

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.

## HOUSE ENROLLED ACT No. 1608

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AN ACT to amend the Indiana Code concerning education.

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

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.

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(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.**

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

**Chapter 17. Prohibited Instruction**

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

- (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.

**Sec. 2.** 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.

**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 or instruction required under IC 20-30-5-7.

**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 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 notify in writing at least one (1) parent of a student, if the student is an unemancipated minor, of 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 provide notification to a parent as required by subsection (a).

**Sec. 3. 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.

**Sec. 4. 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.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1608 — Concur**

