

SENATE BILL No. 46

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-42.

Synopsis: Parental rights. Provides that a governmental entity may not substantially burden certain parental rights unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering the governmental interest. Prohibits a governmental entity from: (1) advising, directing, or coercing a child to withhold certain information from the child's parent; or (2) denying a child's parent access to certain information. Allows a parent to bring an action against a governmental entity for certain violations and provides for certain relief. Specifies that the parent of a child does not have a right to access certain medical care on behalf of the child if the child does not have an affirmative right of access to such medical care.

Effective: July 1, 2024.

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January 8, 2024, read first time and referred to Committee on Judiciary.



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.

SENATE BILL No. 46

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 31-42 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2024]:
4 **ARTICLE 42. PARENTAL RIGHTS AND**
5 **RESPONSIBILITIES**
6 **Chapter 1. Definitions**
7 **Sec. 1. Except as otherwise provided, the definitions in this**
8 **chapter apply throughout this article.**
9 **Sec. 2. "Child" means an unemancipated individual who is less**
10 **than eighteen (18) years of age.**
11 **Sec. 3. "Governmental entity" has the meaning set forth in**
12 **IC 34-13-9-6.**
13 **Sec. 4. "Health care" has the meaning set forth in IC 16-36-1-1.**
14 **Sec. 5. "Parent" has the meaning set forth in IC 20-18-2-13.**
15 **Chapter 2. Rights of Parents**
16 **Sec. 1. This chapter applies to all statutes enacted by the general**
17 **assembly unless a statute is exempted by reference to a specific**



- 1 statute within this chapter.
- 2 **Sec. 2.** A governmental entity may not substantially burden a
 3 parent's fundamental right to direct the:
- 4 (1) upbringing;
 5 (2) religious instruction;
 6 (3) education; or
 7 (4) health care;
- 8 of the parent's child, unless the burden is in furtherance of a
 9 compelling governmental interest and is the least restrictive means
 10 of furthering the governmental interest.
- 11 **Sec. 3.** (a) A governmental entity or an employee of a
 12 governmental entity may not:
- 13 (1) advise, direct, or coerce a child to withhold information
 14 from the child's parent; or
 15 (2) deny a child's parent access to information that:
 16 (A) is in the control of the governmental entity;
 17 (B) is requested by the child's parent; and
 18 (C) relates to the child's health care or social, emotional,
 19 and behavioral well-being.
- 20 (b) This section does not apply if:
- 21 (1) the parent's access to the requested information is
 22 prohibited by a court order; or
 23 (2) a law enforcement officer requests that the information
 24 not be released because the parent is subject to an
 25 investigation related to the child.
- 26 **Sec. 4.** (a) Notwithstanding IC 34-13-3-3(a)(8), a parent may
 27 bring suit against a governmental entity for a violation of this
 28 chapter.
- 29 (b) A parent may raise this chapter as a defense in a judicial or
 30 administrative proceeding brought against the parent by a
 31 governmental entity or a private entity.
- 32 (c) A governmental entity that is a party to a civil judicial or
 33 administrative proceeding under this chapter has the burden of
 34 proof to demonstrate by clear and convincing evidence that it did
 35 not violate section 2 or 3 of this chapter.
- 36 **Sec. 5.** Relief against the governmental entity may include any
 37 of the following:
- 38 (1) Declaratory relief or injunctive relief.
 39 (2) Compensatory damages.
 40 (3) Reasonable attorney's fees and costs.
- 41 **Sec. 6.** This chapter does not authorize a parent to commit child
 42 abuse or neglect as defined in IC 31-9-2-14. This chapter does not



1 **apply to an act or omission by a parent to end the life of a child.**
2 **This chapter does not prohibit a court from issuing an order that**
3 **is otherwise permitted by law.**

4 **Sec. 7. If a child does not have an affirmative right of access to**
5 **a specific medical treatment, service, or procedure, then this**
6 **chapter may not be construed to grant the parent a right to access**
7 **that medical treatment, service, or procedure on behalf of the**
8 **parent's child.**

