

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Judiciary, to which was referred House Bill No. 1198, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1           Page 1, between the enacting clause and line 1, begin a new
- 2           paragraph and insert:
- 3           "SECTION 1. IC 9-24-2-1 IS AMENDED TO READ AS
- 4           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A driver's license
- 5           or a learner's permit may not be issued to an individual less than
- 6           eighteen (18) years of age who meets any of the following conditions:
- 7                 (1) Is a habitual truant under ~~IC 20-8.1-3-17.2~~; **IC 20-33-2-11.**
- 8                 (2) Is under at least a second suspension from school for the
- 9                 school year under ~~IC 20-8.1-5.1-8~~ **IC 20-33-8-14** or
- 10                ~~IC 20-8.1-5.1-9~~; **IC 20-33-8-15.**
- 11                (3) Is under an expulsion from school under ~~IC 20-8.1-5.1-8~~;
- 12                ~~IC 20-8.1-5.1-9~~; or ~~IC 20-8.1-5.1-10~~; **IC 20-33-8-14,**
- 13                **IC 20-33-8-15, or IC 20-33-8-16.**
- 14                ~~(4) Has withdrawn from school; for a reason other than financial~~
- 15                ~~hardship and the withdrawal was reported under IC 20-8.1-3-24(a)~~
- 16                ~~before graduating.~~
- 17                **(4) Is considered a dropout under IC 20-33-2-28.5.**
- 18                (b) At least five (5) days before holding an exit interview under
- 19                ~~IC 20-8.1-3-17(b)(2)~~; **IC 20-33-2-28.5**, the school corporation shall
- 20                give notice by certified mail or personal delivery to the student, the
- 21                student's parent, or the student's guardian ~~of the following:~~

- 1 (1) That the exit interview will include a hearing to determine if  
 2 the reason for the student's withdrawal is financial hardship.
- 3 (2) If the principal determines that the reason for the student's  
 4 withdrawal is not financial hardship:
- 5 (A) the student and the student's parent or guardian will  
 6 receive a copy of the determination; and
- 7 (B) the student's name will be submitted to the bureau for the  
 8 bureau's use in denying or invalidating a driver's license or  
 9 learner's permit under this section:
- 10 **that the student's failure to attend an exit interview under**  
 11 **IC 20-33-2-28.5 or return to school if the student does not meet the**  
 12 **requirements to withdraw from school under IC 20-33-2-28.5 will**  
 13 **result in the revocation or denial of the student's:**
- 14 (1) **driver's license or learner's permit; and**  
 15 (2) **employment certificate."**
- 16 Page 1, line 9, strike "and" and insert ",".
- 17 Page 1, line 9, after "gender" insert ", **and disability status"**.
- 18 Page 1, line 17, after "gender," insert "**disability status,"**".
- 19 Page 3, between lines 17 and 18, begin a new paragraph and insert:  
 20 "**Sec. 1. This chapter does not apply to a nonpublic school."**
- 21 Page 3, line 18, delete "Sec. 1." and insert "**Sec. 2."**".
- 22 Page 3, line 25, delete "Sec. 2." and insert "**Sec. 3."**".
- 23 Page 3, line 34, delete "Sec. 3." and insert "**Sec. 4."**".
- 24 Page 4, line 5, delete "Sec. 4." and insert "**Sec. 5."**".
- 25 Page 4, line 10, delete "Sec. 5." and insert "**Sec. 6."**".
- 26 Page 4, line 10, delete "a" and insert "**an informal"**".
- 27 Page 4, line 10, after "court" insert ", **in a setting agreed upon by**  
 28 **the court and the school board,"**.
- 29 Page 4, line 14, delete "Sec. 6." and insert "**Sec. 7."**".
- 30 Page 4, delete lines 24 through 30.
- 31 Page 4, line 31, delete "Sec. 9." and insert "**Sec. 8."**".
- 32 Page 4, line 31, after "present" insert ", **and may be required to be**  
 33 **present,"**".
- 34 Page 4, line 32, delete "court".
- 35 Page 4, line 32, delete ", and, if the student or the student's" and  
 36 insert ".".
- 37 Page 4, delete lines 33 through 34.
- 38 Page 4, line 35, delete "Sec. 10." and insert "**Sec. 9."**".

1 Page 4, between lines 39 and 40, begin a new paragraph and insert:

2 **"Sec. 10. This chapter does not deprive a child of any due**  
3 **process rights to which the child may be entitled."**

4 Page 6, after line 5, begin a new paragraph and insert:

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

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

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

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

38 **(c) The department shall develop guidelines necessary to**

1 **implement this section.**

2 SECTION 11. IC 20-33-2-9, AS ADDED BY HEA-1288-2005,  
3 SECTION 17, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a)~~ A student is bound by the  
5 requirements of this chapter from the earlier of the date on which the  
6 student officially enrolls in a school or, except as provided in section  
7 8 of this chapter, the beginning of the fall school term for the school  
8 year in which the student becomes seven (7) years of age until the date  
9 on which the student:

- 10 (1) graduates;  
11 (2) becomes eighteen (18) years of age; or  
12 (3) becomes sixteen (16) years of age but is less than eighteen  
13 (18) years of age and the requirements under section 9 of this  
14 chapter concerning an exit interview are met enabling the student  
15 to withdraw from school before graduation;

16 whichever occurs first.

17 ~~(b)~~ A student who:

- 18 ~~(1)~~ enrolls in school before the fall school term for the school year  
19 in which the student becomes seven (7) years of age; and  
20 ~~(2)~~ is withdrawn from school before the school year described in  
21 subdivision ~~(1)~~ occurs;

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

26 SECTION 12. IC 20-33-2-11, AS ADDED BY HEA-1288-2005,  
27 SECTION 17, IS AMENDED TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Notwithstanding IC 9-24  
29 concerning the minimum requirements for qualifying for the issuance  
30 of an operator's license or a learner's permit, and subject to subsections  
31 (c) through (e), an individual who is:

- 32 (1) at least thirteen (13) years of age but less than fifteen (15)  
33 years of age;  
34 (2) a habitual truant under the definition of habitual truant  
35 established under subsection (b); and  
36 (3) identified in the information submitted to the bureau of motor  
37 vehicles under subsection (f);

38 may not be issued an operator's license or a learner's permit to drive a

1 motor vehicle under IC 9-24 until the individual is at least eighteen (18)  
2 years of age.

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

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

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

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

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

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

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

25 (f) Before:

26 (1) February 1; and

27 (2) October 1;

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

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

35 SECTION 13. IC 20-33-2-28.5 IS ADDED TO THE INDIANA  
36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
37 [EFFECTIVE JULY 1, 2005]: **Sec. 28.5. (a) This section applies to an**  
38 **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**
- 4               **eighteen (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**

- 1                   **(B) who either:**
- 2                    **(i) failed to return to school at the beginning of a**
- 3                    **semester; or**
- 4                    **(ii) stopped attending school during a semester;**
- 5                    **and for whom there is no record of transfer to another**
- 6                    **school.**
- 7                    **(2) The number of individuals who withdrew from school**
- 8                    **following an exit interview.**
- 9                    **(f) If an individual to which this section applies:**
- 10                   **(1) has not received consent to withdraw from school under**
- 11                    **this section; and**
- 12                    **(2) fails to return to school at the beginning of a semester or**
- 13                    **during the semester;**
- 14                    **the principal of the school that the individual last attended shall**
- 15                    **deliver by certified mail or personal delivery to the bureau of child**
- 16                    **labor a record of the individual's failure to return to school so that**
- 17                    **the bureau of child labor revokes any employment certificates**
- 18                    **issued to the individual and does not issue any additional**
- 19                    **employment certificates to the individual. For purposes of**
- 20                    **IC 20-33-3-13, the individual shall be considered a dropout.**
- 21                    **(g) At the same time that a school principal delivers the record**
- 22                    **under subsection (f), the principal shall deliver by certified mail or**
- 23                    **personal delivery to the bureau of motor vehicles a record of the**
- 24                    **individual's failure to return to school so that the bureau of motor**
- 25                    **vehicles revokes any driver's license or learner's permit issued to**
- 26                    **the individual and does not issue any additional driver's licenses or**
- 27                    **learner's permits to the individual before the individual is at least**
- 28                    **eighteen (18) years of age. For purposes of IC 9-24-2-1, the**
- 29                    **individual shall be considered a dropout.**
- 30                    **(h) If:**
- 31                    **(1) a principal has delivered the record required under**
- 32                    **subsection (f) or (g), or both; and**
- 33                    **(2) the school subsequently gives consent to the individual to**
- 34                    **withdraw from school under this section;**
- 35                    **the principal of the school shall send a notice of withdrawal to the**
- 36                    **bureau of child labor and the bureau of motor vehicles by certified**
- 37                    **mail or personal delivery and, for purposes of IC 20-33-3-13 and**
- 38                    **IC 9-24-2-1, the individual shall no longer be considered a dropout.**

1 SECTION 14. IC 20-33-2-28.7 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2005] **Sec. 28.7. (a) The department of**  
4 **education shall compile and make available to schools statistics**  
5 **concerning the likely consequences of life without a high school**  
6 **diploma. The statistics must include, but are not limited to,**  
7 **statistics that show the likelihood of an individual's:**

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

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

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

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

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

17 (b) A school corporation or other entity to which the education  
18 records privacy provisions of the federal Family Educational Rights and  
19 Privacy 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 consent of  
22 the child's parent under the following conditions:

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

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

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

33 (c) For purposes of subsection (b)(2), a disclosure or reporting of  
34 education records concerning a child who has been adjudicated as a  
35 delinquent child shall be treated as related to the ability of the juvenile  
36 justice system to serve the child before adjudication if the juvenile  
37 justice agency seeking the information provides sufficient information  
38 to enable the keeper of the education records to determine that the



1 juvenile justice agency seeks the information in order to identify and  
 2 intervene with the child as a juvenile at risk of delinquency rather than  
 3 to obtain information solely related to supervision of the child as an  
 4 adjudicated delinquent child.

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

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

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

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

23 is immune from civil liability.

24 SECTION 15. IC 20-33-8-12, AS ADDED BY HEA-1288-2005,  
 25 SECTION 17, IS AMENDED TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The governing body of a  
 27 school corporation must do the following:

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

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

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

32 for the school corporation.

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

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

37 (B) delivering a copy of the discipline rules to students or the  
 38 parents of students.

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

5 (b) The:

6 (1) superintendent of a school corporation; and  
 7 (2) principals of each school in a school corporation;  
 8 may adopt regulations establishing lines of responsibility and related  
 9 guidelines in compliance with the discipline policies of the governing  
 10 body.

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

12 (1) rulemaking;  
 13 (2) disciplinary; and  
 14 (3) other authority;

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

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

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

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

28 SECTION 16. IC 20-33-8.5 IS ADDED TO THE INDIANA CODE  
 29 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2005]:

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

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

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

1 or suspended student who has been referred to the court by the  
2 school corporation in accordance with the terms of the agreement.

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

5 (1) Establish a flexible program for the supervision of a  
6 student who has been suspended or expelled.

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

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

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

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

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

18 (3) Establish a school program (including an alternative  
19 educational program) for the supervision of a student who has  
20 been suspended or expelled.

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

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

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

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

1           **(1) be a child in need of services (as described in IC 31-34-1);**  
 2           **or**  
 3           **(2) have committed a delinquent act (as described in**  
 4           **IC 31-37);**  
 5           **the court may notify the office of family and children or the**  
 6           **prosecuting attorney.**

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

9           **Sec. 9. Notwithstanding the terms of the agreement, a**  
 10           **suspension, an expulsion, or a referral of a student who is a child**  
 11           **with a disability (as defined in IC 20-35-1-2) is subject to the:**

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

14           **Sec. 10. This chapter does not deprive a child of any due process**  
 15           **rights to which the child may be entitled.**

16           **SECTION 18. [EFFECTIVE UPON PASSAGE] (a) The**  
 17           **department of education shall develop a form for the written**  
 18           **consent to withdraw from school for a school corporation's use in**  
 19           **implementing IC 20-33-2-28.5, as added by this act.**

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

- 1     **as added by this act.**
- 2     **(c) This SECTION expires December 31, 2005.**
- 3     **SECTION 19. An emergency is declared for this act."**
- 4     Renumber all SECTIONS consecutively.  
      (Reference is to HB 1198 as printed January 28, 2005.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 9, Nays 0.

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**Bray**

**Chairperson**