.1) or a law enforcement officer acting on behalf of a  
 37 precinct election officer; **or**
- 38 **(12) knowingly or intentionally:**
- 39 **(A) enters and refuses to leave an area of a property that**
  - 40 **is marked as restricted;**
  - 41 **(B) enters or refuses to leave an area of a property**
  - 42 **designated as employee or authorized personnel only; or**



1           **(C) enters or refuses to leave an area of a property that is**  
 2           **locked or otherwise not accessible to the public;**  
 3           **without permission or prior authorization or after being**  
 4           **asked to leave the area of a property by a law enforcement**  
 5           **officer or an employee or agent of the owner or operator of**  
 6           **the property;**

7           commits criminal trespass, a Class A misdemeanor. However, the  
 8           offense is a Level 6 felony if it is committed on a scientific research  
 9           facility, on a facility belonging to a public utility (as defined in  
 10          IC 32-24-1-5.9(a)), on school property, or on a school bus or the person  
 11          has a prior unrelated conviction for an offense under this section  
 12          concerning the same property. The offense is a Level 6 felony, for  
 13          purposes of subdivision (8), if the property damage is more than seven  
 14          hundred fifty dollars (\$750) and less than fifty thousand dollars  
 15          (\$50,000). The offense is a Level 5 felony, for purposes of subdivisions  
 16          (8) and (9), if the property damage is at least fifty thousand dollars  
 17          (\$50,000).

18          (c) A person has been denied entry under subsection (b)(1) when the  
 19          person has been denied entry by means of:

- 20           (1) personal communication, oral or written;  
 21           (2) posting or exhibiting a notice at the main entrance in a manner  
 22           that is either prescribed by law or likely to come to the attention  
 23           of the public;  
 24           (3) a hearing authority or court order under IC 32-30-6,  
 25           IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or  
 26           (4) posting the property by placing identifying purple marks on  
 27           trees or posts around the area where entry is denied.

28          (d) For the purposes of subsection (c)(4):

29           (1) each purple mark must be readily visible to any person  
 30           approaching the property and must be placed:

31           (A) on a tree:

- 32           (i) as a vertical line of at least eight (8) inches in length and  
 33           with the bottom of the mark at least three (3) feet and not  
 34           more than five (5) feet from the ground; and  
 35           (ii) not more than one hundred (100) feet from the nearest  
 36           other marked tree; or

37           (B) on a post:

- 38           (i) with the mark covering at least the top two (2) inches of  
 39           the post, and with the bottom of the mark at least three (3)  
 40           feet and not more than five (5) feet six (6) inches from the  
 41           ground; and  
 42           (ii) not more than thirty-six (36) feet from the nearest other



- 1 marked post; and
- 2 (2) before a purple mark that would be visible from both sides of
- 3 a fence shared by different property owners or lessees may be
- 4 applied, all of the owners or lessees of the properties must agree
- 5 to post the properties with purple marks under subsection (c)(4).
- 6 (e) A law enforcement officer may not deny entry to property or ask
- 7 a person to leave a property under subsection (b)(7) unless there is
- 8 reasonable suspicion that criminal activity has occurred or is occurring.
- 9 (f) A person described in subsection (b)(7) or (b)(10) violates
- 10 subsection (b)(7) or (b)(10), as applicable, unless the person has the
- 11 written permission of the owner, the owner's agent, an enforcement
- 12 authority, or a court to come onto the property for purposes of
- 13 performing maintenance, repair, or demolition.
- 14 (g) A person described in subsection (b)(10) violates subsection
- 15 (b)(10) unless the court that issued the order denying the person entry
- 16 grants permission for the person to come onto the property.
- 17 (h) Subsections (b), (c), and (g) do not apply to the following:
- 18 (1) A passenger on a train.
- 19 (2) An employee of a railroad carrier while engaged in the
- 20 performance of official duties.
- 21 (3) A law enforcement officer, firefighter, or emergency response
- 22 personnel while engaged in the performance of official duties.
- 23 (4) A person going on railroad property in an emergency to rescue
- 24 a person or animal from harm's way or to remove an object that
- 25 the person reasonably believes poses an imminent threat to life or
- 26 limb.
- 27 (5) A person on the station grounds or in the depot of a railroad
- 28 carrier:
- 29 (A) as a passenger; or
- 30 (B) for the purpose of transacting lawful business.
- 31 (6) A:
- 32 (A) person; or
- 33 (B) person's:
- 34 (i) family member;
- 35 (ii) invitee;
- 36 (iii) employee;
- 37 (iv) agent; or
- 38 (v) independent contractor;
- 39 going on a railroad's right-of-way for the purpose of crossing at a
- 40 private crossing site approved by the railroad carrier to obtain
- 41 access to land that the person owns, leases, or operates.
- 42 (7) A person having written permission from the railroad carrier





- 1 to go on specified railroad property.
- 2 (8) A representative of the Indiana department of transportation
- 3 while engaged in the performance of official duties.
- 4 (9) A representative of the federal Railroad Administration while
- 5 engaged in the performance of official duties.
- 6 (10) A representative of the National Transportation Safety Board
- 7 while engaged in the performance of official duties.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1338, 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:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-14-1.5-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2024]: **Sec. 3.3. (a) This section applies only to a meeting of the governing body of an entity described in section 2(a)(2) or 2(a)(3) of this chapter.**

**(b) This section does not apply to a meeting of the governing body of a school corporation or charter school.**

**(c) As used in this section, "attende" means a member of the public who is physically present at a meeting of a governing body.**

**(d) If a governing body allows attendees to speak on a topic at a meeting, the governing body may designate:**

**(1) a period for taking public testimony that is:**

**(A) before or during the governing body's discussion or consideration of the topic; and**

**(B) before the governing body takes final action on the topic; and**

**(2) the amount of time allotted for attendees to speak on the topic.**

**(e) A governing body may adopt reasonable rules or policies governing the conduct of a meeting, including any of the following:**

**(1) Reasonable restrictions on the time allotted for attendees to speak on a topic.**

**(2) Reasonable steps to maintain order during a meeting with respect to attendees and the elected officials of the governing body.**

**(3) A procedure for the presiding member of the governing body to issue warnings to attendees who disrupt a meeting. Subject to subsection (g), the procedure may provide that if an attendee receives three (3) warnings, the presiding member of the governing body may upon the issuing the third warning, direct:**

**(A) the attendee to leave the meeting; and**

**(B) a law enforcement officer to remove the attendee from the meeting, if the attendee refuses to leave when directed by the presiding member.**

**(f) The governing body must notify attendees of any rules or**



**policies that are adopted under this section by:**

- (1) posting the rules or policies in a visible area at the entrance to the meeting location; or**
- (2) making an announcement of the rules or policies at the meeting before taking oral public comment.**

**(g) Nothing in this section may be construed to prohibit a law enforcement officer from immediately removing an attendee from a meeting if:**

- (1) removal of the attendee is necessary to maintain order or ensure the safety of another person;**
- (2) the attendee is particularly disruptive; or**
- (3) the attendee commits a criminal offense.**

**(h) IC 34-13-3-3(a)(8) applies to this section."**

Page 2, delete lines 1 through 40.

Page 5, line 6, delete "government building" and insert "**property**".

Page 5, line 12, delete "government building" and insert "**property**".

Page 5, line 14, delete "government agency;" and insert "**owner or operator of the property;**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1338 as introduced.)

MILLER D

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1338 be amended to read as follows:

Page 2, line 29, delete "person;" and insert "**person; or**".

Page 2, delete line 30.

Page 2, line 31, delete "(3)" and insert "**(2)**".

(Reference is to HB 1338 as printed January 16, 2024.)

CLERE



HOUSE MOTION

Mr. Speaker: I move that House Bill 1338 be amended to read as follows:

Page 4, delete lines 39 through 42, begin a new line block indented and insert:

**"(12) knowingly or intentionally:**

**(A) enters and refuses to leave an area of a property that is marked as restricted;**

**(B) enters or refuses to leave an area of a property designated as employee or authorized personnel only; or**

**(C) enters or refuses to leave an area of a property that is locked or otherwise not accessible to the public;"**

Page 5, delete lines 1 through 2.

(Reference is to HB 1338 as printed January 16, 2024.)

TORR

