

# HOUSE BILL No. 1271

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-2.2; IC 4-2-6.5; IC 35-31.5-2-217.3; IC 35-42-4-8.5.

**Synopsis:** Removal of elected officials. Provides that disorderly behavior, which can be the basis of expulsion from the general assembly, includes sexual misconduct, committing certain sex crimes, and engaging in conduct that is inconsistent with the high ethical standards of the general assembly. Creates the officeholder oversight commission, which may remove certain statewide officeholders from office for engaging in sexual misconduct, committing certain sex crimes, or engaging in conduct inconsistent with the high ethical standards of their office. Provides that a person who, without the consent of the other person, knowingly or intentionally rubs or fondles another person's covered or uncovered genitals, buttocks, pubic area, or female breast, commits lewd touching, a Class A misdemeanor. Enhances the penalty for lewd touching if: (1) it is committed by using or threatening the use of deadly force; (2) it is committed while armed with a deadly weapon; (3) the commission of the offenses is facilitated with a drug or controlled substance; (4) it is committed by an officeholder; or (5) it is committed by an individual who has a previous unrelated conviction for the offense.

**Effective:** July 1, 2020.

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## Candelaria Reardon

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January 7, 2020, read first time and referred to Committee on Government and Regulatory Reform.

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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. 1271

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

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

1 SECTION 1. IC 2-2.2-1-18.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2020]: **Sec. 18.5. "Sexual misconduct"**  
4 **means:**

- 5 (1) **unwelcome sexual advances;**
- 6 (2) **unwelcome requests for sexual favors; or**
- 7 (3) **unwelcome verbal or physical conduct of a sexual nature.**

8 SECTION 2. IC 2-2.2-5-1, AS ADDED BY P.L.123-2015,  
9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2020]: Sec. 1. The following constitute disorderly behavior  
11 and may be punished by the house or senate as provided in Article 4,  
12 Section 14 of the Constitution of the State of Indiana:

- 13 (1) Knowing or intentional failure to file a required statement by  
14 the deadline prescribed in IC 2-2.2-2.
- 15 (2) Knowing or intentional filing a false statement prescribed by  
16 IC 2-2.2-2.
- 17 (3) Knowing or intentional violation of section 2, 3, ~~or~~ 4, **or 5** of



1 this chapter.

2 SECTION 3. IC 2-2.2-5-5 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2020]: **Sec. 5. (a) A member:**

- 5 (1) may not commit an act of sexual misconduct;  
6 (2) may not commit a sex crime under IC 35-42-4; and  
7 (3) may not engage in conduct that is inconsistent with the  
8 high ethical standards of the general assembly.

9 (b) In determining whether a member committed an act of  
10 sexual misconduct, committed a sex crime under IC 35-42-4, or  
11 engaged in conduct that is inconsistent with the high ethical  
12 standards of the general assembly, the house or senate may  
13 consider the following:

- 14 (1) That the member has been convicted of a crime.  
15 (2) A criminal complaint against the member.  
16 (3) A civil rights complaint filed under 42 U.S.C. 1983 against  
17 the member.  
18 (4) A complaint filed with the civil rights commission against  
19 the member.  
20 (5) A report issued by the inspector general concerning the  
21 member.  
22 (6) A complaint filed with the federal Equal Employment  
23 Opportunity Commission involving the member.  
24 (7) A complaint alleging employment discrimination against  
25 the member.  
26 (8) A complaint filed with the Indiana disciplinary  
27 commission against the member.  
28 (9) Other documents concerning an allegation that a member  
29 engaged in behavior in violation of subsection (a).

30 SECTION 4. IC 4-2-6.5 IS ADDED TO THE INDIANA CODE AS  
31 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
32 1, 2020]:

33 **Chapter 6.5. Officeholder Oversight Commission**

34 **Sec. 1. This chapter applies to a state officeholder who is not**  
35 **holding a constitutional office and is elected in a general election**  
36 **held statewide, including:**

- 37 (1) the attorney general; and  
38 (2) before January 11, 2021, the state superintendent of public  
39 instruction.

40 **Sec. 2. The following definitions apply throughout this chapter:**

- 41 (1) "Commission" means the officeholder oversight  
42 commission created by section 3 of this chapter.



1           (2) "Sex crime" means a sex crime under IC 35-42-4.

2           **Sec. 3. The officeholder oversight commission is created.**

3           **Sec. 4. (a) The commission consists of twelve (12) members as**  
 4 **follows:**

5           (1) The inspector general.

6           (2) A law enforcement officer appointed by the governor.

7           (3) An individual who is an attorney licensed to practice law  
 8 in Indiana, appointed by the governor.

9           (4) The executive director of the prosecuting attorneys council  
 10 of Indiana.

11           (5) The executive director of the public defender council of  
 12 Indiana.

13           (6) The executive director of the Indiana disciplinary  
 14 commission.

15           (7) A member of the senate appointed by the president pro  
 16 tempore of the senate.

17           (8) A member of the senate appointed by the minority leader  
 18 of the senate.

19           (9) A member of the house of representatives appointed by the  
 20 speaker of the house of representatives.

21           (10) A member of the house of representatives appointed by  
 22 the minority leader of the house of representatives.

23           (11) A justice of the supreme court appointed by the chief  
 24 justice of the Indiana supreme court.

25           (12) A judge of the court of appeals appointed by the chief  
 26 judge of the Indiana court of appeals.

27           **(b) The inspector general is the chairperson of the commission.**

28           **(c) The commission shall meet upon the call of the chairperson.**

29           **Sec. 5. The commission shall recall an officeholder from office**  
 30 **if the commission determines that the officeholder:**

31           (1) engaged in sexual misconduct;

32           (2) committed a sex crime; or

33           (3) engaged in conduct inconsistent with the high ethical  
 34 standards of the officeholder's office.

35           **Sec. 6. (a) A complaint that an officeholder engaged in sexual**  
 36 **misconduct, committed a sex crime, or engaged in conduct**  
 37 **inconsistent with the high ethical standards of the officeholder's**  
 38 **office may be filed with the office of the inspector general. A**  
 39 **complaint filed under this section may be confidential.**

40           **(b) The inspector general shall distribute a copy of a complaint**  
 41 **submitted under subsection (a) to each member of the commission**  
 42 **within seven (7) days after receiving the complaint.**



1           (c) The commission shall meet within fourteen (14) days after a  
2 complaint is distributed under subsection (b) to determine whether  
3 a complaint filed under subsection (a) may be valid. If a majority  
4 of the commission members vote that a complaint may be valid, the  
5 inspector general shall serve the officeholder with a copy of the  
6 complaint.

7           (d) The officeholder shall provide a response to the complaint in  
8 a reasonable period of time not exceeding thirty (30) days. The  
9 officeholder may submit to the commission signed affidavits in  
10 support of the officeholder's response to a complaint.

11           (e) The inspector general may call a public hearing for the  
12 commission to question:

13               (1) the officeholder; and

14               (2) any witnesses who have knowledge of allegations made in  
15 a complaint filed under subsection (a).

16 The officeholder and commission may call witnesses at a public  
17 hearing under this section.

18           (f) An officeholder may be represented by an attorney at a  
19 hearing under this section.

20           (g) Notice of a hearing called under subsection (e) must be given  
21 at least ten (10) days before the meeting.

22           (h) If the officeholder fails to appear at a hearing called under  
23 subsection (e), the commission may consider the failure to appear  
24 as an admission to the allegations made in the complaint filed  
25 under subsection (a).

26           (i) The commission may consider the following as part of its  
27 review of the officeholder under this section:

28               (1) That the officeholder has been convicted of a crime.

29               (2) A criminal complaint against the officeholder.

30               (3) A civil rights complaint filed under 42 U.S.C. 1983 against  
31 the officeholder.

32               (4) A complaint filed with the civil rights commission against  
33 the officeholder.

34               (5) A report issued by the inspector general concerning the  
35 officeholder.

36               (6) A complaint filed with the federal Equal Employment  
37 Opportunity Commission involving the officeholder.

38               (7) A complaint alleging employment discrimination against  
39 the officeholder.

40               (8) A complaint filed with the Indiana disciplinary  
41 commission against the officeholder.

42               (9) An allegation of sexual harassment or sexual assault.



- 1           (10) Other documents concerning an allegation that an  
2           officeholder engaged in behavior described in section 5 of this  
3           chapter.
- 4           (j) If, after a public hearing, eight (8) of the commission  
5           members vote that the officeholder:
- 6               (1) engaged in sexual misconduct;  
7               (2) committed a sex crime; or  
8               (3) engaged in conduct inconsistent with the high ethical  
9               standards of the officeholder's office;  
10          the officeholder is removed from office.
- 11          Sec. 7. If the officeholder is removed from office under section  
12          6 of this chapter, the governor shall appoint an officeholder who is  
13          of the same party as the officeholder who was removed from office.
- 14          SECTION 5. IC 35-31.5-2-217.3 IS ADDED TO THE INDIANA  
15          CODE AS A NEW SECTION TO READ AS FOLLOWS  
16          [EFFECTIVE JULY 1, 2020]: Sec. 217.3. "Officeholder", for  
17          purposes of IC 35-42-4-8.5, has the meaning set forth in  
18          IC 35-42-4-8.5(a).
- 19          SECTION 6. IC 35-42-4-8.5 IS ADDED TO THE INDIANA CODE  
20          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
21          1, 2020]: Sec. 8.5. (a) As used in this section, "officeholder" means  
22          an individual who is elected, appointed, or retained to:
- 23               (1) a state office as described in IC 3-5-2-48; or  
24               (2) the legislative branch of state government.
- 25          (b) A person who, without the consent of the other person,  
26          knowingly or intentionally rubs or fondles another person's  
27          covered or uncovered genitals, buttocks, pubic area, or female  
28          breast, commits lewd touching, a Class A misdemeanor.
- 29          (c) An offense described in subsection (b) is a Level 6 felony if:
- 30               (1) it is committed by using or threatening the use of deadly  
31               force;  
32               (2) it is committed while armed with a deadly weapon;  
33               (3) the commission of the offense is facilitated by furnishing  
34               the victim, without the victim's knowledge, with a drug (as  
35               defined in IC 16-42-19-2(1)) or a controlled substance (as  
36               defined in IC 35-48-1-9) or knowing that the victim was  
37               furnished with the drug or controlled substance without the  
38               victim's knowledge;  
39               (4) it is committed by an officeholder; or  
40               (5) it is committed by an individual who has a previous  
41               unrelated conviction under this section.

