

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 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1794

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 9-24-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A driver's license or a learner's permit may not be issued to an individual less than eighteen (18) years of age who meets any of the following conditions:

- (1) Is a habitual truant under ~~IC 20-8.1-3-17.2~~; **IC 20-33-2-11**.
- (2) Is under at least a second suspension from school for the school year under ~~IC 20-8.1-5.1-8~~ **IC 20-33-8-14** or ~~IC 20-8.1-5.1-9~~; **IC 20-33-8-15**.
- (3) Is under an expulsion from school under ~~IC 20-8.1-5.1-8~~, ~~IC 20-8.1-5.1-9~~, or ~~IC 20-8.1-5.1-10~~; **IC 20-33-8-14**, **IC 20-33-8-15**, or **IC 20-33-8-16**.
- (4) Has withdrawn from school; for a reason other than financial hardship and the withdrawal was reported under ~~IC 20-8.1-3-24(a)~~ before graduating.
- (4) **Is considered a dropout under IC 20-33-2-28.5.**

(b) At least five (5) days before holding an exit interview under ~~IC 20-8.1-3-17(b)(2)~~; **IC 20-33-2-28.5**, the school corporation shall give notice by certified mail or personal delivery to the student, the student's parent, or the student's guardian ~~of the following~~:

- (1) ~~That the exit interview will include a hearing to determine if the reason for the student's withdrawal is financial hardship.~~



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(2) If the principal determines that the reason for the student's withdrawal is not financial hardship:

(A) the student and the student's parent or guardian will receive a copy of the determination; and

(B) the student's name will be submitted to the bureau for the bureau's use in denying or invalidating a driver's license or learner's permit under this section:

that the student's failure to attend an exit interview under IC 20-33-2-28.5 or return to school if the student does not meet the requirements to withdraw from school under IC 20-33-2-28.5 will result in the revocation or denial of the student's:

(1) driver's license or learner's permit; and

(2) employment certificate.

SECTION 2. IC 20-1-1.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The department shall:

- (1) perform the duties required by statute;
- (2) implement the policies and procedures established by the board;
- (3) conduct analytical research to assist the state board of education in determining the state's educational policy;
- (4) compile statistics concerning the ethnicity, ~~and~~ gender, **and disability status** of students in Indiana schools, including statistics for all information that the department receives from school corporations on enrollment, number of suspensions, and number of expulsions; and
- (5) provide technical assistance to school corporations.

(b) The department, in compiling statistics under subsection (a)(4), must categorize suspensions and expulsions by ethnicity, gender, disability status, and cause as follows:

- (1) Alcohol.**
- (2) Drugs.**
- (3) Deadly weapons (other than firearms).**
- (4) Handguns.**
- (5) Rifles or shotguns.**
- (6) Other firearms.**
- (7) Tobacco.**
- (8) Attendance.**
- (9) Destruction of property.**
- (10) Legal settlement (under IC 20-8.1-5.1-11).**
- (11) Fighting (incident does not rise to the level of battery).**
- (12) Battery (IC 35-42-2-1).**

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- (13) Intimidation (IC 35-45-2-1).**
- (14) Verbal aggression or profanity.**
- (15) Defiance.**
- (16) Other.**

(c) The department shall develop guidelines necessary to implement this section.

SECTION 3. IC 20-8.1-5.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The governing body of a school corporation must do the following:

- (1) Establish written discipline rules, which may include:
 - (A) appropriate dress codes; and**
 - (B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases;**
 for the school corporation.
- (2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:
 - (A) making a copy of the discipline rules available to students and students' parents; or
 - (B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied in any case when the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The superintendent of a school corporation and the principals of each school in a school corporation may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate rule making, disciplinary, and other authority as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

- (1) Movement of students.
- (2) Movement or parking of vehicles.
- (3) Day-to-day instructions concerning the operation of a classroom or teaching station.
- (4) Time for commencement of school.
- (5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection.

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SECTION 4. IC 20-8.1-5.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5.2. Court Assisted Resolution of Suspension and Expulsion Cases

Sec. 1. This chapter does not apply to a nonpublic school.

Sec. 2. A superintendent and a court having juvenile jurisdiction in the county may enter into a voluntary agreement (referred to as the "agreement" in this chapter) for court assisted resolution of school suspension and expulsion cases. The agreement may require the court to supervise or provide for the supervision of an expelled or suspended student who has been referred to the court by the school corporation in accordance with the terms of the agreement.

Sec. 3. The agreement may require that a court do one (1) or more of the following:

- (1) Establish a flexible program for the supervision of a student who has been suspended or expelled.**
- (2) Supervise a student who has been suspended or expelled.**
- (3) Require a student who has been suspended or expelled to participate in a school program (including an alternative educational program) for the supervision of a student who has been suspended or expelled.**

Sec. 4. (a) The agreement may require that a school corporation do one (1) or more of the following:

- (1) Define the violation for which a student who has been suspended or expelled shall be referred to the court.**
- (2) Refer a student who has been suspended or expelled for a violation described in subdivision (1) to the court.**
- (3) Establish a school program (including an alternative educational program) for the supervision of a student who has been suspended or expelled.**

(b) If a school corporation enters into an agreement, the discipline rules adopted by the school corporation under IC 20-8.1-5.1-7 must specify the violations for which a student may be referred to the court under the agreement.

Sec. 5. The agreement must provide how the expenses of supervising a student who has been suspended or expelled are funded. A school corporation may not be required to expend more than the amount determined under IC 21-3-1.7-6.7(e) for each student referred under the agreement.

Sec. 6. A student shall be given an informal hearing before the court, in a setting agreed upon by the court and the school board,

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as soon as practicable following the student's referral to the court, after notice of the hearing has been provided to the student's parent.

Sec. 7. A hearing under this chapter is not a hearing to determine whether a student who has been suspended or expelled is a child in need of services. However, if a court determines that a student who has been suspended or expelled may:

- (1) be a child in need of services (as described in IC 31-34-1);
- or
- (2) have committed a delinquent act (as described in IC 31-37);

the court may notify the office of family and children or the prosecuting attorney.

Sec. 8. A parent or guardian has the right to be present, and may be required to be present, during the student's appearance.

Sec. 9. A student's appearance in court under this chapter shall not be used against the child or the child's parents or guardians in any subsequent court proceeding, including but not limited to any delinquency or child in need of services matter under IC 31.

Sec. 10. All records of the student's court appearance shall be expunged upon the student's completion of the out-of-school suspension or expulsion program.

Sec. 11. Notwithstanding the terms of the agreement, a suspension, an expulsion, or a referral of a student who is a child with a disability (as defined in IC 20-1-6-1) is subject to the:

- (1) procedural requirements of 20 U.S.C. 1415; and
- (2) rules adopted by the Indiana state board of education.

Sec. 12. This chapter does not deprive a child of any due process rights to which the child may be entitled.

SECTION 5. IC 20-8.1-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The graduation rate for a cohort in a high school is the percentage determined under STEP SEVEN of the following formula:

STEP ONE: Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

STEP TWO: Add:

- (A) the number determined under STEP ONE; and
 - (B) the number of students who:
 - (i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined;
- and

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(ii) have the same expected graduation year as the cohort.

STEP THREE: Add:

- (A) the sum determined under STEP TWO; and
- (B) the number of retained students from earlier cohorts who became members of the cohort for whom the graduation rate is being determined.

STEP FOUR: Add:

- (A) the sum determined under STEP THREE; and
- (B) the number of students who:
 - (i) began the reporting year in a cohort that expects to graduate during a future reporting year; and
 - (ii) graduate during the current reporting year.

STEP FIVE: Subtract from the sum determined under STEP FOUR the number of students who have left the cohort for any of the following reasons:

- (A) Transfer to another public or nonpublic school.
- (B) Removal by the student's parents under IC 20-8.1-3-34 to provide instruction equivalent to that given in the public schools.
- (C) Withdrawal because of a long term medical condition or death.
- (D) Detention by a law enforcement agency or the department of correction.
- (E) Placement by a court order or the division of family and children.
- (F) Enrollment in a virtual school.
- (G) Graduation before the beginning of the reporting year.
- (H) ~~Students who have left school and whose location cannot be determined:~~ **attended school in Indiana for less than one (1) school year and who cannot be located.**
- (I) **Students who cannot be located and have been reported to the Indiana clearinghouse for information on missing children.**
- (J) **High ability students (as defined in IC 20-10.1-5.1-2) who have withdrawn from school before graduation and are full-time students in an accredited institution of higher education during the semester in which the cohort graduates.**

STEP SIX: Determine the total number of students who have graduated during the current reporting year.

STEP SEVEN: Divide:

- (A) the number determined under STEP SIX; by

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(B) the remainder determined under STEP FIVE.

SECTION 6. IC 20-8.1-15-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) If a student has left the school, the student is not included in clauses (A) through (J) of STEP FIVE of the formula established in section 10 of this chapter. If the location of the student is unknown to the school, the principal shall send a certified letter to the last known address of the student, inquiring about the student's whereabouts and status. If the student is not located after the certified letter is delivered or if no response is received, the principal may submit the student's information, including last known address, parent or guardian name, student testing number, and other pertinent data to the state attendance officer. The state attendance officer, using all available state data and any other means available, shall attempt to locate the student and report the student's location and school enrollment status to the principal so that the principal can appropriately send student records to the new school or otherwise document the student's status.**

(b) If a school corporation cannot provide written proof that a student should be included in clauses (A) through (J) of STEP FIVE of section 10 of this chapter, the student is considered a dropout.

SECTION 7. IC 20-8.1-15-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. For each high school, the department shall calculate an estimated graduation rate that is determined by the total number of graduates for the reporting year divided by the total number of students enrolled in grade 9 at the school three (3) years before the reporting year. For any school where the difference between the estimated graduation rate and the number determined under STEP SEVEN of section 10 of this chapter is more than five percent (5%), the department shall request the data used in determining that the missing students are classified under one (1) or more of clauses (A) through (J) of STEP FIVE of section 10 of this chapter.**

SECTION 8. IC 20-8.1-15-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. For any school that cannot provide written proof supporting the school's determinations to include a student under clauses (A) through (J) of STEP FIVE of section 10 of this chapter, the department shall require the**

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publication of the corrected graduation rate in the next school year's report required under IC 20-1-21-4.

SECTION 9. IC 20-10.1-22.4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in IC 10-13-4-5.

(b) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, guardian, or custodian, under the following conditions:

- (1) The disclosure or reporting of education records is to a state or local juvenile justice agency.
- (2) The disclosure or reporting relates to the ability of the juvenile justice system to serve, before adjudication, the student whose records are being released.
- (3) The juvenile justice agency receiving the information certifies, in writing, to the entity providing the information that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent, guardian, or custodian.

(c) For purposes of subsection (b)(2), a disclosure or reporting of education records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the juvenile justice agency seeking the information provides sufficient information to enable the keeper of the education records to determine that the juvenile justice agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to supervision of the child as an adjudicated delinquent child.

(d) A school corporation to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, guardian, or custodian, if the child has been suspended or expelled and referred to a court in accordance with an agreement for court assisted resolution of suspension and expulsion cases under IC 20-8.1-5.2. The request

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for the education records of a child by a court must be for the purpose of assisting the child before adjudication.

(d) (e) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply that:

- (1) discloses or reports on the education records of a child, including personally identifiable information contained in the education records, in violation of this section; and
- (2) makes a good faith effort to comply with this section;

is immune from civil liability.

SECTION 10. IC 20-19-3-4, AS ADDED BY HEA 1288-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a)** The department shall:

- (1) perform the duties required by statute;
- (2) implement the policies and procedures established by the state board;
- (3) conduct analytical research to assist the state board in determining the state's educational policy;
- (4) compile statistics concerning the ethnicity, ~~and~~ gender, **and disability status** of students in Indiana schools, including statistics for all information that the department receives from school corporations on enrollment, number of suspensions, and number of expulsions; and
- (5) provide technical assistance to school corporations.

(b) In compiling statistics by gender, ethnicity, and disability status under subsection (a)(4), the department shall also categorize suspensions and expulsions by cause as follows:

- (1) Alcohol.**
- (2) Drugs.**
- (3) Deadly weapons (other than firearms).**
- (4) Handguns.**
- (5) Rifles or shotguns.**
- (6) Other firearms.**
- (7) Tobacco.**
- (8) Attendance.**
- (9) Destruction of property.**
- (10) Legal settlement (under IC 20-33-8-17).**
- (11) Fighting (incident does not rise to the level of battery).**
- (12) Battery (IC 35-42-2-1).**
- (13) Intimidation (IC 35-45-2-1).**
- (14) Verbal aggression or profanity.**
- (15) Defiance.**

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(16) Other.

(c) The department shall develop guidelines necessary to implement this section.

SECTION 11. IC 20-26-13-10, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **Except as provided in section 11 of this chapter**, the graduation rate for a cohort in a high school is the percentage determined under STEP SEVEN of the following formula:

STEP ONE: Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

STEP TWO: Add:

- (A) the number determined under STEP ONE; and
- (B) the number of students who:
 - (i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined; and
 - (ii) have the same expected graduation year as the cohort.

STEP THREE: Add:

- (A) the sum determined under STEP TWO; and
- (B) the number of retained students from earlier cohorts who became members of the cohort for whom the graduation rate is being determined.

STEP FOUR: Add:

- (A) the sum determined under STEP THREE; and
- (B) the number of students who:
 - (i) began the reporting year in a cohort that expects to graduate during a future reporting year; and
 - (ii) graduate during the current reporting year.

STEP FIVE: Subtract from the sum determined under STEP FOUR the number of students who have left the cohort for any of the following reasons:

- (A) Transfer to another public or nonpublic school.
- (B) Removal by the student's parents under IC 20-33-2-28 to provide instruction equivalent to that given in the public schools.
- (C) Withdrawal because of a long term medical condition or death.
- (D) Detention by a law enforcement agency or the department of correction.
- (E) Placement by a court order or the division of family and children.

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- (F) Enrollment in a virtual school.
- (G) Graduation before the beginning of the reporting year.
- (H) Leaving school, if the **student attended school in Indiana for less than one (1) school year and the location of the student cannot be determined.**
- (I) Leaving school, if the location of the student cannot be determined and the student has been reported to the Indiana clearinghouse for information on missing children.**
- (J) Withdrawing from school before graduation, if the student is a high ability student (as defined in IC 20-36-1-3) who is a full-time student at an accredited institution of higher education during the semester in which the cohort graduates.**

STEP SIX: Determine the total number of students who have graduated during the current reporting year.

STEP SEVEN: Divide:

- (A) the number determined under STEP SIX; by
- (B) the remainder determined under STEP FIVE.

SECTION 12. IC 20-26-13-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) A student who has left school is not included in clauses (A) through (J) of STEP FIVE of the formula established in section 10 of this chapter unless the school corporation can provide written proof that the student has left the school for one (1) of the reasons set forth in clauses (A) through (J) of STEP FIVE of section 10 of this chapter. If the location of the student is unknown to the school, the principal of the school shall send a certified letter to the last known address of the student, inquiring about the student's whereabouts and status. If the student is not located after the certified letter is delivered or if no response is received, the principal may submit the student's information, including last known address, parent or guardian name, student testing number, and other pertinent data to the state attendance officer. The state attendance officer, using all available state data and any other means available, shall attempt to locate the student and report the student's location and school enrollment status to the principal so that the principal can appropriately send student records to the new school or otherwise document the student's status.**

(b) If a school corporation cannot provide written proof that a student should be included in clauses (A) through (J) of STEP FIVE of section 10 of this chapter, the student is considered a

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dropout.

SECTION 13. IC 20-26-13-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. For each high school, the department shall calculate an estimated graduation rate that is determined by the total number of graduates for the reporting year divided by the total number of students enrolled in grade 9 at the school three (3) years before the reporting year. For any school where the difference between the estimated graduation rate and the number determined under STEP SEVEN of section 10 of this chapter is more than five percent (5%), the department shall request the data used in determining that the missing students are classified under one (1) or more of clauses (A) through (J) of STEP FIVE of section 10 of this chapter.**

SECTION 14. IC 20-26-13-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. For any school that cannot provide written proof supporting the school's determination to include a student under any one (1) of clauses (A) through (J) of STEP FIVE of section 10 of this chapter, the department shall require the publication of the corrected graduation rate in the next school year's report required under IC 20-20-8-3.**

SECTION 15. IC 20-30-2-2, AS ADDED BY HEA 1288-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2. (a) A student instructional day in grades 1 through 6 consists of at least five (5) hours of instructional time. Except as provided in subsection (b), a student instructional day in grades 7 through 12 consists of at least six (6) hours of instructional time.**

(b) An instructional day for a school flex program under section 2.2 of this chapter consists of a minimum of three (3) hours of instructional time.

SECTION 16. IC 20-30-2-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.2. (a) As used in this section, "eligible student" means a student in grade 11 or 12 who has:**

- (1) failed the ISTEP+ graduation exam at least twice;**
- (2) been determined to be chronically absent, by missing more than ten (10) unexcused days of school in one (1) school year;**
- (3) been determined to be a habitual truant, as identified under IC 20-33-2-11;**
- (4) been significantly behind in credits for graduation, as**

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identified by an individual's school principal;

(5) previously undergone at least a second suspension from school for the school year under IC 20-33-8-14 or IC 20-33-8-15;

(6) previously undergone an expulsion from school under IC 20-33-8-14, IC 20-33-8-15, or IC 20-33-8-16; or

(7) been determined by the individual's principal and the individual's parent or guardian to benefit by participating in the school flex program.

(b) An eligible student who participates in a school flex program must:

(1) attend school for at least three (3) hours of instructional time per school day;

(2) pursue a timely graduation;

(3) provide evidence of college or technical career education enrollment and attendance or proof of employment and labor that is aligned with the student's career academic sequence under rules established by the Indiana bureau of child labor;

(4) not be suspended or expelled while participating in a school flex program;

(5) pursue course and credit requirements for a general diploma; and

(6) maintain a ninety-five percent (95%) attendance rate.

(c) A school may allow an eligible student in grade 11 or 12 to complete an instructional day that consists of three (3) hours of instructional time if the student participates in the school flex program.

(d) If one (1) or more students participate in a school flex program, the principal shall, on forms provided by the department, submit a yearly report to the department of student participation and graduation rates of students who participate in the school flex program.

SECTION 17. IC 20-33-2-9, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a)~~ A student is bound by the requirements of this chapter from the earlier of the date on which the student officially enrolls in a school or, except as provided in section 8 of this chapter, the beginning of the fall school term for the school year in which the student becomes seven (7) years of age until the date on which the student:

(1) graduates;

(2) becomes eighteen (18) years of age; or

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(3) becomes sixteen (16) years of age but is less than eighteen (18) years of age and the requirements under section 9 of this chapter concerning an exit interview are met enabling the student to withdraw from school before graduation;

whichever occurs first.

(b) A student who:

(1) enrolls in school before the fall school term for the school year in which the student becomes seven (7) years of age; and

(2) is withdrawn from school before the school year described in subdivision (1) occurs;

is not subject to the requirements of this chapter until the student is reenrolled as required in subsection (a). This chapter shall not be construed to require that a student complete grade 1 before the student becomes eight (8) years of age.

SECTION 18. IC 20-33-2-11, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Notwithstanding IC 9-24 concerning the minimum requirements for qualifying for the issuance of an operator's license or a learner's permit, and subject to subsections (c) through (e), an individual who is:

(1) at least thirteen (13) years of age but less than fifteen (15) years of age;

(2) a habitual truant under the definition of habitual truant established under subsection (b); and

(3) identified in the information submitted to the bureau of motor vehicles under subsection (f);

may not be issued an operator's license or a learner's permit to drive a motor vehicle under IC 9-24 until the individual is at least eighteen (18) years of age.

(b) Each governing body shall establish and include as part of the written copy of its discipline rules described in IC 20-33-8-12:

(1) a definition of a child who is designated as a habitual truant, **which must, at a minimum, define the term as a student who is chronically absent, by having unexcused absences from school for more than ten (10) days of school in one (1) school year;**

(2) the procedures under which subsection (a) will be administered; and

(3) all other pertinent matters related to this action.

(c) An individual described in subsection (a) is entitled to the procedure described in IC 20-33-8-19.

(d) An individual described in subsection (a) who is at least thirteen

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(13) years of age and less than eighteen (18) years of age is entitled to a periodic review of the individual's attendance record in school to determine whether the prohibition described in subsection (a) shall continue. The periodic reviews may not be conducted less than one (1) time each school year.

(e) Upon review, the governing body may determine that the individual's attendance record has improved to the degree that the individual may become eligible to be issued an operator's license or a learner's permit.

(f) Before:

- (1) February 1; and
- (2) October 1;

of each year the governing body of the school corporation shall submit to the bureau of motor vehicles the pertinent information concerning an individual's ineligibility under subsection (a) to be issued an operator's license or a learner's permit.

(g) The department shall develop guidelines concerning criteria used in defining a habitual truant that may be considered by a governing body in complying with subsection (b).

SECTION 19. IC 20-33-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28.5. (a) This section applies to an individual:**

(1) who:

- (A) attends or last attended a public school;**
- (B) is at least sixteen (16) years of age but less than eighteen (18) years of age; and**
- (C) has not completed the requirements for graduation;**

(2) who:

- (A) wishes to withdraw from school before graduation;**
- (B) fails to return at the beginning of a semester; or**
- (C) stops attending school during a semester; and**

(3) who has no record of transfer to another school.

(b) An individual to whom this section applies may withdraw from school only if all of the following conditions are met:

- (1) An exit interview is conducted.**
- (2) The individual's parent consents to the withdrawal.**
- (3) The school principal approves of the withdrawal.**

During the exit interview, the school principal shall provide to the student and the student's parent a copy of statistics compiled by the department concerning the likely consequences of life without a high school diploma. The school principal shall advise the student

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and the student's parent that the student's withdrawal from school may prevent the student from receiving or result in the revocation of the student's employment certificate and driver's license or learner's permit.

(c) For purposes of this section, the following must be in written form:

- (1) An individual's request to withdraw from school.
- (2) A parent's consent to a withdrawal.
- (3) A principal's consent to a withdrawal.

(d) If the individual's principal does not consent to the individual's withdrawal under this section, the individual's parent may appeal the denial of consent to the governing body of the public school that the individual last attended.

(e) Each public school, including each school corporation and each charter school (as defined in IC 20-24-1-4), shall provide an annual report to the department setting forth the following information:

- (1) The total number of individuals:
 - (A) who withdrew from school under this section; and
 - (B) who either:
 - (i) failed to return to school at the beginning of a semester; or
 - (ii) stopped attending school during a semester; and for whom there is no record of transfer to another school.
 - (2) The number of individuals who withdrew from school following an exit interview.
- (f) If an individual to which this section applies:
- (1) has not received consent to withdraw from school under this section; and
 - (2) fails to return to school at the beginning of a semester or during the semester;

the principal of the school that the individual last attended shall deliver by certified mail or personal delivery to the bureau of child labor a record of the individual's failure to return to school so that the bureau of child labor revokes any employment certificates issued to the individual and does not issue any additional employment certificates to the individual. For purposes of IC 20-33-3-13, the individual shall be considered a dropout.

(g) At the same time that a school principal delivers the record under subsection (f), the principal shall deliver by certified mail or personal delivery to the bureau of motor vehicles a record of the

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individual's failure to return to school so that the bureau of motor vehicles revokes any driver's license or learner's permit issued to the individual and does not issue any additional driver's licenses or learner's permits to the individual before the individual is at least eighteen (18) years of age. For purposes of IC 9-24-2-1, the individual shall be considered a dropout.

(h) If:

- (1) a principal has delivered the record required under subsection (f) or (g), or both; and**
- (2) the school subsequently gives consent to the individual to withdraw from school under this section;**

the principal of the school shall send a notice of withdrawal to the bureau of child labor and the bureau of motor vehicles by certified mail or personal delivery and, for purposes of IC 20-33-3-13 and IC 9-24-2-1, the individual shall no longer be considered a dropout.

SECTION 20. IC 20-33-2-28.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.7. (a) The department of education shall compile and make available to schools statistics concerning the likely consequences of life without a high school diploma. The statistics must include, but are not limited to, statistics that show the likelihood of an individual's:

- (1) unemployment or employment in a lower paying job; and**
- (2) involvement in criminal activity;**

as the consequence of not obtaining a high school diploma.

(b) The department of education shall update the statistics made available under subsection (a) every two (2) years.

SECTION 21. IC 20-33-7-3, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in IC 10-13-4-5.

(b) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent under the following conditions:

- (1) The disclosure or reporting of education records is to a state or local juvenile justice agency.**
- (2) The disclosure or reporting relates to the ability of the juvenile justice system to serve, before adjudication, the student whose records are being released.**

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(3) The juvenile justice agency receiving the information certifies, in writing, to the entity providing the information that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent.

(c) For purposes of subsection (b)(2), a disclosure or reporting of education records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the juvenile justice agency seeking the information provides sufficient information to enable the keeper of the education records to determine that the juvenile justice agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to supervision of the child as an adjudicated delinquent child.

(d) A school corporation to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, if the child has been suspended or expelled and referred to a court in accordance with an agreement for court assisted resolution of suspension and expulsion cases under IC 20-33-8.5. The request for the education records of a child by a court must be for the purpose of assisting the child before adjudication.

~~(d)~~ (e) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply that:

- (1) discloses or reports on the education records of a child, including personally identifiable information contained in the education records, in violation of this section; and
- (2) makes a good faith effort to comply with this section;

is immune from civil liability.

SECTION 22. IC 20-33-8-12, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The governing body of a school corporation must do the following:

- (1) Establish written discipline rules, which may include:
 - (A) appropriate dress codes; and
 - (B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases;**

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for the school corporation.

(2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:

- (A) making a copy of the discipline rules available to students and students' parents; or
- (B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied if the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The:

- (1) superintendent of a school corporation; and
- (2) principals of each school in a school corporation;

may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate:

- (1) rulemaking;
- (2) disciplinary; and
- (3) other authority;

as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

- (1) Movement of students.
- (2) Movement or parking of vehicles.
- (3) Day to day instructions concerning the operation of a classroom or teaching station.
- (4) Time for commencement of school.
- (5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection.

SECTION 23. IC 20-33-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 8.5. Court Assisted Resolution of Suspension and Expulsion Cases

Sec. 1. This chapter does not apply to a nonpublic school.

Sec. 2. A superintendent and a court having juvenile jurisdiction in the county may enter into a voluntary agreement (referred to as

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the "agreement" in this chapter) for court assisted resolution of school suspension and expulsion cases. The agreement may require the court to supervise or provide for the supervision of an expelled or suspended student who has been referred to the court by the school corporation in accordance with the terms of the agreement.

Sec. 3. The agreement may require that a court do one (1) or more of the following:

- (1) Establish a flexible program for the supervision of a student who has been suspended or expelled.
- (2) Supervise a student who has been suspended or expelled.
- (3) Require a student who has been suspended or expelled to participate in a school program (including an alternative educational program) for the supervision of a student who has been suspended or expelled.

Sec. 4. (a) The agreement may require that a school corporation do one (1) or more of the following:

- (1) Define the violation for which a student who has been suspended or expelled shall be referred to the court.
- (2) Refer a student who has been suspended or expelled for a violation described in subdivision (1) to the court.
- (3) Establish a school program (including an alternative educational program) for the supervision of a student who has been suspended or expelled.

(b) If a school corporation enters into an agreement, the discipline rules adopted by the school corporation under IC 20-33-8-12 must specify the violations for which a student may be referred to the court under the agreement.

Sec. 5. The agreement must provide how the expenses of supervising a student who has been suspended or expelled are funded. A school corporation may not be required to expend more than the amount determined under IC 21-3-1.7-6.7(e) for each student referred under the agreement.

Sec. 6. A student shall be given an informal hearing before the court, in a setting agreed upon by the court and the school system, as soon as practicable following the student's referral to the court, after notice of the hearing has been provided to the student's parent.

Sec. 7. A hearing under this chapter is not a hearing to determine whether a student who has been suspended or expelled is a child in need of services. However, if a court determines that a student who has been suspended or expelled may:

- (1) be a child in need of services (as described in IC 31-34-1);

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or

(2) have committed a delinquent act (as described in IC 31-37);

the court may notify the office of family and children or the prosecuting attorney.

Sec. 8. A parent or guardian has the right to be present and may be required to be present during the student's appearance.

Sec. 9. A student's appearance in court under this chapter shall not be used against the child or the child's parents or guardians in any subsequent court proceeding, including but not limited to any delinquency or child in need of services matter under IC 31.

Sec. 10. All records of the student's court appearance shall be expunged upon the student's completion of the out-of-school suspension or expulsion program.

Sec. 11. Notwithstanding the terms of the agreement, a suspension, an expulsion, or a referral of a student who is a child with a disability (as defined in IC 20-1-6-1) is subject to the:

- (1) procedural requirements of 20 U.S.C. 1415; and
- (2) rules adopted by the Indiana state board of education.

Sec. 12. This chapter does not deprive a child of any due process rights to which the child may be entitled.

SECTION 24. [EFFECTIVE UPON PASSAGE] (a) The department of education shall develop a form for the written consent to withdraw from school for a school corporation's use in implementing IC 20-33-2-28.5, as added by this act.

(b) The department of education shall under this SECTION begin compiling the statistics concerning the likely consequences of life without a high school diploma as required by IC 20-33-2-28.7, as added by this act.

(c) This SECTION expires December 31, 2005.

SECTION 25. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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