



February 20, 2004

**ENGROSSED
SENATE BILL No. 104**

DIGEST OF SB 104 (Updated February 17, 2004 3:43 pm - DI 109)

Citations Affected: IC 20-1; IC 20-8.1; IC 20-10.1.

Synopsis: Student suspensions and expulsions. Requires schools to report the reasons for student suspensions and expulsions to the department of education. Authorizes an agreement for court assisted resolution of suspension and expulsion cases between a court having juvenile jurisdiction and a 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. (The introduced version of this bill was prepared by the interim study committee on educational achievement issues.)

Effective: July 1, 2004.

Kenley, Rogers, Sipes
(HOUSE SPONSORS — PORTER, SCHOLER)

January 6, 2004, read first time and referred to Committee on Education and Career Development.
January 29, 2004, amended, reported favorably — Do Pass.
February 2, 2004, read second time, amended, ordered engrossed.
February 3, 2004, engrossed. Read third time, passed. Yeas 49, nays 0.
HOUSE ACTION
February 5, 2004, read first time and referred to Committee on Education.
February 19, 2004, amended, reported — Do Pass.

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ES 104—LS 6205/DI 106+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 104



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 20-1-1.1-5, AS AMENDED BY P.L.48-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 5. **(a)** The department shall:
4 (1) perform the duties required by statute;
5 (2) implement the policies and procedures established by the
6 board;
7 (3) conduct analytical research to assist the state board of
8 education in determining the state's educational policy;
9 (4) compile statistics concerning the ethnicity and gender of
10 students in Indiana schools, including statistics for all information
11 that the department receives from school corporations on
12 enrollment, number of suspensions, and number of expulsions;
13 and
14 (5) provide technical assistance to school corporations.
15 **(b) The department, in compiling statistics under subsection**
16 **(a)(4), must categorize suspensions and expulsions by cause as**
17 **follows:**

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- 1 (1) Physical aggression.
- 2 (2) Verbal aggression or profanity.
- 3 (3) Disruptive behavior.
- 4 (4) Defiance.
- 5 (5) Attendance.
- 6 (6) Destruction of property.
- 7 (7) Alcohol, drugs, and tobacco.
- 8 (8) Weapons.
- 9 (9) Other.

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

12 SECTION 2. IC 20-8.1-5.2 IS ADDED TO THE INDIANA CODE
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2004]:

15 **Chapter 5.2. Court Assisted Resolution of Suspension and**
 16 **Expulsion Cases**

17 **Sec. 1. A superintendent and a court having juvenile jurisdiction**
 18 **in the county may enter into a voluntary agreement (referred to as**
 19 **"agreement" in this chapter) for court assisted resolution of school**
 20 **suspension and expulsion cases. The agreement may require the**
 21 **court to supervise or order the supervision of an expelled or**
 22 **suspended student who has been referred to the court by the school**
 23 **corporation in accordance with the terms of the agreement.**

24 **Sec. 2. The agreement may require that a court do one (1) or**
 25 **more of the following:**

- 26 (1) Establish a flexible program for the supervision of a
 27 student who has been suspended or expelled.
- 28 (2) Supervise a student who has been suspended or expelled.
- 29 (3) Order a student who has been suspended or expelled to
 30 participate in a school program (including an alternative
 31 educational program) for the supervision of a student who has
 32 been suspended or expelled.

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

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

42 (b) If a school corporation enters into an agreement, the

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1 discipline rules adopted by the school corporation under
2 IC 20-8.1-5.1-7 must specify the violations for which a student may
3 be referred to the court under the agreement.

4 Sec. 4. The agreement must provide how the expenses of
5 supervising a student who has been suspended or expelled are
6 funded. A school corporation may not be required to expend more
7 than the amount determined under IC 21-3-1.7-6.7(e) for each
8 student referred under the agreement.

9 Sec. 5. A student shall be given a hearing before the court as
10 soon as practicable following the student's referral to the court,
11 after notice of the hearing has been provided to the student's
12 parent.

13 Sec. 6. A hearing under this chapter is not a hearing to
14 determine whether a student who has been suspended or expelled
15 is a child in need of services. However, if a court determines that
16 a student who has been suspended or expelled may:

- 17 (1) be a child in need of services; or
 - 18 (2) have committed a delinquent act;
- 19 the court may notify the office of family and children or the
20 prosecuting attorney.

21 Sec. 7. Notwithstanding the terms of an agreement, a
22 suspension, an expulsion, or a referral of a student who is a child
23 with a disability (as defined in IC 20-1-6-1) is subject to the:

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

26 SECTION 3. IC 20-10.1-22.4-3, AS AMENDED BY P.L.2-2003,
27 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2004]: Sec. 3. (a) As used in this section, "juvenile justice
29 agency" has the meaning set forth in IC 10-13-4-5.

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

- 37 (1) The disclosure or reporting of education records is to a state
38 or local juvenile justice agency.
- 39 (2) The disclosure or reporting relates to the ability of the juvenile
40 justice system to serve, before adjudication, the student whose
41 records are being released.
- 42 (3) The juvenile justice agency receiving the information certifies,

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1 in writing, to the entity providing the information that the agency
2 or individual receiving the information has agreed not to disclose
3 it to a third party, other than another juvenile justice agency,
4 without the consent of the child's parent, guardian, or custodian.

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

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

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SENATE MOTION

Madam President: I move that Senator Rogers be added as second author and Senator Sipes be added as coauthor of Senate Bill 104.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 104, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-1-21-8, AS AMENDED BY P.L.81-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The state superintendent and the Indiana state board of education, in consultation with school corporations, educational organizations, appropriate state agencies, and other organizations and individuals having an interest in education, shall develop and periodically revise the following for the benchmarks and indicators of performance under section 9 of this chapter and the additional components of the performance report:

- (1) Reporting procedures, including the following:
 - (A) A determination of the information that a school corporation must compile and the information that the department must compile.
 - (B) A determination of the information required on a school by school basis and the information required on a school corporation basis.
 - (C) A common format suitable for publication, including tables, graphics, and explanatory text.
- (2) Operational definitions.
- (3) Standards for implementation.
- (4) Additional components for the report that may be benchmarks, indicators of performance, or other information.
- (5) Additional categories of types of suspensions and expulsions, including the following:**
 - (A) Assault or physical aggression.**
 - (B) Verbal aggression or profanity.**
 - (C) Disruptive behavior.**
 - (D) Defiance.**
 - (E) Attendance.**
 - (F) Destruction of property.**
 - (G) Alcohol, drugs, and tobacco.**
 - (H) Weapons.**
 - (I) Other. "**

Page 2, line 5, delete "Except as provided in subsection (b), the" and



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insert **"The"**.

Page 2, line 15, after "the" insert **"discipline rules adopted by the"**.

Page 2, line 16, after "corporation" insert **"under IC 20-8.1-5.1-7"**.

Page 2, line 16, delete "refer a student who has been suspended or" and insert **"specify the violations for which a student may be referred to the court under the agreement."**

Page 2, delete line 17.

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"Sec. 7. Notwithstanding the terms of an 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."

Page 3, line 30, after "IC 20-8.1-5.2." insert **"The request for the education records of a child by a court must be for the purpose of assisting the child before adjudication."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 104 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 104 be amended to read as follows:

Page 3, line 15, delete "court." and insert "**court, after notice of the hearing has been provided to the student's parent.**".

(Reference is to SB 104 as printed January 30, 2004.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Senate Bill 104, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 16, begin a new paragraph and insert:

"SECTION 1. IC 20-1-1.1-5, AS AMENDED BY P.L.48-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: 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 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 cause as follows:

- (1) Physical aggression.**
- (2) Verbal aggression or profanity.**
- (3) Disruptive behavior.**
- (4) Defiance.**
- (5) Attendance.**
- (6) Destruction of property.**
- (7) Alcohol, drugs, and tobacco.**
- (8) Weapons.**
- (9) Other.**

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

and when so amended that said bill do pass.

(Reference is to SB 104 as reprinted February 3, 2004.)

PORTER, Chair

Committee Vote: yeas 13, nays 0.

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