

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1204

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 16-39-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this section, "primary caregiver" means an individual who provides for the physical, emotional, and social needs of another individual who cannot provide for the other individual's own needs.

(b) Upon the written request of a patient's:

- (1) spouse;
- (2) parent if:
 - (A) the patient does not have a spouse; or
 - (B) the parent is the primary caregiver to the patient;
- (3) adult child if the patient has neither a spouse nor a parent;
- (4) sibling if the patient has neither a spouse, a parent, nor an adult child; or
- (5) guardian, guardian ad litem, or court appointed special guardian;

who is involved in the planning, provision, and monitoring of mental health services delivered to the patient and the written consent of the treating physician for the patient, the provider shall provide the individual described in subdivision (1), (2), (3), (4), or (5) with the information described in section 3 of this chapter.

(c) Upon the written request of the parent, guardian, or court appointed special guardian who is involved in the planning,

HEA 1204 — CC 1



provision, and monitoring of the mental health of a child enrolled in a school, the provider shall provide the child's school principal or school leader with information described in section 3 of this chapter without charge.

(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the federal Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may confirm the provider's immunity.

SECTION 2. IC 16-39-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) If a provider has received a written request under section ~~2~~ **2(b)** of this chapter, the provider shall provide **the following information to** the individual who made the request **or, if the request is made under section 2(c) of this chapter, the patient's school principal or school leader:** ~~with the following information:~~

- (1) A summary of the patient's diagnosis.
- (2) A summary of the information required to be given to the patient under IC 12-27-6-2 and IC 12-27-6-3.
- (3) The types of medication that have been prescribed for the patient.
- (4) A summary of the patient's prognosis.

If the information is provided after a request is made under section 2(c) of this chapter, the provider shall limit the information provided to information concerning the patient's mental health. The school principal or school leader shall keep the information the principal or school leader receives under this section confidential.

(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a confidentiality agreement prescribed by the provider confirming that the information and mental health records released by the provider may not be disclosed by the principal except to the minimum necessary extent required to:

- (1) inform necessary school staff of the principal's or school leader's decision regarding the student's fitness for school



attendance and participation in services; or
 (2) satisfy duties imposed upon the principal or school leader by law.

(c) A school principal or school leader who receives information and mental health records under this chapter is immune from civil, criminal, and administrative liability for disclosures made pursuant to this chapter.

SECTION 3. IC 20-33-2-46, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 46. (a) ~~With the approval of the state board,~~ **Except as provided in subsection (c),** a superintendent or school leader may exclude or excuse a student found mentally or physically unfit for school attendance. An exclusion or excuse under this section is valid only for the school year during which it is issued **and shall not violate a student's right to a free and appropriate public education under federal law.**

~~(b) A superintendent's action under this section must be in accordance with limitations and regulations established by the state board concerning the procedures and requirements for the complete examination of students.~~

~~(c) (b) A student may not be compelled to undergo any examination or treatment under this chapter when the student's parent objects on religious grounds, which consists of a good faith reliance on spiritual means or prayer for healing. The objection is not effective unless it is:~~

- ~~(1) made in writing;~~
- ~~(2) signed by the student's parent; and~~
- ~~(3) delivered to the student's teacher or to the individual who might order an examination or treatment absent the objection.~~

~~A student may not be excluded under this section except as provided under IC 20-33-8.~~

(c) If a physician, psychologist, or psychiatrist certifies that a student is fit for school attendance, the superintendent or school leader may not exclude or excuse that student. However, nothing in this section shall prohibit a school from disciplining a student pursuant to any legal authority, including but not limited to IC 20-33-8.

SECTION 4. IC 33-37-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) **Except as provided in section 3.5 of this chapter,** a witness in a criminal action may receive a fee if the witness:

- (1) is summoned by the state;
- (2) is named on the indictment or information; and



- (3) testifies under oath to a material fact in aid of the prosecution.
- (b) A fee paid under subsection (a) is the sum of the following:
- (1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.
 - (2) For each day of attendance in court equal to:
 - (A) fifteen dollars (\$15) for witnesses subpoenaed under IC 35-37-5-4; or
 - (B) five dollars (\$5) for all other witnesses.

SECTION 5. IC 33-37-10-3, AS AMENDED BY P.L.1-2007, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. **Except as provided in section 3.5 of this chapter**, a witness in an action listed in IC 33-37-4-2, IC 33-37-4-3, IC 33-37-4-4, IC 33-37-4-6, and IC 33-37-4-7 is entitled to the sum of the following:

- (1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.
- (2) Five dollars (\$5) for each day of attendance in court.

SECTION 6. IC 33-37-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.5. A witness in any civil or criminal action who is employed by a school in Indiana is entitled to the sum of the following if the witness is called to testify on a regular school day of the school district that employs the witness:**

- (1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.
- (2) One hundred dollars (\$100) for each day of attendance in court.

SECTION 7. IC 34-30-2-77.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 77.6. IC 16-39-4-3 (Concerning school principals and school leaders who receive information and mental health records).**

SECTION 8. IC 34-30-2-77.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 77.7. IC 16-39-4-2 (Concerning providers that disclose information and records to a school principal or school leader).**

SECTION 9. IC 34-30-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 28. Immunity for Schools, School Employees, and



School Boards Concerning Student Health

Sec. 1. A school, school employee, or school board is not liable for civil damages as a result of:

- (1) an injury to a child or family members of the child if the injury is a result of a student's mental health issue that has not been disclosed to the school by the parents or guardian; or**
- (2) any referrals the school made or services the school offered concerning evaluations or treatment of the student's health, including mental health.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

