

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1794**

Citations Affected: IC 9-24-2-1; IC 20-1-1.1-5; IC 20-8.1; IC 20-10.1-22.4-3; IC 20-19-3-4; IC 20-26-13; IC 20-30-2-2.2; IC 20-33.

Synopsis: Various education matters. Requires schools to report the reasons for student suspensions and expulsions to the department of education, and to categorize suspended and expelled students by gender, ethnicity, and disability status. Authorizes an agreement for court assisted resolution of suspension and expulsion cases between a court having juvenile jurisdiction and a public school corporation. Provides that the court shall either supervise the student or order the supervision of the student. Provides that the court and the school corporation may jointly determine which violations leading to suspension or expulsion are eligible for referral to the court. Provides that the school corporation and the court shall determine how the costs of supervising a student under the agreement shall be paid. Allows the school corporation to disclose the education records of a student who has been suspended or expelled to a court. Provides that a parent or guardian has the right to be present during the student's appearance, and may be required to be present during the student's appearance. Requires that the discipline rules adopted by a school's governing body define "habitual truant" to include, at a minimum, a student who has more than ten unexcused absences in a school year. Permits a public school student who is at least 16 years of age and less than 18 years of age to withdraw from school by: (1) attending an exit interview; (2) obtaining the consent of the student's parent; and (3) obtaining the consent of the school principal. Requires that the school principal provide the student and the student's parent with information concerning the consequences of dropping out of school during the exit interview, and to provide the department of education with the number of students who withdraw from school. Includes certain additional groups of students in the determination of a school's graduation rate. Establishes certain procedures concerning a student who has left school and whose location is unknown to the school. Allows a school to establish a flexible instruction program for certain high school students. Makes technical corrections to conform with the Title 20 recodification. **(This conference committee report adds the following provisions: (1) HB 1198 concerning court assisted resolution of suspensions and expulsions and raising the age at which at student may withdraw from school before graduating to 18. (2) Allowing schools to establish flexible instruction programs.)**

Effective: Upon passage; July 1, 2005.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1794 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 9-24-2-1 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A driver's license or a
- 4 learner's permit may not be issued to an individual less than eighteen
- 5 (18) years of age who meets any of the following conditions:
- 6 (1) Is a habitual truant under ~~IC 20-8-1-3-17-2~~. **IC 20-33-2-11.**
- 7 (2) Is under at least a second suspension from school for the school
- 8 year under ~~IC 20-8-1-5-1-8~~ **IC 20-33-8-14** or ~~IC 20-8-1-5-1-9~~.
- 9 **IC 20-33-8-15.**
- 10 (3) Is under an expulsion from school under ~~IC 20-8-1-5-1-8~~,
- 11 ~~IC 20-8-1-5-1-9~~, or ~~IC 20-8-1-5-1-10~~. **IC 20-33-8-14,**
- 12 **IC 20-33-8-15, or IC 20-33-8-16.**
- 13 (4) ~~Has withdrawn from school, for a reason other than financial~~
- 14 ~~hardship and the withdrawal was reported under IC 20-8-1-3-24(a)~~
- 15 ~~before graduating.~~
- 16 **(4) Is considered a dropout under IC 20-33-2-28.5.**
- 17 (b) At least five (5) days before holding an exit interview under
- 18 ~~IC 20-8-1-3-17(b)(2)~~, **IC 20-33-2-28.5**, the school corporation shall
- 19 give notice by certified mail or personal delivery to the student, the
- 20 student's parent, or the student's guardian ~~of the following:~~
- 21 (1) ~~That the exit interview will include a hearing to determine if the~~
- 22 ~~reason for the student's withdrawal is financial hardship.~~
- 23 (2) ~~If the principal determines that the reason for the student's~~

1 withdrawal is not financial hardship:

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

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

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

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

12 **(2) employment certificate.**

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

16 (1) perform the duties required by statute;

17 (2) implement the policies and procedures established by the board;

18 (3) conduct analytical research to assist the state board of education
19 in determining the state's educational policy;

20 (4) compile statistics concerning the ethnicity, ~~and~~ gender, **and**
21 **disability status** of students in Indiana schools, including statistics
22 for all information that the department receives from school
23 corporations on enrollment, number of suspensions, and number of
24 expulsions; and

25 (5) provide technical assistance to school corporations.

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

29 **(1) Alcohol.**

30 **(2) Drugs.**

31 **(3) Deadly weapons (other than firearms).**

32 **(4) Handguns.**

33 **(5) Rifles or shotguns.**

34 **(6) Other firearms.**

35 **(7) Tobacco.**

36 **(8) Attendance.**

37 **(9) Destruction of property.**

38 **(10) Legal settlement (under IC 20-8.1-5.1-11).**

39 **(11) Fighting (incident does not rise to the level of battery).**

40 **(12) Battery (IC 35-42-2-1).**

41 **(13) Intimidation (IC 35-45-2-1).**

42 **(14) Verbal aggression or profanity.**

43 **(15) Defiance.**

44 **(16) Other.**

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

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

50 (1) Establish written discipline rules, which may include:

51 (A) appropriate dress codes; **and**

1 **(B) if applicable, an agreement for court assisted resolution**
 2 **of school suspension and expulsion cases;**

3 for the school corporation.

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

6 (A) making a copy of the discipline rules available to students
 7 and students' parents; or

8 (B) delivering a copy of the discipline rules to students or the
 9 parents of students.

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

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

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

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

23 (1) Movement of students.

24 (2) Movement or parking of vehicles.

25 (3) Day-to-day instructions concerning the operation of a
 26 classroom or teaching station.

27 (4) Time for commencement of school.

28 (5) Other standards or regulations relating to the manner in which
 29 an educational function must be administered.

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

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

35 **Chapter 5.2. Court Assisted Resolution of Suspension and**
 36 **Expulsion Cases**

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

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

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

47 **(1) Establish a flexible program for the supervision of a student**
 48 **who has been suspended or expelled.**

49 **(2) Supervise a student who has been suspended or expelled.**

50 **(3) Require a student who has been suspended or expelled to**
 51 **participate in a school program (including an alternative**

1 educational program) for the supervision of a student who has
2 been suspended or expelled.

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

5 (1) Define the violation for which a student who has been
6 suspended or expelled shall be referred to the court.

7 (2) Refer a student who has been suspended or expelled for a
8 violation described in subdivision (1) to the court.

9 (3) Establish a school program (including an alternative
10 educational program) for the supervision of a student who has
11 been suspended or expelled.

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

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

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

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

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

32 (2) have committed a delinquent act (as described in IC 31-37);
33 the court may notify the office of family and children or the
34 prosecuting attorney.

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

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

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

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

47 (1) procedural requirements of 20 U.S.C. 1415; and

48 (2) rules adopted by the Indiana state board of education.

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

51 SECTION 5. IC 20-8.1-15-10 IS AMENDED TO READ AS

- 1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The graduation rate
 2 for a cohort in a high school is the percentage determined under STEP
 3 SEVEN of the following formula:
- 4 STEP ONE: Determine the grade 9 enrollment at the beginning of
 5 the reporting year three (3) years before the reporting year for
 6 which the graduation rate is being determined.
- 7 STEP TWO: Add:
- 8 (A) the number determined under STEP ONE; and
 9 (B) the number of students who:
- 10 (i) have enrolled in the high school after the date on which the
 11 number determined under STEP ONE was determined; and
 12 (ii) have the same expected graduation year as the cohort.
- 13 STEP THREE: Add:
- 14 (A) the sum determined under STEP TWO; and
 15 (B) the number of retained students from earlier cohorts who
 16 became members of the cohort for whom the graduation rate is
 17 being determined.
- 18 STEP FOUR: Add:
- 19 (A) the sum determined under STEP THREE; and
 20 (B) the number of students who:
- 21 (i) began the reporting year in a cohort that expects to graduate
 22 during a future reporting year; and
 23 (ii) graduate during the current reporting year.
- 24 STEP FIVE: Subtract from the sum determined under STEP FOUR
 25 the number of students who have left the cohort for any of the
 26 following reasons:
- 27 (A) Transfer to another public or nonpublic school.
 28 (B) Removal by the student's parents under IC 20-8.1-3-34 to
 29 provide instruction equivalent to that given in the public schools.
 30 (C) Withdrawal because of a long term medical condition or
 31 death.
 32 (D) Detention by a law enforcement agency or the department of
 33 correction.
 34 (E) Placement by a court order or the division of family and
 35 children.
 36 (F) Enrollment in a virtual school.
 37 (G) Graduation before the beginning of the reporting year.
 38 (H) Students who ~~have left school and whose location cannot be~~
 39 ~~determined:~~ **attended school in Indiana for less than one (1)**
 40 **school year and who cannot be located.**
 41 **(I) Students who cannot be located and have been reported**
 42 **to the Indiana clearinghouse for information on missing**
 43 **children.**
 44 **(J) High ability students (as defined in IC 20-10.1-5.1-2) who**
 45 **have withdrawn from school before graduation and are**
 46 **full-time students in an accredited institution of higher**
 47 **education during the semester in which the cohort graduates.**
- 48 STEP SIX: Determine the total number of students who have
 49 graduated during the current reporting year.
- 50 STEP SEVEN: Divide:
- 51 (A) the number determined under STEP SIX; by

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

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

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

37 SECTION 8. IC 20-8.1-15-13 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2005]: **Sec. 13. For any school that cannot**
 40 **provide written proof supporting the school's determinations to**
 41 **include a student under clauses (A) through (J) of STEP FIVE of**
 42 **section 10 of this chapter, the department shall require the**
 43 **publication of the corrected graduation rate in the next school**
 44 **year's report required under IC 20-1-21-4.**

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

49 (b) A school corporation or other entity to which the education
 50 records privacy provisions of the federal Family Educational Rights and
 51 Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the

1 education records of a child, including personally identifiable
 2 information contained in the education records, without the consent of
 3 the child's parent, guardian, or custodian, under the following
 4 conditions:

5 (1) The disclosure or reporting of education records is to a state or
 6 local juvenile justice agency.

7 (2) The disclosure or reporting relates to the ability of the juvenile
 8 justice system to serve, before adjudication, the student whose
 9 records are being released.

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

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

25 **(d) A school corporation to which the education records privacy**
 26 **provisions of the federal Family Educational Rights and Privacy**
 27 **Act (20 U.S.C. 1232g) apply may disclose or report on the**
 28 **education records of a child, including personally identifiable**
 29 **information contained in the education records, without the**
 30 **consent of the child's parent, guardian, or custodian, if the child**
 31 **has been suspended or expelled and referred to a court in**
 32 **accordance with an agreement for court assisted resolution of**
 33 **suspension and expulsion cases under IC 20-8.1-5.2. The request**
 34 **for the education records of a child by a court must be for the**
 35 **purpose of assisting the child before adjudication.**

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

39 (1) discloses or reports on the education records of a child,
 40 including personally identifiable information contained in the
 41 education records, in violation of this section; and

42 (2) makes a good faith effort to comply with this section;

43 is immune from civil liability.

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

47 (1) perform the duties required by statute;

48 (2) implement the policies and procedures established by the state
 49 board;

50 (3) conduct analytical research to assist the state board in
 51 determining the state's educational policy;

1 (4) compile statistics concerning the ethnicity, ~~and~~ gender, ~~and~~
 2 **disability status** of students in Indiana schools, including statistics
 3 for all information that the department receives from school
 4 corporations on enrollment, number of suspensions, and number of
 5 expulsions; and

6 (5) provide technical assistance to school corporations.

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

10 (1) **Alcohol.**

11 (2) **Drugs.**

12 (3) **Deadly weapons (other than firearms).**

13 (4) **Handguns.**

14 (5) **Rifles or shotguns.**

15 (6) **Other firearms.**

16 (7) **Tobacco.**

17 (8) **Attendance.**

18 (9) **Destruction of property.**

19 (10) **Legal settlement (under IC 20-33-8-17).**

20 (11) **Fighting (incident does not rise to the level of battery).**

21 (12) **Battery (IC 35-42-2-1).**

22 (13) **Intimidation (IC 35-45-2-1).**

23 (14) **Verbal aggression or profanity.**

24 (15) **Defiance.**

25 (16) **Other.**

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

28 SECTION 11. IC 20-26-13-10, AS ADDED BY HEA 1288-2005,
 29 SECTION 10, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2005]: Sec. 10. **Except as provided in section**
 31 **11 of this chapter**, the graduation rate for a cohort in a high school is
 32 the percentage determined under STEP SEVEN of the following
 33 formula:

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

37 STEP TWO: Add:

38 (A) the number determined under STEP ONE; and

39 (B) the number of students who:

40 (i) have enrolled in the high school after the date on which the
 41 number determined under STEP ONE was determined; and

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

43 STEP THREE: Add:

44 (A) the sum determined under STEP TWO; and

45 (B) the number of retained students from earlier cohorts who
 46 became members of the cohort for whom the graduation rate is
 47 being determined.

48 STEP FOUR: Add:

49 (A) the sum determined under STEP THREE; and

50 (B) the number of students who:

51 (i) began the reporting year in a cohort that expects to graduate

- 1 during a future reporting year; and
- 2 (ii) graduate during the current reporting year.
- 3 STEP FIVE: Subtract from the sum determined under STEP FOUR
- 4 the number of students who have left the cohort for any of the
- 5 following reasons:
- 6 (A) Transfer to another public or nonpublic school.
- 7 (B) Removal by the student's parents under IC 20-33-2-28 to
- 8 provide instruction equivalent to that given in the public schools.
- 9 (C) Withdrawal because of a long term medical condition or
- 10 death.
- 11 (D) Detention by a law enforcement agency or the department of
- 12 correction.
- 13 (E) Placement by a court order or the division of family and
- 14 children.
- 15 (F) Enrollment in a virtual school.
- 16 (G) Graduation before the beginning of the reporting year.
- 17 (H) Leaving school, if the **student attended school in Indiana**
- 18 **for less than one (1) school year and the location of the student**
- 19 **cannot be determined.**
- 20 **(I) Leaving school, if the location of the student cannot be**
- 21 **determined and the student has been reported to the Indiana**
- 22 **clearinghouse for information on missing children.**
- 23 **(J) Withdrawing from school before graduation, if the**
- 24 **student is a high ability student (as defined in IC 20-36-1-3)**
- 25 **who is a full-time student at an accredited institution of**
- 26 **higher education during the semester in which the cohort**
- 27 **graduates.**
- 28 STEP SIX: Determine the total number of students who have
- 29 graduated during the current reporting year.
- 30 STEP SEVEN: Divide:
- 31 (A) the number determined under STEP SIX; by
- 32 (B) the remainder determined under STEP FIVE.
- 33 SECTION 12. IC 20-26-13-11 IS ADDED TO THE INDIANA
- 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 35 [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) A student who has left**
- 36 **school is not included in clauses (A) through (J) of STEP FIVE of**
- 37 **the formula established in section 10 of this chapter unless the**
- 38 **school corporation can provide written proof that the student has**
- 39 **left the school for one (1) of the reasons set forth in clauses (A)**
- 40 **through (J) of STEP FIVE of section 10 of this chapter. If the**
- 41 **location of the student is unknown to the school, the principal of**
- 42 **the school shall send a certified letter to the last known address of**
- 43 **the student, inquiring about the student's whereabouts and status.**
- 44 **If the student is not located after the certified letter is delivered or**
- 45 **if no response is received, the principal may submit the student's**
- 46 **information, including last known address, parent or guardian**
- 47 **name, student testing number, and other pertinent data to the state**
- 48 **attendance officer. The state attendance officer, using all available**
- 49 **state data and any other means available, shall attempt to locate**
- 50 **the student and report the student's location and school enrollment**
- 51 **status to the principal so that the principal can appropriately send**

1 student records to the new school or otherwise document the
2 student's status.

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

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

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

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

35 (b) An instructional day for a school flex program under section
36 2.2 of this chapter consists of a minimum of three (3) hours of
37 instructional time.

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

- 42 (1) failed the ISTEP+ graduation exam at least twice;
- 43 (2) been determined to be chronically absent, by missing more
44 than ten (10) unexcused days of school in one (1) school year;
- 45 (3) been determined to be a habitual truant, as identified under
46 IC 20-33-2-11;
- 47 (4) been significantly behind in credits for graduation, as
48 identified by an individual's school principal;
- 49 (5) previously undergone at least a second suspension from
50 school for the school year under IC 20-33-8-14 or
51 IC 20-33-8-15;

1 (6) previously undergone an expulsion from school under
 2 IC 20-33-8-14, IC 20-33-8-15, or IC 20-33-8-16; or
 3 (7) been determined by the individual's principal and the
 4 individual's parent or guardian to benefit by participating in
 5 the school flex program.

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

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

10 (2) pursue a timely graduation;

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

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

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

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

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

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

29 SECTION 17. IC 20-33-2-9, AS ADDED BY HEA-1288-2005,
 30 SECTION 17, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A student is bound by the
 32 requirements of this chapter from the earlier of the date on which the
 33 student officially enrolls in a school or, except as provided in section
 34 8 of this chapter, the beginning of the fall school term for the school
 35 year in which the student becomes seven (7) years of age until the date
 36 on which the student:

37 (1) graduates;

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

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

43 whichever occurs first.

44 (b) A student who:

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

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

49 is not subject to the requirements of this chapter until the student is
 50 reenrolled as required in subsection (a). This chapter shall not be
 51 construed to require that a student complete grade 1 before the student

1 becomes eight (8) years of age:

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

- 8 (1) at least thirteen (13) years of age but less than fifteen (15) years
9 of age;
10 (2) a habitual truant under the definition of habitual truant
11 established under subsection (b); and
12 (3) identified in the information submitted to the bureau of motor
13 vehicles under subsection (f);

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

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

- 19 (1) a definition of a child who is designated as a habitual truant,
20 **which must, at a minimum, define the term as a student who is**
21 **chronically absent, by having unexcused absences from school**
22 **for more than ten (10) days of school in one (1) school year;**
23 (2) the procedures under which subsection (a) will be administered;
24 and
25 (3) all other pertinent matters related to this action.

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

28 (d) An individual described in subsection (a) who is at least thirteen
29 (13) years of age and less than eighteen (18) years of age is entitled to
30 a periodic review of the individual's attendance record in school to
31 determine whether the prohibition described in subsection (a) shall
32 continue. The periodic reviews may not be conducted less than one (1)
33 time each school year.

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

38 (f) Before:

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

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

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

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

- 1 **(1) who:**
 2 **(A) attends or last attended a public school;**
 3 **(B) is at least sixteen (16) years of age but less than eighteen**
 4 **(18) years of age; and**
 5 **(C) has not completed the requirements for graduation;**
 6 **(2) who:**
 7 **(A) wishes to withdraw from school before graduation;**
 8 **(B) fails to return at the beginning of a semester; or**
 9 **(C) stops attending school during a semester; and**
 10 **(3) who has no record of transfer to another school.**
 11 **(b) An individual to whom this section applies may withdraw**
 12 **from school only if all of the following conditions are met:**
 13 **(1) An exit interview is conducted.**
 14 **(2) The individual's parent consents to the withdrawal.**
 15 **(3) The school principal approves of the withdrawal.**
 16 **During the exit interview, the school principal shall provide to the**
 17 **student and the student's parent a copy of statistics compiled by the**
 18 **department concerning the likely consequences of life without a**
 19 **high school diploma. The school principal shall advise the student**
 20 **and the student's parent that the student's withdrawal from school**
 21 **may prevent the student from receiving or result in the revocation**
 22 **of the student's employment certificate and driver's license or**
 23 **learner's permit.**
 24 **(c) For purposes of this section, the following must be in written**
 25 **form:**
 26 **(1) An individual's request to withdraw from school.**
 27 **(2) A parent's consent to a withdrawal.**
 28 **(3) A principal's consent to a withdrawal.**
 29 **(d) If the individual's principal does not consent to the**
 30 **individual's withdrawal under this section, the individual's parent**
 31 **may appeal the denial of consent to the governing body of the**
 32 **public school that the individual last attended.**
 33 **(e) Each public school, including each school corporation and**
 34 **each charter school (as defined in IC 20-24-1-4), shall provide an**
 35 **annual report to the department setting forth the following**
 36 **information:**
 37 **(1) The total number of individuals:**
 38 **(A) who withdrew from school under this section; and**
 39 **(B) who either:**
 40 **(i) failed to return to school at the beginning of a semester;**
 41 **or**
 42 **(ii) stopped attending school during a semester;**
 43 **and for whom there is no record of transfer to another**
 44 **school.**
 45 **(2) The number of individuals who withdrew from school**
 46 **following an exit interview.**
 47 **(f) If an individual to which this section applies:**
 48 **(1) has not received consent to withdraw from school under this**
 49 **section; and**
 50 **(2) fails to return to school at the beginning of a semester or**
 51 **during the semester;**

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

8 **(g) At the same time that a school principal delivers the record**
 9 **under subsection (f), the principal shall deliver by certified mail or**
 10 **personal delivery to the bureau of motor vehicles a record of the**
 11 **individual's failure to return to school so that the bureau of motor**
 12 **vehicles revokes any driver's license or learner's permit issued to**
 13 **the individual and does not issue any additional driver's licenses or**
 14 **learner's permits to the individual before the individual is at least**
 15 **eighteen (18) years of age. For purposes of IC 9-24-2-1, the**
 16 **individual shall be considered a dropout.**

17 **(h) If:**

18 **(1) a principal has delivered the record required under**
 19 **subsection (f) or (g), or both; and**

20 **(2) the school subsequently gives consent to the individual to**
 21 **withdraw from school under this section;**

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

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

33 **(1) unemployment or employment in a lower paying job; and**

34 **(2) involvement in criminal activity;**

35 **as the consequence of not obtaining a high school diploma.**

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

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

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

48 **(1) The disclosure or reporting of education records is to a state or**
 49 **local juvenile justice agency.**

50 **(2) The disclosure or reporting relates to the ability of the juvenile**
 51 **justice system to serve, before adjudication, the student whose**

- 1 records are being released.
- 2 (3) The juvenile justice agency receiving the information certifies,
3 in writing, to the entity providing the information that the agency
4 or individual receiving the information has agreed not to disclose
5 it to a third party, other than another juvenile justice agency,
6 without the consent of the child's parent.
- 7 (c) For purposes of subsection (b)(2), a disclosure or reporting of
8 education records concerning a child who has been adjudicated as a
9 delinquent child shall be treated as related to the ability of the juvenile
10 justice system to serve the child before adjudication if the juvenile
11 justice agency seeking the information provides sufficient information
12 to enable the keeper of the education records to determine that the
13 juvenile justice agency seeks the information in order to identify and
14 intervene with the child as a juvenile at risk of delinquency rather than
15 to obtain information solely related to supervision of the child as an
16 adjudicated delinquent child.
- 17 **(d) A school corporation to which the education records privacy**
18 **provisions of the federal Family Educational Rights and Privacy**
19 **Act (20 U.S.C. 1232g) apply may disclose or report on the**
20 **education records of a child, including personally identifiable**
21 **information contained in the education records, without the**
22 **consent of the child's parent, if the child has been suspended or**
23 **expelled and referred to a court in accordance with an agreement**
24 **for court assisted resolution of suspension and expulsion cases**
25 **under IC 20-33-8.5. The request for the education records of a**
26 **child by a court must be for the purpose of assisting the child**
27 **before adjudication.**
- 28 ~~(d)~~ (e) A school corporation or other entity to which the education
29 records privacy provisions of the federal Family Educational Rights and
30 Privacy Act (20 U.S.C. 1232g) apply that:
- 31 (1) discloses or reports on the education records of a child,
32 including personally identifiable information contained in the
33 education records, in violation of this section; and
34 (2) makes a good faith effort to comply with this section;
35 is immune from civil liability.
- 36 SECTION 22. IC 20-33-8-12, AS ADDED BY HEA-1288-2005,
37 SECTION 17, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The governing body of a
39 school corporation must do the following:
- 40 (1) Establish written discipline rules, which may include:
41 **(A) appropriate dress codes; and**
42 **(B) if applicable, an agreement for court assisted resolution**
43 **of school suspension and expulsion cases;**
44 for the school corporation.
- 45 (2) Give general publicity to the discipline rules within a school
46 where the discipline rules apply by actions such as:
47 (A) making a copy of the discipline rules available to students
48 and students' parents; or
49 (B) delivering a copy of the discipline rules to students or the
50 parents of students.
- 51 This publicity requirement may not be construed technically and is

1 satisfied if the school corporation makes a good faith effort to
 2 disseminate to students or parents generally the text or substance
 3 of a discipline rule.

4 (b) The:

5 (1) superintendent of a school corporation; and

6 (2) principals of each school in a school corporation;

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

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

11 (1) rulemaking;

12 (2) disciplinary; and

13 (3) other authority;

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

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

18 (1) Movement of students.

19 (2) Movement or parking of vehicles.

20 (3) Day to day instructions concerning the operation of a classroom
 21 or teaching station.

22 (4) Time for commencement of school.

23 (5) Other standards or regulations relating to the manner in which
 24 an educational function must be administered.

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

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

30 **Chapter 8.5. Court Assisted Resolution of Suspension and**
 31 **Expulsion Cases**

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

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

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

42 (1) **Establish a flexible program for the supervision of a student**
 43 **who has been suspended or expelled.**

44 (2) **Supervise a student who has been suspended or expelled.**

45 (3) **Require a student who has been suspended or expelled to**
 46 **participate in a school program (including an alternative**
 47 **educational program) for the supervision of a student who has**
 48 **been suspended or expelled.**

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

51 (1) **Define the violation for which a student who has been**

1 suspended or expelled shall be referred to the court.

2 (2) Refer a student who has been suspended or expelled for a
3 violation described in subdivision (1) to the court.

4 (3) Establish a school program (including an alternative
5 educational program) for the supervision of a student who has
6 been suspended or expelled.

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

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

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

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

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

27 (2) have committed a delinquent act (as described in IC 31-37);
28 the court may notify the office of family and children or the
29 prosecuting attorney.

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

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

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

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

42 (1) procedural requirements of 20 U.S.C. 1415; and

43 (2) rules adopted by the Indiana state board of education.

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

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

50 (b) The department of education shall under this SECTION
51 begin compiling the statistics concerning the likely consequences of

1 **life without a high school diploma as required by IC 20-33-2-28.7,**
2 **as added by this act.**
3 **(c) This SECTION expires December 31, 2005.**
4 **SECTION 25. An emergency is declared for this act.**
(Reference is to EHB 1794 as printed March 18, 2005.)

Conference Committee Report
on
Engrossed House Bill 1794

Signed by:

Representative Behning
Chairperson

Senator Lubbers

Representative Porter

Senator Rogers

House Conferees

Senate Conferees