January 27, 2012

SENATE BILL No. 312

DIGEST OF SB 312 (Updated January 25, 2012 5:45 pm - DI 116)

Citations Affected: IC 5-2; IC 20-18; IC 20-19; IC 20-24; IC 20-26; IC 20-33; IC 34-30.

Synopsis: School policies on gang activities. Allows the Indiana safe schools fund to be used to provide educational outreach and training to school personnel concerning the identification and prevention of and intervention in criminal gang activity. Requires the Indiana department of education (department) to develop model educational materials and a model policy concerning criminal gang activity. Requires the department, in collaboration with the Indiana criminal justice institute, the Indiana department of child services, and any organization with expertise in criminal gang education, prevention, and intervention that the department determines to be appropriate, to identify or develop model education materials and develop a model policy to address criminal gangs and criminal gang activity in schools. Requires the governing body of each school corporation, including Indianapolis public schools and charter schools, to develop and maintain a criminal gang policy. Requires a school corporation to include a copy of its criminal gang policy: (1) on its web site; (2) in school student handbooks; and (3) in any location the school corporation determines to be appropriate. Requires each school corporation to develop: (1) an educational criminal gang awareness program for students, school employees, and parents; and (2) a school employee development program to provide training to school employees in the implementation of the school corporation's criminal gang policy. Authorizes a school corporation to enter into a memorandum of understanding with the

(Continued next page)

Effective: July 1, 2012.

Hershman

January 5, 2012, read first time and referred to Committee on Education and Career Development.
January 26, 2012, reported favorably — Do Pass.

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Digest Continued

county prosecutor or a juvenile court to foster coordination of gang prevention, intervention, and suppression efforts. Requires, beginning in 2015 and each year thereafter, each school corporation to submit a report to the department outlining the activities undertaken by the school corporation to address criminal gang activity. Requires, beginning in 2015 and each year thereafter, the department to submit a report to the governor and the general assembly. Requires the discipline rules adopted by the governing body of a school corporation to: (1) prohibit criminal gang activity; and (2) include provisions concerning education, parental involvement, reporting, investigation, and intervention concerning criminal gang activity. Requires a school employee who has reason to believe that a student or school employee: (1) actively participates in a criminal gang; (2) commits criminal gang intimidation; or (3) solicits, recruits, entices, or intimidates another individual to join a criminal gang; to immediately notify the principal. Requires the principal to make an oral report to the local law enforcement agency. Provides that an individual who makes a report or causes a report to be made or who participates in any judicial proceeding resulting from or relating to the report is immune from any civil or criminal liability if the individual did not act maliciously or in bad faith. Makes a technical correction.

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January 27, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 312

A BILL FOR AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 5-2-10.1-2, AS AMENDED BY P.L.106-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The Indiana safe schools fund is established to do the following:

(1) Promote school safety through the:

(A) purchase of equipment for the detection of firearms and other weapons;

(B) use of dogs trained to detect firearms, drugs, explosives, and illegal substances; and

(C) purchase of other equipment and materials used to enhance the safety of schools.

(2) Combat truancy.

(3) Provide matching grants to schools for school safe haven programs.

(4) Provide grants for school safety and safety plans.

(5) Provide educational outreach and training to school personnel concerning:
(A) the identification of;
(B) the prevention of; and
(C) intervention in;
bullying.
(6) Provide educational outreach and training to school personnel concerning:
(A) the identification of;
(B) the prevention of; and
(C) intervention in;
criminal gang activities.

(b) The fund consists of amounts deposited:
(1) under IC 33-37-9-4; and
(2) from any other public or private source.

(c) The institute shall determine grant recipients from the fund with a priority on awarding grants in the following order:
(1) A grant for a safety plan.
(2) A safe haven grant requested under section 10 of this chapter.
(3) A safe haven grant requested under section 7 of this chapter.

(d) Upon recommendation of the council, the institute shall establish a method for determining the maximum amount a grant recipient may receive under this section.

SECTION 2. IC 5-2-10.1-11, AS AMENDED BY P.L.106-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) The school safety specialist training and certification program is established.

(b) The school safety specialist training program shall provide:
(1) annual training sessions, which may be conducted through distance learning or at regional centers; and
(2) information concerning best practices and available resources; for school safety specialists and county school safety commissions.

(c) The department of education shall do the following:
(1) Assemble an advisory group of school safety specialists from around the state to make recommendations concerning the curriculum and standards for school safety specialist training.
(2) Develop an appropriate curriculum and the standards for the school safety specialist training and certification program. The department of education may consult with national school safety experts in developing the curriculum and standards. The curriculum developed under this subdivision must include training in:

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(A) identifying, preventing, and intervening in bullying; **and**
(B) identifying, preventing, and intervening in criminal gang activity.

(3) Administer the school safety specialist training program and notify the institute of candidates for certification who have successfully completed the training program.

(d) The institute shall do the following:

(1) Establish a school safety specialist certificate.

(2) Review the qualifications of each candidate for certification named by the department of education.

(3) Present a certificate to each school safety specialist that the institute determines to be eligible for certification.

SECTION 3. IC 5-2-10.1-12, AS AMENDED BY P.L.132-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) Each school within a school corporation shall establish a safe school committee. The committee may be a subcommittee of the committee that develops the strategic and continuous school improvement and achievement plan under IC 20-31-5.

(b) The department of education and the school corporation's school safety specialist shall provide materials to assist a safe school committee in developing a plan for the school that addresses the following issues:

(1) Unsafe conditions, crime prevention, school violence, bullying, **criminal gang activity,** and other issues that prevent the maintenance of a safe school.

(2) Professional development needs for faculty and staff to implement methods that decrease problems identified under subdivision (1).

(3) Methods to encourage:

(A) involvement by the community and students;

(B) development of relationships between students and school faculty and staff; and

(C) use of problem solving teams.

(c) As a part of the plan developed under subsection (b), each safe school committee shall provide a copy of the floor plans for each building located on the school's property that clearly indicates each exit, the interior rooms and hallways, and the location of any hazardous materials located in the building to the law enforcement agency and the fire department that have jurisdiction over the school.

SECTION 4. IC 20-18-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2012]: **Sec. 2.7. "Criminal gang" has the meaning set forth in IC 35-45-9-1.**

SECTION 5. IC 20-18-2-16, AS AMENDED BY P.L.90-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) "School corporation", for purposes of this title (except IC 20-20-33, IC 20-26-1 through IC 20-26-5, IC 20-26-7, **IC 20-28-11.5,** IC 20-30-8, and IC 20-43), means a public school corporation established by Indiana law. The term includes a:

(1) school city;
(2) school town;
(3) school township;
(4) consolidated school corporation;
(5) metropolitan school district;
(6) township school corporation;
(7) county school corporation;
(8) united school corporation; or
(9) community school corporation.

(b) "School corporation", for purposes of IC 20-26-1 through IC 20-26-5 and IC 20-26-7, has the meaning set forth in IC 20-26-2-4.

(c) "School corporation", for purposes of IC 20-20-33, **IC 20-26-18,** and IC 20-30-8, includes a charter school (as defined in IC 20-24-1-4).

(d) "School corporation", for purposes of IC 20-43, has the meaning set forth in IC 20-43-1-23.

(e) "School corporation", for purposes of IC 20-28-11.5, has the meaning set forth in IC 20-28-11.5-3.

SECTION 6. IC 20-19-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 11. (a) The department, in collaboration with the Indiana criminal justice institute, the department of child services, and any organization that has expertise in providing criminal gang education, prevention, or intervention that the department determines to be appropriate, shall:**

(1) identify or develop model educational materials on criminal gang activity; and
(2) develop and maintain a model policy to address criminal gangs and criminal gang activity in schools.

(b) Not later than July 1, 2013, the department shall make the model policy developed under subsection (a)(2) available to assist schools in the development and implementation of a criminal gang policy for the schools' school corporations under IC 20-26-18.

(c) The model educational materials on criminal gang activity identified or developed under subsection (a)(1) must include

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information:

(1) to educate students and parents on the extent to which criminal gang activity exists;

(2) regarding the negative societal impact that criminal gangs have on the community;

(3) on methods to discourage participation in criminal gangs; and

(4) on methods of providing intervention to a child suspected of participating in criminal gang activity.

(d) The model criminal gang policy developed under subsection (a)(2) must include:

(1) a statement prohibiting criminal gang activity in schools;

(2) a statement prohibiting reprisal or retaliation against an individual who reports suspected criminal gang activity;

(3) a definition of "criminal gang" and "criminal gang activity";

(4) a statement of standard consequences and remedial actions for:

(A) individuals engaged in criminal gang activity; and

(B) individuals found to have made false accusations concerning criminal gang activity;

(5) model procedures for:

(A) reporting suspected criminal gang activity; and

(B) the prompt investigation of suspected criminal gang activity;

(6) information about the types of support services, including family support services, available for a student suspected of participating in criminal gang activity; and

(7) recommendations concerning criminal gang prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

SECTION 7. IC 20-24-8-5, AS AMENDED BY P.L.90-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

(1) IC 5-11-1-9 (required audits by the state board of accounts).

(2) IC 20-39-1-1 (unified accounting system).

(3) IC 20-35 (special education).

(4) IC 20-26-5-10 (criminal history).

(5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).

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(6) IC 20-28-10-12 (nondiscrimination for teacher marital status).
(7) IC 20-28-10-14 (teacher freedom of association).
(8) IC 20-28-10-17 (school counselor immunity).
(9) For conversion charter schools only, IC 20-28-6, IC 20-28-7.5, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
(10) IC 20-33-2 (compulsory school attendance).
(11) IC 20-33-3 (limitations on employment of children).
(12) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
(13) IC 20-33-8-16 (firearms and deadly weapons).
(14) IC 20-34-3 (health and safety measures).
(15) IC 20-33-9 (reporting of student violations of law).
(16) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
(17) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
(18) IC 20-33-7 (parental access to education records).
(19) IC 20-31 (accountability for school performance and improvement).
(20) IC 20-30-5-19 (personal financial responsibility instruction).
(21) IC 20-26-18 (criminal gang measures).

SECTION 8. IC 20-26-18 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 18. Criminal Gang Measures

Sec. 1. This chapter applies to every school corporation, including a charter school (as defined in IC 20-24-1-4) and a school city to which IC 20-25 applies.

Sec. 2. (a) Not later than June 1, 2014, the governing body of each school corporation must establish a written policy to address criminal gangs and criminal gang activity in schools. The governing body of a school corporation may develop the policy in consultation with:

(1) parents;
(2) school employees;
(3) local law enforcement officials;
(4) the county prosecutor;
(5) the county public defender;
(6) organizations that have expertise in criminal gang education, prevention, or intervention; and

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(7) any other person or entity the governing body of the school corporation determines to be appropriate.

(b) The policy must meet all of the requirements for the department's model criminal gang policy set forth in IC 20-19-3-11(d).

(c) Not later than September 1, 2014, each school corporation shall submit a copy of its criminal gang policy to the department.

Sec. 3. A school corporation shall put a copy of the school corporation's criminal gang policy established under section 2 of this chapter:

(1) on its web site;

(2) in school student handbooks; and

(3) in any location the school corporation determines to be appropriate.

Sec. 4. A school corporation shall establish the following educational programs in its efforts to address criminal gang activity:

(1) An educational criminal gang awareness program for students, school employees, and parents.

(2) A school employee development program to provide training to school employees in the implementation of the criminal gang policy established under section 2 of this chapter.

Sec. 5. The governing body of a school corporation may establish a program to provide criminal gang intervention services to students.

Sec. 6. A school corporation may enter into a memorandum of understanding with:

(1) the county prosecutor of the county in which the school corporation is located; or

(2) a juvenile court with jurisdiction in the school corporation;

to foster coordination of gang prevention, intervention, and suppression efforts.

Sec. 7. (a) Not later than June 1, 2015, and before June 2 of each year thereafter, each school corporation shall submit to the department a written report, on forms developed by the department, outlining the activities undertaken as part of the school corporation's compliance with this chapter.

(b) Not later than November 1, 2015, and before November 2 of each year thereafter, the department shall submit a comprehensive report concerning criminal gang activity in schools to the governor

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and the general assembly. A report submitted to the general assembly under this subsection must be in an electronic format under IC 5-14-6. The report must include the following:

(1) A summary of the activities reported to the department under subsection (a).

(2) Any recommendations or conclusions made by the department to assist in the prevention of, education about, and intervention in criminal gang activity in schools.

SECTION 9. IC 20-33-8-13.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 13.7 (a) Discipline rules adopted by the governing body of a school corporation under section 12 of this chapter must:**

(1) prohibit criminal gang activity; and

(2) include provisions concerning education about, parental involvement in preventing, reporting of, investigation of, and intervention in criminal gang activity.

(b) The discipline rules adopted in compliance with subsection (a) must apply when a student is:

(1) on school grounds immediately before or during school hours, immediately after school hours, or at any other time when the school is being used by a school group;

(2) at a school activity, function, or event held off school grounds;

(3) traveling to or from school or a school activity, function, or event; or

(4) using property or equipment provided by the school.

(c) This section may not be construed to give rise to a cause of action against a person or school corporation based on an allegation of noncompliance with this section. Noncompliance with this section may not be used as evidence against a school corporation in a cause of action.

SECTION 10. IC 20-33-9-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 10.5. In addition to any other duty to report arising under this article, a school employee who has reason to believe that a student or school employee has committed:**

(1) a crime under IC 35-45-9-3 (criminal gang participation);

(2) a crime under IC 35-45-9-4 (criminal gang intimidation);

(3) a crime under IC 35-45-9-5 (criminal gang recruitment); or

(4) a delinquent act that would be a crime under one (1) of the

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statutes referred to in subdivisions (1) through (3) if committed by an adult;

shall report that information as required by section 11 of this chapter.

SECTION 11. IC 20-33-9-11, AS AMENDED BY P.L.72-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) If an individual who is required to make a report under this chapter is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that:

(1) a school employee may have received a threat or may be the victim of intimidation, battery, or harassment; **or**

(2) the individual has reason to believe that a student or a school employee has committed a crime or delinquent act referred to in section 10.5 of this chapter.

(b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 13 of this chapter.

SECTION 12. IC 20-33-9-13, AS AMENDED BY P.L.72-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. An individual who has a duty under sections 10 through 12 of this chapter to report that:

(1) a school employee may have received a threat or may be the victim of intimidation, battery, or harassment; **or**

(2) the individual has reason to believe that a student or a school employee has committed a crime or delinquent act referred to in section 10.5 of this chapter;

shall immediately make an oral report to the local law enforcement agency.

SECTION 13. IC 20-33-9-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 14.5. Except as provided in section 15 of this chapter, an individual, other than a person accused of committing a crime or delinquent act referred to in section 10.5 of this chapter, who:**

(1) makes, or causes to be made, a report under this chapter; or

(2) participates in any judicial proceeding or other proceeding:

(A) arising from a report made under this chapter; or

(B) relating to the subject matter of a report made under this chapter;

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is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

SECTION 14. IC 34-30-2-85.1, AS AMENDED BY P.L.1-2005, SECTION 220, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 85.1. **(a)** IC 20-33-9-14 (Concerning a person who reports or causes a report to be made of a threat against, or intimidation of, a school employee).

(b) IC 20-33-9-14.5 (Concerning an individual who reports or causes a report to be made of a crime or delinquent act involving criminal gang activity).

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 312 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 7, Nays 3.

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