

Adopted	Rejected
---------	----------

# COMMITTEE REPORT

<b>YES:</b>	<b>12</b>
<b>NO:</b>	<b>0</b>

## MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 345, 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:*

- 1 Page 2, line 14, delete "under" and insert "**by**".
- 2 Page 2, line 15, delete "12" and insert "**11**".
- 3 Page 2, delete lines 16 through 19.
- 4 Page 2, line 20, delete "5." and insert "**4.**".
- 5 Page 2, line 26, delete "easily".
- 6 Page 2, line 34, delete "6." and insert "**5.**".
- 7 Page 3, line 7, delete "7." and insert "**6.**".
- 8 Page 3, line 16, delete "8." and insert "**7.**".
- 9 Page 3, line 18, delete "9." and insert "**8.**".
- 10 Page 3, line 19, delete "public school, including a charter school."
- 11 and insert "**school corporation or an accredited nonpublic school.**".
- 12 Page 3, line 20, delete "10." and insert "**9.**".
- 13 Page 3, line 21, delete "involuntary".

- 1 Page 3, line 27, delete "11." and insert "**10.**"
- 2 Page 3, line 32, delete "12." and insert "**11.**"
- 3 Page 4, line 2, delete "the Indiana Protection and Advocacy" and  
4 insert "**Mental Health America of Indiana,**".
- 5 Page 4, line 3, delete "Services,".
- 6 Page 4, delete lines 13 through 17, begin a new line block indented  
7 and insert:
- 8 **"(8) One (1) accredited nonpublic school administrator**  
9 **nominated by the Indiana Non-public Education Association,**  
10 **who serves a two (2) year term.**
- 11 **(9) One (1) public school superintendent nominated by the**  
12 **Indiana Association of Public School Superintendents, who**  
13 **serves a two (2) year term."**
- 14 Page 4, line 26, delete "13." and insert "**12.**"
- 15 Page 4, line 27, delete "12(b)(1)" and insert "**11(b)(1)**".
- 16 Page 4, line 40, delete "14." and insert "**13. (a)**".
- 17 Page 4, line 42, delete "public schools," and insert "**a school**  
18 **corporation or an accredited nonpublic school,**".
- 19 Page 5, line 1, after "on" insert "**eliminating or**".
- 20 Page 5, line 7, delete "and reporting" and insert ".".
- 21 Page 5, delete line 8.
- 22 Page 5, between lines 11 and 12, begin a new line double block  
23 indented and insert:
- 24 **"(E) The distribution of the seclusion and restraint policy**  
25 **to parents and the public.**
- 26 **(F) Requirements for the reporting of incidents of restraint**  
27 **and seclusion in the annual school performance report."**
- 28 Page 5, line 20, after "to" insert "**eliminate or**".
- 29 Page 6, line 23, after "others." insert "**Consideration must be given**  
30 **to available school resources and the time commitments of school**  
31 **employees."**
- 32 Page 6, between lines 23 and 24, begin a new paragraph and insert:
- 33 **"(b) The model policy developed by the commission must take**  
34 **into consideration that implementation and reporting**  
35 **requirements for accredited nonpublic schools may vary, and the**  
36 **model plan must provide accredited nonpublic schools flexibility**  
37 **with regards to accountability under and implementation of the**  
38 **plan adopted by an accredited nonpublic school under section 14**

- 1 **of this chapter."**
- 2 Page 6, line 24, delete "15." and insert "**14.**"
- 3 Page 6, line 24, after "corporation" insert "**or accredited nonpublic**
- 4 **school**".
- 5 Page 6, line 26, delete "14" and insert "**13**".
- 6 Page 6, line 27, after "corporation's" insert "**or accredited**
- 7 **nonpublic school's**".
- 8 Page 6, delete lines 29 through 31, begin a new paragraph and
- 9 insert:
- 10 **"Sec. 15. (a) Nothing in this chapter may be construed to prevent**
- 11 **a school employee from stopping a physical altercation, acting to**
- 12 **prevent physical harm to a student or another individual, or acting**
- 13 **to address an emergency until the emergency is over, whether or**
- 14 **not the school employee has received training under this chapter.**
- 15 **(b) This chapter may not be construed to give rise to a cause of**
- 16 **action, either civil or criminal, against the state, the department, a**
- 17 **school corporation, an accredited nonpublic school, the**
- 18 **commission, or a member of the commission.**
- 19 **(c) In all matters relating to the plan adopted under section 14**
- 20 **of this chapter, school corporation or accredited nonpublic school**
- 21 **personnel have qualified immunity with respect to an action taken**
- 22 **to promote student conduct under a plan adopted under section 14**
- 23 **of this chapter if the action is taken in good faith and is**
- 24 **reasonable."**
- 25 Page 6, line 32, delete "17." and insert "**16.**"
- 26 Page 6, between lines 33 and 34, begin a new paragraph and insert:
- 27 "SECTION 2. IC 34-13-3-3, AS AMENDED BY P.L.125-2011,
- 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 UPON PASSAGE]: Sec. 3. A governmental entity or an employee
- 30 acting within the scope of the employee's employment is not liable if
- 31 a loss results from the following:
- 32 (1) The natural condition of unimproved property.
- 33 (2) The condition of a reservoir, dam, canal, conduit, drain, or
- 34 similar structure when used by a person for a purpose that is not
- 35 foreseeable.
- 36 (3) The temporary condition of a public thoroughfare or extreme
- 37 sport area that results from weather.
- 38 (4) The condition of an unpaved road, trail, or footpath, the

- 1 purpose of which is to provide access to a recreation or scenic
- 2 area.
- 3 (5) The design, construction, control, operation, or normal
- 4 condition of an extreme sport area, if all entrances to the extreme
- 5 sport area are marked with:
  - 6 (A) a set of rules governing the use of the extreme sport area;
  - 7 (B) a warning concerning the hazards and dangers associated
  - 8 with the use of the extreme sport area; and
  - 9 (C) a statement that the extreme sport area may be used only
  - 10 by persons operating extreme sport equipment.
- 11 This subdivision shall not be construed to relieve a governmental
- 12 entity from liability for the continuing duty to maintain extreme
- 13 sports areas in a reasonably safe condition.
- 14 (6) The initiation of a judicial or an administrative proceeding.
- 15 (7) The performance of a discretionary function; however, the
- 16 provision of medical or optical care as provided in IC 34-6-2-38
- 17 shall be considered as a ministerial act.
- 18 (8) The adoption and enforcement of or failure to adopt or enforce
- 19 a law (including rules and regulations), unless the act of
- 20 enforcement constitutes false arrest or false imprisonment.
- 21 (9) An act or omission performed in good faith and without
- 22 malice under the apparent authority of a statute which is invalid
- 23 if the employee would not have been liable had the statute been
- 24 valid.
- 25 (10) The act or omission of anyone other than the governmental
- 26 entity or the governmental entity's employee.
- 27 (11) The issuance, denial, suspension, or revocation of, or failure
- 28 or refusal to issue, deny, suspend, or revoke any permit, license,
- 29 certificate, approval, order, or similar authorization, where the
- 30 authority is discretionary under the law.
- 31 (12) Failure to make an inspection, or making an inadequate or
- 32 negligent inspection, of any property, other than the property of
- 33 a governmental entity, to determine whether the property
- 34 complied with or violates any law or contains a hazard to health
- 35 or safety.
- 36 (13) Entry upon any property where the entry is expressly or
- 37 impliedly authorized by law.
- 38 (14) Misrepresentation if unintentional.

- 1 (15) Theft by another person of money in the employee's official  
 2 custody, unless the loss was sustained because of the employee's  
 3 own negligent or wrongful act or omission.
- 4 (16) Injury to the property of a person under the jurisdiction and  
 5 control of the department of correction if the person has not  
 6 exhausted the administrative remedies and procedures provided  
 7 by section 7 of this chapter.
- 8 (17) Injury to the person or property of a person under supervision  
 9 of a governmental entity and who is:
- 10 (A) on probation; or  
 11 (B) assigned to an alcohol and drug services program under  
 12 IC 12-23, a minimum security release program under  
 13 IC 11-10-8, a pretrial conditional release program under  
 14 IC 35-33-8, or a community corrections program under  
 15 IC 11-12.
- 16 (18) Design of a highway (as defined in IC 9-13-2-73), toll road  
 17 project (as defined in IC 8-15-2-4(4)), tollway (as defined in  
 18 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the  
 19 claimed loss occurs at least twenty (20) years after the public  
 20 highway, toll road project, tollway, or project was designed or  
 21 substantially redesigned; except that this subdivision shall not be  
 22 construed to relieve a responsible governmental entity from the  
 23 continuing duty to provide and maintain public highways in a  
 24 reasonably safe condition.
- 25 (19) Development, adoption, implementation, operation,  
 26 maintenance, or use of an enhanced emergency communication  
 27 system.
- 28 (20) Injury to a student or a student's property by an employee of  
 29 a school corporation if the employee is acting reasonably under a:
- 30 (A) discipline policy adopted under IC 20-33-8-12; **or**  
 31 (B) **restraint and seclusion plan adopted under**  
 32 **IC 20-20-40-14.**
- 33 (21) An act or omission performed in good faith under the  
 34 apparent authority of a court order described in IC 35-46-1-15.1  
 35 that is invalid, including an arrest or imprisonment related to the  
 36 enforcement of the court order, if the governmental entity or  
 37 employee would not have been liable had the court order been  
 38 valid.

- 1 (22) An act taken to investigate or remediate hazardous  
 2 substances, petroleum, or other pollutants associated with a  
 3 brownfield (as defined in IC 13-11-2-19.3) unless:  
 4 (A) the loss is a result of reckless conduct; or  
 5 (B) the governmental entity was responsible for the initial  
 6 placement of the hazardous substances, petroleum, or other  
 7 pollutants on the brownfield.
- 8 (23) The operation of an off-road vehicle (as defined in  
 9 IC 14-8-2-185) by a nongovernmental employee, or by a  
 10 governmental employee not acting within the scope of the  
 11 employment of the employee, on a public highway in a county  
 12 road system outside the corporate limits of a city or town, unless  
 13 the loss is the result of an act or omission amounting to:  
 14 (A) gross negligence;  
 15 (B) willful or wanton misconduct; or  
 16 (C) intentional misconduct.
- 17 This subdivision shall not be construed to relieve a governmental  
 18 entity from liability for the continuing duty to maintain highways  
 19 in a reasonably safe condition for the operation of motor vehicles  
 20 licensed by the bureau of motor vehicles for operation on public  
 21 highways.
- 22 (24) Any act or omission rendered in connection with a request,  
 23 investigation, assessment, or opinion provided under  
 24 IC 36-9-28.7."
- 25 Page 6, line 36, delete "under IC 20-20-40-12," and insert "**by**  
 26 **IC 20-20-40-11**,".
- 27 Page 6, line 39, delete "IC 20-20-40-12(b)(2) through  
 28 IC 20-20-40-12(b)(5)," and insert "**IC 20-20-40-11(b)(2) through**  
 29 **IC 20-20-40-11(b)(5)**,".

- 1 Page 7, line 3, delete "IC 20-20-40-12(b)(1)," and insert "IC
- 2 **20-20-40-11(b)(1),"**
- 3 Renumber all SECTIONS consecutively.  
(Reference is to SB 345 as reprinted February 26, 2013.)

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

---

Representative Behning