

HOUSE BILL No. 1338

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26-21; IC 20-30-5-17; IC 20-33-1.5; IC 21-41-13.

Synopsis: Education matters. Provides that a teacher, administrator, or other employee of a school corporation or charter school shall not promote in any course certain concepts related to race or sex. Provides that a state educational institution may not require a student enrolled at the state educational institution to engage in any form of mandatory gender or sexual diversity training or counseling. Provides that a state educational institution may not require a student of the state educational institution to attend any student orientation or other training or presentation that presents information regarding race or sex stereotyping or bias on the basis of race or sex. Provides that a student shall not be required to participate in a personal analysis, an evaluation, or a survey that is established or administered by: (1) a school corporation; (2) a public school; (3) a state accredited nonpublic school; (4) the department of education (department); or (5) a third party vendor of a school corporation, a school, or the department; without the prior consent of the student if the student is an adult or an emancipated minor or the prior written consent of the student's parent if the student is an unemancipated minor. (Current law provides that a student shall not be required to participate in a personal analysis, an evaluation, or a survey that is not directly related to academic instruction and that reveals or attempts to affect the student's attitudes, habits, traits, opinions, beliefs, or feelings concerning certain matters without the prior consent of the student if the student is an adult or an emancipated minor or the prior written consent of the student's parent if the student is an unemancipated minor.) Establishes certain requirements regarding contracts or agreements with third party
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Effective: Upon passage; July 1, 2023.

Lindauer

January 17, 2023, read first time and referred to Committee on Education.



Digest Continued

vendors to: (1) collect or share information from a student personal analysis, evaluation, or survey; or (2) provide software or software tools that can be used for data collection, analysis, evaluation, or survey of a student.



Introduced

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1338

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

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

1 SECTION 1. IC 20-26-21 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:
4 **Chapter 21. Contracts or Agreements with Third Party Vendors**
5 **Sec. 1. As used in this chapter, "school" means the following:**
6 (1) **A public school, including a charter school.**
7 (2) **An accredited nonpublic school.**
8 **Sec. 2. If the department, a school corporation, or a school**
9 **enters into a contract or an agreement with a third party vendor**
10 **to:**
11 (1) **collect or share information of a personal analysis,**
12 **evaluation, or survey described in IC 20-30-5-17(b); or**
13 (2) **provide software or software tools that can be used for**
14 **data collection, analysis, evaluation, or survey of a student;**
15 **the terms of the contract or agreement must be available for**

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1 inspection on the department's, school corporation's, or school's
2 website.

3 **Sec. 3. The department, a school corporation, or a school may**
4 **not authorize a third party vendor to act in the same capacity as a**
5 **school official for purposes of collecting a student's personal**
6 **identifiable information.**

7 **Sec. 4. Any contract or agreement described in section 2 of this**
8 **chapter must include data privacy and protection requirements to**
9 **protect student information, including provisions that:**

10 (1) **require that any information collected by the third party**
11 **vendor is subject to 20 U.S.C. 1232h (protection of pupil**
12 **rights); and**

13 (2) **provide that access to any student information collected by**
14 **a third party vendor is limited to an employee of the**
15 **department, school corporation, or school that is a party to**
16 **the contract or agreement unless otherwise authorized by the:**

17 (A) **student's parent if the student is an unemancipated**
18 **minor; or**

19 (B) **student if the student is an adult or an emancipated**
20 **minor.**

21 SECTION 2. IC 20-30-5-17, AS AMENDED BY P.L.154-2018,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2023]: Sec. 17. (a) Each school corporation shall make
24 available for inspection by the parent of a student any instructional
25 materials, including teachers' manuals, curricular materials, films or
26 other video materials, tapes, and other materials, used in connection
27 with:

28 (1) a personal analysis, an evaluation, or a survey described in
29 subsection (b); or

30 (2) instruction on human sexuality.

31 (b) **This subsection does not apply to an academic test or**
32 **assessment.** A student shall not be required to participate in a personal
33 analysis, an evaluation, or a survey that is **not directly related to**
34 **academic instruction and that reveals or attempts to affect the student's**
35 **attitudes, habits, traits, opinions, beliefs, or feelings concerning:**

36 (1) **political affiliations;**

37 (2) **religious beliefs or practices;**

38 (3) **mental or psychological conditions that may embarrass the**
39 **student or the student's family;**

40 (4) **sexual behavior or attitudes;**

41 (5) **illegal, antisocial, self-incriminating, or demeaning behavior;**

42 (6) **critical appraisals of other individuals with whom the student**



1 has a close family relationship;
 2 ~~(7) legally recognized privileged or confidential relationships,~~
 3 ~~including a relationship with a lawyer, minister, or physician; or~~
 4 ~~(8) income (except as required by law to determine eligibility for~~
 5 ~~participation in a program or for receiving financial assistance~~
 6 ~~under a program);~~

7 **established or administered by:**

- 8 **(1) a school corporation;**
 9 **(2) a public school, including a charter school;**
 10 **(3) an accredited nonpublic school;**
 11 **(4) the department; or**
 12 **(5) a third party vendor of:**
 13 **(A) a school corporation;**
 14 **(B) a school described in subdivision (2) or (3); or**
 15 **(C) the department;**

16 without the prior consent of the student if the student is an adult or an
 17 emancipated minor or the prior written consent of the student's parent
 18 if the student is an unemancipated minor. A parental consent form for
 19 a personal analysis, an evaluation, or a survey described in this
 20 subsection shall accurately reflect the contents and nature of the
 21 personal analysis, evaluation, or survey. **The consent form must**
 22 **indicate whether information collected by the personal analysis,**
 23 **evaluation, or survey will be collected or shared with a third party**
 24 **vendor of a school corporation, a school, or the department.**

25 (c) Before a school may provide a student with instruction on human
 26 sexuality, the school must provide the parent of the student or the
 27 student, if the student is an adult or an emancipated minor, with a
 28 written request for consent of instruction. A consent form provided to
 29 a parent of a student or a student under this subsection must accurately
 30 summarize the contents and nature of the instruction on human
 31 sexuality that will be provided to the student and indicate that a parent
 32 of a student or an adult or emancipated minor student has the right to
 33 review and inspect all materials related to the instruction on human
 34 sexuality. The written consent form may be sent in an electronic
 35 format. The parent of the student or the student, if the student is an
 36 adult or an emancipated minor, may return the consent form indicating
 37 that the parent of the student or the adult or emancipated **minor**
 38 student:

- 39 (1) consents to the instruction; or
 40 (2) declines instruction.

41 If a student does not participate in the instruction on human sexuality,
 42 the school shall provide the student with alternative academic



1 instruction during the same time frame that the instruction on human
2 sexuality is provided.

3 (d) If the parent of the student or the student, if the student is an
4 adult or an emancipated minor, does not respond to the written request
5 provided by the school under subsection (c) within twenty-one (21)
6 calendar days after receiving the request under subsection (c), the
7 school shall provide the parent of the student, or the student, if the
8 student is an adult or an emancipated minor, a written notice requesting
9 that the parent of the student, or the student, if the student is an adult
10 or an emancipated minor, indicate, in a manner prescribed by the
11 school, whether the parent of the student or the adult or emancipated
12 **minor** student:

- 13 (1) consents to the instruction; or
14 (2) declines instruction.

15 A notice provided to a parent of a student or a student under this
16 subsection must accurately summarize the contents and nature of the
17 instruction on human sexuality that will be provided to the student and
18 indicate that a parent of a student or an adult or emancipated minor
19 student has the right to review and inspect all materials related to the
20 instruction on human sexuality. The notice may be sent in an electronic
21 format. If the school does not receive a response within ten (10) days
22 after the notice, the student will receive the instruction on human
23 sexuality unless the parent or the adult or emancipated **minor** student
24 subsequently opts out of the instruction for the student.

25 (e) The department and the governing body shall give parents and
26 students notice of their rights under this section.

27 (f) The governing body shall enforce this section.

28 SECTION 3. IC 20-33-1.5 IS ADDED TO THE INDIANA CODE
29 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]:

31 **Chapter 1.5. Dignity and Nondiscrimination in Education**

32 **Sec. 1. In accordance with IC 20-33-1-1, a teacher,**
33 **administrator, or other employee of a school corporation or**
34 **charter school shall not promote the following concepts in a course:**

- 35 (1) **A particular race or sex is inherently superior to another**
36 **race or sex.**
37 (2) **An individual, by virtue of the individual's race or sex, is**
38 **inherently racist, sexist, or oppressive, whether consciously or**
39 **unconsciously.**
40 (3) **An individual should be discriminated against or receive**
41 **adverse treatment solely or partly because of the individual's**
42 **race or sex.**



- 1 **(4) An individual's moral character is necessarily determined**
- 2 **by the individual's race or sex.**
- 3 **(5) An individual, by virtue of the individual's race or sex,**
- 4 **bears responsibility for actions committed in the past by other**
- 5 **members of the same race or sex.**
- 6 **(6) An individual should feel discomfort, guilt, anguish, or any**
- 7 **other form of psychological distress on account of the**
- 8 **individual's race or sex.**
- 9 **(7) Meritocracy or traits such as a hard work ethic are racist**
- 10 **or sexist or were created by members of a particular race to**
- 11 **oppress members of another race.**

12 **Sec. 2. The state board shall adopt rules under IC 4-22-2**
 13 **necessary to implement this chapter.**

14 SECTION 4. IC 21-41-13 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]:

17 **Chapter 13. Dignity and Nondiscrimination in Postsecondary**
 18 **Education**

19 **Sec. 1. A state educational institution may not require a student**
 20 **enrolled at the state educational institution to engage in any form**
 21 **of mandatory gender or sexual diversity training or counseling.**
 22 **However, voluntary counseling is not prohibited.**

23 **Sec. 2. A state educational institution may not require a student**
 24 **of the state educational institution to attend any student orientation**
 25 **or other training or presentation that presents information**
 26 **regarding race or sex stereotyping or bias on the basis of race or**
 27 **sex.**

28 **Sec. 3. The commission for higher education shall adopt rules**
 29 **under IC 4-22-2 necessary to implement this chapter.**

30 SECTION 5. An emergency is declared for this act.

