



March 28, 2023

ENGROSSED HOUSE BILL No. 1608

DIGEST OF HB 1608 (Updated March 23, 2023 10:17 am - DI 110)

Citations Affected: IC 20-28; IC 20-30; IC 20-33.

Synopsis: Education matters. Provides that a school, an employee or staff member of a school, or a third party vendor used by a school to provide instruction may not provide any instruction to a student in prekindergarten through grade 3 on human sexuality. Provides that a school employee or a school staff member is not prohibited from responding to a question from a student regarding certain topics. Requires certain schools to obtain consent from at least one parent of an unemancipated minor student regarding a request made by the student to change the student's name or pronoun, title, or word to identify the student. Provides that a school may not discipline an employee or staff member of the school for using a name, pronoun, title, or other word to identify a student that is consistent with the student's legal name if the employee or staff members does so out of a religious conviction.

Effective: July 1, 2023.

Davis, Teshka, Jeter, Heaton

(SENATE SPONSORS — DONATO, RAATZ, BYRNE)

January 19, 2023, read first time and referred to Committee on Education.

February 20, 2023, amended, reported — Do Pass.

February 22, 2023, read second time, ordered engrossed. Engrossed.

February 23, 2023, read third time, passed. Yeas 65, nays 29.

SENATE ACTION

March 6, 2023, read first time and referred to Committee on Education and Career Development.

March 27, 2023, amended, reported favorably — Do Pass.

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March 28, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1608

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

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

- 1 SECTION 1. IC 20-28-10-17, AS ADDED BY P.L.1-2005,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 17. (a) Except as provided in **IC 20-33-7.5 and**
4 **IC 31-32-11-1**, a school counselor is immune from disclosing
5 privileged or confidential communication made to the counselor as a
6 counselor by a student.
7 (b) Except as provided in **IC 20-33-7.5 and** IC 31-32-11-1, the
8 matters communicated are privileged and protected against disclosure.
9 SECTION 2. IC 20-28-12-5, AS ADDED BY P.L.1-2005,
10 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2023]: Sec. 5. A school psychologist who is endorsed under
12 this chapter may not disclose any information acquired from persons
13 with whom the school psychologist has dealt in a professional capacity,
14 except under the following circumstances:
15 (1) Trials for homicide when the disclosure relates directly to the
16 fact or immediate circumstances of the homicide.
17 (2) Proceedings:

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- 1 (A) to determine mental competency; or
 2 (B) in which a defense of mental incompetency is raised.
 3 (3) Civil or criminal actions against a school psychologist for
 4 malpractice.
 5 (4) Upon an issue as to the validity of a document.
 6 (5) If the school psychologist has the express consent of the client
 7 or, in the case of a client's death or disability, the express consent
 8 of the client's legal representative.
 9 (6) Circumstances under which privileged communication is
 10 lawfully invalidated.

11 **(7) Disclosures required by IC 20-33-7.5.**

12 SECTION 3. IC 20-30-17 IS ADDED TO THE INDIANA CODE
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2023]:

15 **Chapter 17. Prohibited Instruction**

16 **Sec. 1. As used in this chapter, "school" means any of the**
 17 **following:**

- 18 (1) A public school, including a charter school.
 19 (2) A laboratory school established under IC 20-24.5-2.
 20 (3) The Indiana School for the Blind and Visually Impaired
 21 established by IC 20-21-2-1.
 22 (4) The Indiana School for the Deaf established by
 23 IC 20-22-2-1.

24 **Sec. 2. A school, an employee or staff member of a school, or a**
 25 **third party vendor used by a school to provide instruction may not**
 26 **provide any instruction to a student in prekindergarten through**
 27 **grade 3 on human sexuality.**

28 **Sec. 3. Nothing in this chapter may be construed to prohibit a**
 29 **teacher from providing instruction on academic standards**
 30 **developed by the department under IC 20-31-3-2 or instruction**
 31 **required under IC 20-30-5-5.7.**

32 **Sec. 4. Nothing in this chapter may be construed to prevent a**
 33 **school employee or a school staff member from responding to a**
 34 **question from a student regarding the topic described in section 2**
 35 **of this chapter.**

36 SECTION 4. IC 20-33-7.5 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2023]:

39 **Chapter 7.5. Parental Notification Regarding Identification**

40 **Sec. 1. As used in this chapter, "school" has the meaning set**
 41 **forth in IC 20-30-17-1.**

42 **Sec. 2. (a) A school shall obtain consent from at least one (1)**



1 parent of a student, if the student is an unemancipated minor,
2 regarding a request made by the student to change the student's:

3 (1) name; or

4 (2) pronoun, title, or word to identify the student.

5 (b) Not later than five (5) business days after the date on which
6 a school receives a request described in subsection (a), the school
7 shall seek parental consent from a parent as required by subsection
8 (a).

9 **Sec. 3.** A school may not discipline an employee or staff member
10 of the school for using a name, pronoun, title, or other word to
11 identify a student that is consistent with the student's legal name if
12 the employee or staff member does so out of a religious conviction.

13 **Sec. 4.** This chapter does not:

14 (1) change an individual's duty to report child abuse or
15 neglect, as required under IC 31-33-5; or

16 (2) permit a school to establish a policy described in
17 IC 20-26-5-35.5.

18 **Sec. 5.** Nothing in this chapter may be construed to require a
19 school psychologist, a school nurse, a school social worker, or a
20 school counselor to violate a federal law or regulation.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1608, 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 7 through 15, begin a new line block indented and insert:

- "(1) A public school, including a charter school.**
- (2) A laboratory school established under IC 20-24.5-2.**
- (3) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.**
- (4) The Indiana School for the Deaf established by IC 20-22-2-1."**

Page 2, line 2, delete ", including a presentation, in which the goal or purpose of the" and insert "**on human sexuality**."

Page 2, delete lines 3 through 9, begin a new paragraph and insert:

"Sec. 3. Nothing in this chapter may be construed to prohibit a teacher from providing instruction on academic standards developed by the department under IC 20-31-3-2.

Sec. 4. Nothing in this chapter may be construed to prevent a school employee or a school staff member from responding to a question from a student regarding the topic described in section 2 of this chapter.

SECTION 2. IC 20-33-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 14. Gender Identification

Sec. 1. As used in this chapter, "school" means any of the following:

- (1) A public school, including a charter school.**
- (2) A state accredited school.**
- (3) A nonaccredited nonpublic school that has at least one (1) employee.**
- (4) A laboratory school established under IC 20-24.5-2.**
- (5) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.**
- (6) The Indiana School for the Deaf established by IC 20-22-2-1.**

Sec. 2. As used in this chapter, "sex" means an individual's biological sex as either male or female based on the individual's genetics and reproductive biology at birth, including sex organs, chromosomes, and hormones, without regard to the gender that the



individual experiences, identifies with, or expresses.

Sec. 3. (a) An employee or a staff member of a school may only use a name, pronoun, title, or other word to identify a student that is inconsistent with the student's sex if:

- (1) the student, who is an adult or an emancipated minor; or**
- (2) a parent of the student, who is an unemancipated minor; requests in writing the use of a specific name, pronoun, title, or other word to identify the student.**

(b) A request described in subsection (a) must be submitted to the school at the beginning of a school year.

Sec. 4. A school shall notify the parent of a student, if the student is an unemancipated minor, of a request made by the student to change the student's name, pronoun, title, or other word to identify the student that is inconsistent with the student's sex.

Sec. 5. A school may not discipline an employee or staff member of the school for using a name, pronoun, title, or other word to identify a student that is consistent with the student's legal name.

Sec. 6. This chapter does not:

- (1) change an individual's duty to report child abuse or neglect, as required under IC 31-33-5; or**
- (2) permit a school to establish a policy described in IC 20-26-5-35.5."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1608 as introduced.)

BEHNING

Committee Vote: yeas 9, nays 4.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred House Bill No. 1608, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

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

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"SECTION 1. IC 20-28-10-17, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) Except as provided in **IC 20-33-7.5 and IC 31-32-11-1**, a school counselor is immune from disclosing privileged or confidential communication made to the counselor as a counselor by a student.

(b) Except as provided in **IC 20-33-7.5 and IC 31-32-11-1**, the matters communicated are privileged and protected against disclosure.

SECTION 2. IC 20-28-12-5, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. A school psychologist who is endorsed under this chapter may not disclose any information acquired from persons with whom the school psychologist has dealt in a professional capacity, except under the following circumstances:

(1) Trials for homicide when the disclosure relates directly to the fact or immediate circumstances of the homicide.

(2) Proceedings:

(A) to determine mental competency; or

(B) in which a defense of mental incompetency is raised.

(3) Civil or criminal actions against a school psychologist for malpractice.

(4) Upon an issue as to the validity of a document.

(5) If the school psychologist has the express consent of the client or, in the case of a client's death or disability, the express consent of the client's legal representative.

(6) Circumstances under which privileged communication is lawfully invalidated.

(7) Disclosures required by IC 20-33-7.5."

Page 1, line 15, delete "kindergarten" and insert "**prekindergarten**".

Page 2, line 2, delete "IC 20-31-3-2." and insert "**IC 20-31-3-2 or instruction required under IC 20-30-5-5.7.**".

Page 2, delete lines 7 through 39, begin a new paragraph and insert:
"SECTION 4. IC 20-33-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 7.5. Parental Notification Regarding Identification

Sec. 1. As used in this chapter, "school" has the meaning set forth in IC 20-30-17-1.

Sec. 2. (a) A school shall obtain consent from at least one (1) parent of a student, if the student is an unemancipated minor, regarding a request made by the student to change the student's:

(1) name; or



(2) pronoun, title, or word to identify the student.

(b) Not later than five (5) business days after the date on which a school receives a request described in subsection (a), the school shall seek parental consent from a parent as required by subsection (a)."

Page 2, line 40, delete "5." and insert "3."

Page 2, line 42, delete "name." and insert "**name if the employee or staff member does so out of a religious conviction.**"

Page 3, line 1, delete "6." and insert "4."

Page 3, after line 5, begin a new paragraph and insert:

"Sec. 5. Nothing in this chapter may be construed to require a school psychologist, a school nurse, a school social worker, or a school counselor to violate a federal law or regulation."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1608 as printed February 20, 2023.)

RAATZ, Chairperson

Committee Vote: Yeas 9, Nays 4.

