

# HOUSE BILL No. 1393

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 21-7-13-18.5; IC 21-27-11; IC 35-31.5-2-151; IC 35-42-2-2.5.

**Synopsis:** Hazing. Requires a state educational institution to establish and adopt a policy regarding hazing. Requires that the policy include a requirement that a designated office of a state educational institution, not later than January 1, 2020, and not later than January 1 of each year thereafter, submit to the commission of higher education (commission) a report regarding the number of reports of incidents of hazing, suspected hazing, and any other information requested by the commission. Allows for the commission to adopt rules regarding the hazing policy. Requires a state educational institution to, not later than August 1, 2019, develop and implement a hazing education program for all new students as part of the state educational institution's new student orientation. Amends the elements to the offense of hazing and repeals the current definition. Prohibits a certain defense to a prosecution for the offense of hazing.

**Effective:** July 1, 2018.

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## Austin

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January 16, 2018, read first time and referred to Committee on Education.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1393

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

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

1 SECTION 1. IC 21-7-13-18.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2018]: **Sec. 18.5. "Hazing" has the meaning**  
4 **described in IC 35-42-2-2.5.**

5 SECTION 2. IC 21-27-11 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2018]:

8 **Chapter 11. Hazing**

9 **Sec. 1. A state educational institution shall, not later than**  
10 **January 1, 2019, establish and adopt a hazing policy that does the**  
11 **following:**

12 **(1) Requires any state educational institution employee who**  
13 **knows of or suspects an incident of hazing to report the**  
14 **incident to the office designated under subdivision (2).**

15 **(2) Designates an office at the state educational institution to**  
16 **which:**



- 1 (A) a student of the state educational institution may  
 2 report an incident of hazing or suspected hazing; and  
 3 (B) a state educational institution employee must report an  
 4 incident of hazing or suspected hazing under subdivision  
 5 (1).
- 6 (3) Includes procedures the office described in subdivision (2)  
 7 is required to implement in investigating reports of incidents  
 8 of hazing or suspected hazing, including a description of the  
 9 circumstances in which an incident must be reported to a law  
 10 enforcement agency.
- 11 (4) Requires the office described in subdivision (2) to, not later  
 12 than January 1, 2020, and not later than January 1 each year  
 13 thereafter, submit to the commission for higher education a  
 14 report that includes:
- 15 (A) the number of incidents of hazing or suspected hazing  
 16 reports to the office during the previous calendar year;  
 17 and  
 18 (B) any other information concerning the reports as  
 19 described in clause (A) requested by the commission.
- 20 **Sec. 2.** The commission may adopt rules regarding the policy as  
 21 described in section 1 of this chapter.
- 22 **Sec. 3.** A state educational institution shall, not later than  
 23 August 1, 2019, develop and implement a hazing education  
 24 program for all new students as part of the state educational  
 25 institution's new student orientation.
- 26 SECTION 3. IC 35-31.5-2-151, AS AMENDED BY THE  
 27 TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL  
 28 ASSEMBLY, IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 151:~~  
 29 ~~"Hazing"; for purposes of IC 35-42-2-2.5, has the meaning set forth in~~  
 30 ~~IC 35-42-2-2.5(a).~~
- 31 SECTION 4. IC 35-42-2-2.5, AS ADDED BY P.L.158-2013,  
 32 SECTION 424, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2018]: Sec. 2.5. (a) ~~As used in this section;~~  
 34 ~~"hazing" means forcing or requiring another person:~~  
 35 (1) with or without the consent of the other person; and  
 36 (2) as a condition of association with a group or organization;  
 37 to perform an act that creates a substantial risk of bodily injury.
- 38 (a) A person who, with the intent of determining whether  
 39 another person should be allowed to join, affiliate with, or continue  
 40 as a member of an organization:  
 41 (1) causes bodily injury to the other person;  
 42 (2) requires or forces the other person to perform an act that:



1                   **(A) is degrading; or**  
 2                   **(B) creates a substantial risk of:**  
 3                   **(i) bodily injury;**  
 4                   **(ii) mental injury or emotional distress; or**  
 5                   **(3) requires or forces the other person to destroy, remove, or**  
 6                   **damage property;**  
 7                   **commits hazing, a Class B misdemeanor.**

8                   **(b) A person who knowingly or intentionally performs hazing**  
 9                   **commits a Class B misdemeanor. However, the offense is a Level 6**  
 10                   **felony if it results in serious bodily injury to another person, and a**  
 11                   **Level 5 felony if it is committed by means of a deadly weapon.**

12                   **(b) For the purposes of subsection (a), the trier of fact may**  
 13                   **consider, in addition to other relevant factors, the following:**

14                   **(1) Whether any brutality of a physical nature occurred to the**  
 15                   **other person such as:**

- 16                   **(A) whipping;**  
 17                   **(B) beating; or**  
 18                   **(C) branding.**

19                   **(2) Whether an activity adversely affected the mental and**  
 20                   **physical health, safety, or dignity of the other person**  
 21                   **including:**

- 22                   **(A) consumption of any food, liquor, drug, or other**  
 23                   **substance;**  
 24                   **(B) sleep deprivation;**  
 25                   **(C) forced calisthenics;**  
 26                   **(D) exposure to natural elements;**  
 27                   **(E) exclusion from social contact; or**  
 28                   **(F) conduct that could result in extreme embarrassment.**

29                   **(c) It is not a defense to prosecution that the other person**  
 30                   **consented to the activity described under this section.**

31                   **(d) A person, other than a person who has committed an offense**  
 32                   **under this section or a delinquent act that would be an offense under**  
 33                   **this section if the violator were an adult, who:**

- 34                   **(1) makes a report of hazing in good faith;**  
 35                   **(2) participates in good faith in a judicial proceeding resulting**  
 36                   **from a report of hazing;**  
 37                   **(3) employs a reporting or participating person described in**  
 38                   **subdivision (1) or (2); or**  
 39                   **(4) supervises a reporting or participating person described in**  
 40                   **subdivision (1) or (2);**

41                   **is not liable for civil damages or criminal penalties that might**  
 42                   **otherwise be imposed because of the report or participation.**



1           ~~(d)~~ **(e)** A person described in subsection ~~(e)(1)~~ **(d)(1)** or ~~(e)(2)~~ **(d)(2)**  
2 is presumed to act in good faith.

3           ~~(e)~~ **(f)** A person described in subsection ~~(e)(1)~~ **(d)(1)** or ~~(e)(2)~~ **(d)(2)**  
4 may not be treated as acting in bad faith solely because the person did  
5 not have probable cause to believe that a person committed:

- 6           (1) an offense under this section; or  
7           (2) a delinquent act that would be an offense under this section if  
8 the offender were an adult.

