

HOUSE BILL No. 1396

DIGEST OF INTRODUCED BILL

Citations Affected: IC 21-49; IC 34-30-2; IC 35-31.5-2-151; IC 35-42-2-2.5; IC 35-52-21.

Synopsis: Hazing. Requires: (1) a postsecondary educational institution; and (2) a national organization that sponsors or recognizes a local affiliate organization that includes students of a postsecondary educational institution; to develop and conduct an educational plan on hazing. Requires a postsecondary educational institution or local affiliate organization to report an allegation of hazing involving: (1) serious bodily injury; or (2) a significant risk of serious bodily injury; not later than 72 hours after learning of the allegation. Requires, beginning in the academic school year that begins in 2022: (1) a postsecondary educational institution to report incidents of hazing on the postsecondary educational institution's Internet web site; and (2) a local affiliate organization that includes students of a postsecondary educational institution to report incidents of hazing on the local affiliate organization's Internet web site. Relocates provisions regarding criminal hazing from Title 35 to Title 21. Amends the elements and penalty levels for the criminal offense of hazing. Provides that a person who actively directs or engages in an act of hazing that results in the injury to another person shall, to the extent that the person can do so without danger or peril to self or others, provide reasonable assistance to the injured person. Provides that a person who fails to seek assistance commits contributory hazing, a: (1) Class B misdemeanor; or (2) Level 6 felony if the failure to provide reasonable assistance results in serious bodily injury to the injured person. Provides that certain arguments are not a defense in a criminal prosecution for hazing or contributory hazing.

Effective: July 1, 2020.

Austin

January 15, 2020, read first time and referred to Committee on Education.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1396

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

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

1 SECTION 1. IC 21-49 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2020]:
4 **ARTICLE 49. HAZING**
5 **Chapter 1. Definitions**
6 **Sec. 1. The definitions in this chapter apply throughout this**
7 **article.**
8 **Sec. 2. "Campus security authority" means any of the following:**
9 (1) **A postsecondary educational institution's campus police or**
10 **security department.**
11 (2) **An individual not described in subdivision (1) who has**
12 **responsibility for security of a postsecondary educational**
13 **institution's campus, including an individual responsible for**
14 **monitoring entrance into property of the postsecondary**
15 **educational institution.**
16 (3) **An individual or entity specified in a postsecondary**
17 **educational institution's policies as an individual or entity to**



1 which students and employees are directed to report criminal
2 offenses.

3 (4) An official of a postsecondary educational institution who
4 has significant responsibility for student and campus
5 activities, including student housing, student discipline, and
6 administrative proceedings of the postsecondary educational
7 institution.

8 Sec. 3. "Clery Act" refers to the Jeanne Clery Disclosure of
9 Campus Security Policy and Campus Crime Statistics Act (20
10 U.S.C. 1092(f)).

11 Sec. 4. "FERPA" refers to the Family Educational Rights and
12 Privacy Act of 1974 (20 U.S.C. 1232g).

13 Sec. 5. (a) "Hazing" means an intentional, knowing, or reckless
14 act that:

15 (1) is committed:

16 (A) by one (1) or more individuals against a minor or
17 against a student of a postsecondary educational
18 institution;

19 (B) on:

20 (i) the campus or property of a postsecondary
21 educational institution; or

22 (ii) the property of a local affiliate organization; and

23 (C) for the purpose of the minor's or student's:

24 (i) recruitment to;

25 (ii) pledging to;

26 (iii) initiation in;

27 (iv) admission to;

28 (v) affiliation with;

29 (vi) continuation in; or

30 (vii) status with;

31 an organization; and

32 (2) causes or coerces the minor or student to do any of the
33 following:

34 (A) Violate state or federal law.

35 (B) Consume any food, liquid, drug, or other substance in
36 a noncustomary manner that subjects the minor or student
37 to a substantial risk of physical harm, including sickness,
38 vomiting, intoxication, or unconsciousness.

39 (C) Endure:

40 (i) brutality of a physical nature that results in medically
41 verifiable physical harm, including whipping, beating,
42 paddling, branding, dangerous physical activity, or



1 exposure to the elements; or

2 (ii) a threat of conduct described in item (i).

3 (b) The term does not include reasonable and customary
4 athletic, law enforcement, or military training, contests,
5 competitions, or events.

6 Sec. 6. "Local affiliate organization" means an organization that
7 is chartered or recognized by a national organization and that
8 includes students of a postsecondary educational institution.

9 Sec. 7. "National organization" means an organization that:

10 (1) is separate from a local affiliate organization; and

11 (2) charters or recognizes local affiliate organizations at one

12 (1) or more postsecondary educational institutions.

13 Sec. 8. "Organization" means:

14 (1) a club;

15 (2) an association;

16 (3) a corporation;

17 (4) an order;

18 (5) a society;

19 (6) a corps;

20 (7) a private club;

21 (8) a fraternity;

22 (9) a sorority;

23 (10) a varsity or club athletic team; or

24 (11) a service, social, or similar entity whose members are
25 primarily students or alumni of one (1) or more
26 postsecondary educational institutions.

27 Sec. 9. "Postsecondary educational institution" means a public
28 or private institution in Indiana that is authorized to grant an
29 associate degree or higher academic degree.

30 Chapter 2. Postsecondary Educational Institution Anti-Hazing
31 Programs

32 Sec. 1. (a) A postsecondary educational institution shall provide
33 all students of the postsecondary educational institution with an
34 educational program regarding hazing that:

35 (1) is based on research and best practices; and

36 (2) includes information on:

37 (A) hazing awareness;

38 (B) hazing prevention;

39 (C) the postsecondary educational institution's policies on
40 hazing;

41 (D) hazing intervention; and

42 (E) the legal and institutional consequences of hazing.



1 (b) A postsecondary educational institution shall develop a
 2 process for ensuring that all students who are newly enrolled in the
 3 postsecondary educational institution complete the educational
 4 program under subsection (a).

5 (c) An educational program under subsection (a) may be
 6 conducted in person or by electronic means.

7 Sec. 2. (a) A postsecondary educational institution shall provide
 8 to staff members of the postsecondary educational institution who
 9 advise or coach student organizations an educational program on
 10 hazing that:

11 (1) is based on research and best practices; and

12 (2) includes information on:

13 (A) hazing awareness;

14 (B) hazing prevention;

15 (C) the postsecondary educational institution's policies on
 16 hazing;

17 (D) hazing intervention; and

18 (E) the legal and institutional consequences of hazing.

19 (b) A postsecondary educational institution shall require all staff
 20 members of the postsecondary educational institution who advise
 21 or coach student organizations to complete the educational
 22 program under subsection (a).

23 (c) An educational program under subsection (a) may be
 24 conducted in person or by electronic means.

25 Sec. 3. A national organization shall provide for each local
 26 affiliate organization chartered or recognized by the national
 27 organization in Indiana anti-hazing education:

28 (1) separate from; and

29 (2) supplemental to;

30 the educational programs provided under section 1 of this chapter.

31 Sec. 4. A postsecondary educational institution may solicit and
 32 accept assistance and resources from other entities in carrying out
 33 the postsecondary educational institution's duties under this
 34 chapter.

35 Chapter 3. Reporting and Investigation of Hazing

36 Sec. 1. (a) Not later than seventy-two (72) hours after a
 37 postsecondary educational institution's campus security authority
 38 receives a report that alleges hazing involving serious bodily injury
 39 or a significant risk of serious bodily injury, the postsecondary
 40 educational institution shall report the hazing allegation to a law
 41 enforcement agency.

42 (b) Not later than seventy-two (72) hours after a local affiliate



1 organization learns of an allegation of hazing involving serious
 2 bodily injury or a significant risk of serious bodily injury, the local
 3 affiliate organization shall report the hazing allegation to a law
 4 enforcement agency.

5 **Sec. 2.** A postsecondary educational institution shall use the
 6 postsecondary educational institution's campus disciplinary
 7 process to investigate any student alleged to be involved in an act
 8 of hazing reported to the postsecondary educational institution's
 9 campus security authority.

10 **Sec. 3. (a)** Except as provided in subsection (b), a person,
 11 including an individual, a local affiliate organization, or a national
 12 organization:

13 (1) that:

14 (A) makes a report of hazing in good faith; or

15 (B) participates in good faith in a judicial proceeding
 16 resulting from a report of hazing; or

17 (2) that employs or supervises an individual described in
 18 subdivision (1);

19 is not liable for civil damages or criminal penalties that might
 20 otherwise be imposed due to the reporting or participation
 21 described in subdivision (1) or employment of an individual under
 22 subdivision (2).

23 (b) An individual who commits an act of hazing is not immune
 24 under subsection (a) from civil damages or criminal penalties for
 25 the individual's:

26 (1) reporting of; or

27 (2) participation in a judicial proceeding resulting from;

28 the act of hazing.

29 (c) A person:

30 (1) described in subsection (a)(1)(A) is presumed to have acted
 31 under subsection (a)(1)(A) in good faith; and

32 (2) described in subsection (a)(1)(B) is presumed to have acted
 33 under subsection (a)(1)(B) in good faith.

34 (d) A person described in subsection (a)(1)(A) or (a)(1)(B) may
 35 not be considered as acting in bad faith solely because the person:

36 (1) made a report of hazing or participated in a judicial
 37 proceeding resulting from a report of hazing; and

38 (2) did not have probable cause to believe that an individual
 39 committed:

40 (A) an offense under this article; or

41 (B) a delinquent act that would be an offense under this
 42 article if committed by an adult.



1 **Chapter 4. Postsecondary Educational Institution Hazing**
 2 **Reports**

3 **Sec. 1. (a) Beginning in the academic school year that begins in**
 4 **2022, and subject to subsection (c), a postsecondary educational**
 5 **institution and each local affiliate organization that includes**
 6 **students of the postsecondary educational institution shall maintain**
 7 **a report documenting all hazing related:**

8 **(1) violations of the postsecondary educational institution's**
 9 **disciplinary rules; and**

10 **(2) violations of state or federal law;**
 11 **that result in a finding of a formal violation of the student code of**
 12 **conduct of the postsecondary educational institution.**

13 **(b) A report maintained under subsection (a) must include:**

14 **(1) the nature, date, time, and general location of each**
 15 **incident; and**

16 **(2) the disposition of each complaint, if known;**
 17 **related to a violation documented in the report.**

18 **(c) A report maintained under subsection (a):**

19 **(1) may not include any personally identifying information of**
 20 **an individual student; and**

21 **(2) is subject to the requirements of FERPA.**

22 **Sec. 2. A postsecondary educational institution shall:**

23 **(1) post a copy of:**

24 **(A) the report maintained by the postsecondary**
 25 **educational institution under section 1 of this chapter; and**

26 **(B) the report maintained under section 1 of this chapter**
 27 **by each local affiliate organization that includes students**
 28 **of the postsecondary educational institution;**

29 **in the location on the postsecondary educational institution's**
 30 **Internet web site at which the postsecondary educational**
 31 **institution's Clery Act reports are available;**

32 **(2) update the reports posted on the postsecondary**
 33 **educational institution's Internet web site under this section:**

34 **(A) at least ten (10) calendar days before the start of the**
 35 **postsecondary educational institution's fall academic**
 36 **semester; and**

37 **(B) at least ten (10) calendar days before the start of the**
 38 **postsecondary educational institution's spring academic**
 39 **semester;**

40 **(3) provide the postsecondary educational institution's**
 41 **students with printed notice of:**

42 **(A) the nature and availability of the reports posted on the**



- 1 postsecondary educational institution's Internet web site
 2 under this section; and
 3 (B) the address of the Internet web site at which the
 4 reports are posted; and
 5 (4) retain each report created by the postsecondary
 6 educational institution under section 1 of this chapter for not
 7 less than three (3) calendar years.

8 **Sec. 3. A local affiliate organization shall:**

- 9 (1) post a copy of:
 10 (A) the report maintained by the local affiliate
 11 organization under section 1 of this chapter; and
 12 (B) the report maintained under section 1 of this chapter
 13 by any postsecondary educational institution whose
 14 students are included in the local affiliate organization;
 15 in a prominent location on the local affiliate organization's
 16 Internet web site;
 17 (2) update the reports posted on the local affiliate
 18 organization's Internet web site under this section:
 19 (A) at least ten (10) calendar days before the start of the
 20 fall academic semester; and
 21 (B) at least ten (10) calendar days before the start of the
 22 spring academic semester;
 23 of a postsecondary educational institution whose students are
 24 included in the local affiliate organization;
 25 (3) provide members of the local affiliate organization with
 26 printed notice of:
 27 (A) the nature and availability of the reports posted on the
 28 local affiliate organization's Internet web site under this
 29 section; and
 30 (B) the address of the Internet web site at which the
 31 reports are posted; and
 32 (4) retain each report created by the local affiliate
 33 organization under section 1 of this chapter for not less than
 34 three (3) calendar years.

35 **Sec. 4. An Internet web page on which a report is posted under**
 36 **section 2 or 3 of this chapter must include a statement indicating**
 37 **where a member of the public may obtain additional information**
 38 **that is not included in the report under FERPA.**

39 **Sec. 5. This chapter may not be construed to prohibit a**
 40 **postsecondary educational institution or local affiliate organization**
 41 **from providing information under IC 5-14-3 in addition to the**
 42 **information the postsecondary educational institution or local**



1 affiliate organization is required to provide under this chapter.

2 **Chapter 5. Hazing Offenses**

3 **Sec. 1. A person who knowingly or intentionally performs**
 4 **hazing commits a Class A misdemeanor. However, the offense is a**
 5 **Level 5 felony if it results in:**

- 6 (1) serious bodily injury to another person;
 7 (2) another person having an alcohol concentration of at least
 8 twenty-five hundredths (0.25) grams of alcohol per:
 9 (A) one hundred (100) milliliters of the person's blood; or
 10 (B) two hundred ten (210) liters of the person's breath; or
 11 (3) the death of another person.

12 **Sec. 2. (a) A person who actively directs or engages in an act of**
 13 **hazing that results in bodily injury to another individual shall, to**
 14 **the extent the person can do so without endangering the person or**
 15 **another individual, provide reasonable assistance to the injured**
 16 **individual, including immediately:**

- 17 (1) seeking; or
 18 (2) reporting the need for;

19 **medical assistance for the injured individual.**

20 (b) A person who fails to provide reasonable assistance as
 21 required under subsection (a) commits contributory hazing, a
 22 Class B misdemeanor. However, the offense is a Level 6 felony if
 23 the failure to provide reasonable assistance results in serious bodily
 24 injury to the victim.

25 **Sec. 3. None of the following is defense in a prosecution for an**
 26 **offense under this chapter:**

- 27 (1) The express or implied consent of the person against whom
 28 the act of hazing was committed.
 29 (2) The express or implied sanctioning or approval of the act
 30 of hazing by a postsecondary educational institution.
 31 (3) Evidence that the act of hazing is traditional or customary.

32 **SECTION 2. IC 34-30-2-86.6 IS ADDED TO THE INDIANA**
 33 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 34 **[EFFECTIVE JULY 1, 2020]: Sec. 86.6. IC 21-49-3-3 (Concerning**
 35 **persons reporting or participating in proceedings concerning**
 36 **hazing).**

37 **SECTION 3. IC 34-30-2-150 IS REPEALED [EFFECTIVE JULY**
 38 **1, 2020]. Sec. 150: IC 35-42-2-2.5 (Concerning persons for reporting**
 39 **or participating in proceedings concerning hazing):**

40 **SECTION 4. IC 35-31.5-2-151 IS REPEALED [EFFECTIVE JULY**
 41 **1, 2020]. Sec. 151: "Hazing", for purposes of IC 35-42-2-2.5, has the**
 42 **meaning set forth in IC 35-42-2-2.5(a).**



1 SECTION 5. IC 35-42-2-2.5 IS REPEALED [EFFECTIVE JULY
2 1, 2020]. Sec. 2-5: (a) As used in this section, "hazing" means forcing
3 or requiring another person:

4 (1) with or without the consent of the other person; and

5 (2) as a condition of association with a group or organization;
6 to perform an act that creates a substantial risk of bodily injury:

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

11 (c) A person, other than a person who has committed an offense
12 under this section or a delinquent act that would be an offense under
13 this section if the violator were an adult, who:

14 (1) makes a report of hazing in good faith;

15 (2) participates in good faith in a judicial proceeding resulting
16 from a report of hazing;

17 (3) employs a reporting or participating person described in
18 subdivision (1) or (2); or

19 (4) supervises a reporting or participating person described in
20 subdivision (1) or (2);

21 is not liable for civil damages or criminal penalties that might
22 otherwise be imposed because of the report or participation:

23 (d) A person described in subsection (c)(1) or (c)(2) is presumed to
24 act in good faith:

25 (e) A person described in subsection (c)(1) or (c)(2) may not be
26 treated as acting in bad faith solely because the person did not have
27 probable cause to believe that a person committed:

28 (1) an offense under this section; or

29 (2) a delinquent act that would be an offense under this section if
30 the offender were an adult.

31 SECTION 6. IC 35-52-21-6 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2020]: **Sec. 6. IC 21-49-5-1 defines a crime concerning hazing.**

34 SECTION 7. IC 35-52-21-7 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2020]: **Sec. 7. IC 21-49-5-2 defines a crime concerning
37 contributory hazing.**

