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**FISCAL IMPACT STATEMENT**

**LS 7129**  
**BILL NUMBER: HB 1231**

**NOTE PREPARED: Jan 6, 2022**  
**BILL AMENDED:**

**SUBJECT:** Education Matters.

**FIRST AUTHOR:** Rep. Jacob  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED: X GENERAL**  
**X DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *General Provisions:* This bill defines "applicable school". It provides that a state agency, school corporation, or applicable school, or an employee of the state agency, school corporation, or applicable school acting in an official capacity, may not direct or otherwise compel students or a school employee to personally affirm, adopt, or adhere to certain tenets relating to the individual's sex or race. It provides that a state agency, school corporation, or applicable school, or an employee of the state agency, school corporation, or applicable school acting in an official capacity, may not require an employee of the state agency, school corporation, or applicable school to engage in training, orientation, or therapy that presents any form of racial or sex stereotyping or blame on the basis of sex or race. It repeals provisions requiring the Department of Education (DOE) to develop the Children's Social, Emotional, and Behavioral Health Plan. It also makes conforming amendments.

*Curriculum Posting:* This bill requires each school corporation or applicable school to adopt a policy to allow a taxpayer to observe classroom instruction at any time requested by the taxpayer. It requires, not later than July 30, 2022, and not later than June 30 each year thereafter, each applicable school to post on the applicable school's Internet web site, in a manner that is accessible by the public, certain information regarding learning materials and educational activities. It also requires the DOE to develop and post on the DOE's Internet web site a model plan for presenting the learning material or educational activity information.

*Protected Right Violations:* This bill establishes procedures for a petitioner to file a complaint form alleging certain violations occurred within a school corporation or applicable school. It provides that a petitioner may appeal a school corporation's or applicable school's findings to the DOE. It requires the DOE to appoint an administrative law judge to adjudicate appeals. It requires the DOE to issue a final order. It requires the Attorney General or the Attorney General's designee to review a school corporation's or applicable school's

findings or the DOE's final order. It provides that the Attorney General may assess civil penalties if the Attorney General determines a violation occurred. It also provides that a school corporation or applicable school may not take retaliatory action against a petitioner or an individual related to or associated with the petitioner.

**Effective Date:** July 1, 2022.

**Explanation of State Expenditures:** *Tuition Support:* This bill may result in tuition support being withheld from school corporations or applicable schools if a school is found to have violated a protected right. Any amount withheld would result in a decrease in General Fund expenditures, with the amount being determined by an order from an administrative law judge.

*Department of Education (DOE):* In the event that a petitioner files a complaint with a school corporation or applicable school, and chooses to then file an appeal of the school's initial determination, the DOE must accept the appeal and have an administrative law judge, appointed by the Attorney General, issue a final order. If the administrative law judge determines that the school committed a protected right violation, the final order may: withhold state tuition support from the school until the protected right violation is remedied, recommend that the State Board of Education (SBOE) revoke the school's performance based accreditation, suspend or revoke a teacher's license, or recommend that the Attorney General assess a civil penalty. The DOE must revoke or suspend the license of a teacher, principal, or superintendent that make a false claim in a complaint, as defined in this bill, or that violate the requirements of this bill.

This bill also requires the DOE to, as prescribed in this bill, develop and post on their website:

- A complaint form for individuals to file a complaint against a school corporation or applicable school; and
- A model plan for schools to post their curricular information online as required by this bill.

These requirements are within the DOE's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

*Attorney General:* The Attorney General must review all findings of school corporations, applicable schools, and the DOE regarding protected right complaints, and must appoint an administrative law judge for all complaint appeals. If the Attorney General finds that a violation of a protected right occurred, the Attorney General may assess a civil penalty against the school. These requirements are within the Attorney General's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

*State Board of Education (SBOE):* The SBOE, in consultation with the DOE, must adopt rules to ensure that applicable schools adhere to the requirements of this bill.

**Additional Information:** This bill defines an applicable school as:

- A school maintained by a school corporation;
- A charter school;
- A laboratory school;
- The Indiana School for the Blind and Visually Impaired;
- The Indiana School for the Deaf; and
- A state accredited nonpublic school.

**Explanation of State Revenues:** *Protected Right Violations:* Civil penalties assessed by the Attorney General, as prescribed in this bill, must be deposited into the state General Fund.

There could also be an increase in civil actions resulting in an increase in court fee revenue to the state General Fund. A civil costs fee of \$100 could be assessed from the defendant, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:** *Summary:* Complying with the bill's requirements will constitute a workload increase for school corporations and applicable schools, especially for schools needing to respond to protected right violation complaints. The workload impacts could vary by school corporation, and the resources required to satisfy the requirements of this bill will depend on administrative actions.

*Protected Right Violations:* School corporations and applicable schools, and the school's governing body, must investigate each complaint form filed against the school to determine whether or not a violation occurred. In doing so, the school must designate at least one employee to respond to such complaints and must post this employee's contact information on the school's website. Once a school makes a determination regarding a complaint, the school must notify the petitioner and send a copy of the findings to the Attorney General for review.

If a school is determined to have violated a protected right, the administrative law judge may recommend that the SBOE revoke the school's performance based accreditation or suspend or revoke a teacher's license. Any such impact to a school will depend on local action.

*Curriculum Posting:* Starting not later than June 30, 2022, applicable schools must annually post on their website certain information concerning learning materials and educational activities.

*School Corporations and Applicable Schools:* This bill requires that school corporations and applicable schools must:

- Allow the parent of a student to inspect learning materials, educational activities, and presenter information during normal business hours;
- Adopt a policy to allow any taxpayer to observe a classroom at any time requested by the taxpayer; and
- Not later than August 1, 2023, and each year thereafter, report to the DOE (1) the number of complaints received regarding learning materials and educational activities and (2) the procedures used by the school to protect the personally identifiable information of students.

School corporations and applicable schools may not do any of the following if the action includes, incorporates, or is based on practices prohibited in this bill:

- Provide, contract to provide, offer, or sponsor any course;
- Use money, property, assets, or resources; or
- Execute a contract or agreement with an internal or external entity or person to provide services,

training, professional development, or any other assistance.

School corporations, applicable schools, or a school employee acting in the employee's official capacity may not include or promote any of the prohibited concepts listed in this bill in courses, educational activities, learning materials, employee training, or employment requirements. Also, school employees and students may not be required to affirm beliefs that conflict with their religious or philosophical convictions.

**Explanation of Local Revenues:** *Protected Right Violations:* Any reduction in state tuition support to a school resulting from violating a protected right, as prescribed in this bill, will depend on the compliance of schools with the requirements of this bill.

The amount of any civil penalty assessed against a school for violating a protected right will depend on the number of students or employees who are subject of a violation and how many violations the school has previously committed. In addition, a court may award the petitioner with court costs, reasonable attorney's fees, and actual damages resulting from the violations of up to \$5,000.

If additional civil actions occur due to this bill, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal. A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

*General Provisions:* A school corporation or applicable school may not receive or apply to receive money that requires, as a condition of receipt of the money, the adoption of a course, policy, curriculum, or any other instructional material that incorporates the concepts or practices prohibited in this bill.

**State Agencies Affected:** Department of Education; State Board of Education; Attorney General; Indiana School for the Blind and Visually Impaired; Indiana School for the Deaf; Laboratory schools.

**Local Agencies Affected:** School corporations; Charter schools; Trial courts; City and town courts.

**Information Sources:**

**Fiscal Analyst:** Jason Barrett, 317-232-9809.