

HOUSE BILL No. 1073

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-20-40; IC 20-35.

Synopsis: Special education. Provides that the commission on seclusion and restraint in schools (commission) must include eliminating or minimizing the need for use of time-out in its model restraint and seclusion plan. Requires the commission to meet biannually (instead of annually, under current law), and requires the commission to submit a biannual report to the state advisory council on the education of children with disabilities. Requires school corporations to have electronic recording equipment in each designated special education classroom, seclusion area, sensory room, and time-out area not later than January 1, 2025. Provides that electronic recording equipment must be active and recording when certain areas are in use, and that any recorded images and video must be stored for a period of not less than 60 days. Creates a process by which a parent of a special education student may request to review certain recorded video footage. Requires school corporations to employ at least one behavioral interventionist not later than January 1, 2025. Provides that each school corporation must have a behavioral interventionist on school grounds during the school year while school is in session, and that the behavioral interventionist must be involved in certain school actions.

Effective: July 1, 2024.

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January 8, 2024, read first time and referred to Committee on Education.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1073

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 20-20-40-10, AS ADDED BY P.L.122-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 10. As used in this chapter, "time-out" means a
4 behavior reduction procedure in which access to reinforcement is
5 withdrawn for a certain period of time. Time-out occurs when the
6 ability of a student to receive normal reinforcement in the school
7 environment is restricted. **The term does not include a supervised**
8 **time-out or scheduled break, as described in a student's**
9 **individualized education program.**

10 SECTION 2. IC 20-20-40-12, AS AMENDED BY P.L.43-2021,
11 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2024]: Sec. 12. (a) The designee of the secretary of education
13 under section 11(b)(1) of this chapter serves as chairperson of the
14 commission.

15 (b) The commission shall meet at least ~~annually~~ **biannually** on the
16 call of the chairperson, and may meet as often as is necessary. The
17 chairperson shall provide not less than fourteen (14) days notice of a



1 meeting to the members of the commission and to the public.

2 (c) The affirmative votes of at least five (5) members of the
3 commission are necessary for the commission to take action. The votes
4 of the commission must be recorded.

5 (d) All commission meetings shall be open to the public, and each
6 meeting must include opportunities for public comment.

7 (e) The department shall provide staff support for the commission.

8 SECTION 3. IC 20-20-40-13, AS AMENDED BY P.L.250-2023,
9 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2024]: Sec. 13. (a) The commission has the following duties:

11 (1) To adopt rules concerning the following:

12 (A) The use of restraint and seclusion in a school corporation
13 or a state accredited nonpublic school, with an emphasis on
14 eliminating or minimizing the use of restraint and seclusion.

15 (B) The prevention of the use of types of restraint or seclusion
16 that may harm a student, a school employee, a school
17 volunteer, or the educational environment of the school.

18 (C) Requirements for notifying parents.

19 (D) Training regarding the use of restraint and seclusion,
20 including the frequency of training and what employees must
21 be trained.

22 (E) The distribution of the seclusion and restraint policy to
23 parents and the public.

24 (F) Requirements for the reporting of incidents of restraint and
25 seclusion in the annual school performance report, including
26 incidents of restraint and seclusion involving school resource
27 officers (as defined in IC 20-26-18.2-1).

28 (G) Circumstances that may require more timely incident
29 reporting and the requirements for such reporting.

30 (2) To develop, maintain, and revise a model restraint and
31 seclusion plan for schools that includes the following elements:

32 (A) A statement on how students will be treated with dignity
33 and respect and how appropriate student behavior will be
34 promoted and taught.

35 (B) A statement ensuring that the school will use prevention,
36 positive behavior intervention and support, and conflict
37 de-escalation to eliminate or minimize the need for use of any
38 of the following:

39 (i) Seclusion.

40 (ii) Chemical restraint.

41 (iii) Mechanical restraint.

42 (iv) Physical restraint.



- 1 **(v) Time-out.**
 2 (C) A statement ensuring that any behavioral intervention used
 3 will be consistent with the student's most current behavioral
 4 intervention plan, or individualized education program, if
 5 applicable.
 6 (D) Definitions for restraint and seclusion, as defined in this
 7 chapter.
 8 (E) A statement ensuring that if a procedure listed in clause
 9 (B) is used, the procedure will be used:
 10 (i) as a last resort safety procedure, employed only after
 11 another, less restrictive procedure has been implemented
 12 without success; and
 13 (ii) in a situation in which there is an imminent risk of injury
 14 to the student, other students, school employees, or visitors
 15 to the school.
 16 (F) An indication that restraint or seclusion may be used only
 17 for a short time period, or until the imminent risk of injury has
 18 passed.
 19 (G) A documentation and recording requirement governing
 20 instances in which procedures listed in clause (B) are used,
 21 including:
 22 (i) how every incident will be documented and debriefed;
 23 (ii) how responsibilities will be assigned to designated
 24 employees for evaluation and oversight; and
 25 (iii) designation of a school employee to be the keeper of
 26 such documents.
 27 (H) A requirement that the student's parent must be notified as
 28 soon as possible when an incident involving the student occurs
 29 that includes use of procedures listed in clause (B).
 30 (I) A requirement that a copy of an incident report must be
 31 sent to the student's parent after the student is subject to a
 32 procedure listed in clause (B).
 33 (J) Required recurrent training for appropriate school
 34 employees on the appropriate use of effective alternatives to
 35 physical restraint and seclusion, including the use of positive
 36 behavioral intervention and support and conflict de-escalation.
 37 The training must include the safe use of physical restraint and
 38 seclusion in incidents involving imminent danger or serious
 39 harm to the student, school employees, or others.
 40 Consideration must be given to available school resources and
 41 the time commitments of school employees.
 42 (3) To accept and review reports from the public and make



1 nonbinding recommendations to the department of any suggested
2 action to be taken.

3 **(4) To biannually provide a report to the state advisory**
4 **council on the education of children with disabilities**
5 **appointed under IC 20-35-3-1 regarding the:**

6 **(A) execution of the commission's duties under this section;**
7 **and**

8 **(B) review of incident reports under section 13.6 of this**
9 **chapter.**

10 (b) The model policy developed by the commission must take into
11 consideration that implementation and reporting requirements for state
12 accredited nonpublic schools may vary, and the model plan must
13 provide state accredited nonpublic schools flexibility with regards to
14 accountability under and implementation of the plan adopted by a state
15 accredited nonpublic school under section 14 of this chapter.

16 (c) The commission will assist the department in enabling training
17 required by this section to be provided after June 30, 2024, through the
18 online platform established or licensed for use under IC 20-19-3-29, if
19 the online platform is established.

20 SECTION 4. IC 20-20-40-13.6, AS ADDED BY P.L.227-2017,
21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2024]: Sec. 13.6. (a) The department shall **biannually** review
23 incident reports under rules established by the commission under
24 IC 4-22-2 and submit summary findings to the commission in
25 compliance with the federal Family Educational Rights and Privacy Act
26 (20 U.S.C. 1232g and 34 CFR Part 99).

27 (b) The commission shall **biannually** review summary findings
28 submitted by the department under subsection (a) and may make
29 nonbinding recommendations to the department or other entities.

30 (c) If the department receives a recommendation from the
31 commission under subsection (b), the department shall provide the
32 commission a response with regard to the commission's
33 recommendation in a manner prescribed by the department within a
34 reasonable time after the department receives the recommendation
35 from the commission.

36 SECTION 5. IC 20-35-1-2.5 IS ADDED TO THE INDIANA CODE
37 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2024]: **Sec. 2.5. "Behavioral interventionist" refers to a person**
39 **who has obtained nonviolent crisis intervention training.**

40 SECTION 6. IC 20-35-6-5 IS ADDED TO THE INDIANA CODE
41 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 2024]: **Sec. 5. (a) The department shall:**



- 1 (1) review nonviolent crisis intervention training programs;
 2 and
 3 (2) make recommendations to school corporations;
 4 regarding the training of behavioral interventionists.

5 (b) Not later than January 1, 2025, each school corporation shall
 6 employ at least one (1) behavioral interventionist in each school
 7 building who will be present on school grounds during the school
 8 year while school is in session.

9 (c) A behavioral interventionist shall:

- 10 (1) be involved in the creation and implementation of the
 11 school corporation's restraint and seclusion plan required
 12 under IC 20-20-40-14;
 13 (2) be available for de-escalation and respond to instances
 14 where de-escalation is needed; and
 15 (3) respond to any use of:
 16 (A) a chemical restraint (as defined by IC 20-20-40-2);
 17 (B) a mechanical restraint (as defined by IC 20-20-40-4);
 18 (C) a physical restraint (as defined by IC 20-20-40-5);
 19 (D) seclusion (as defined by IC 20-20-40-9); or
 20 (E) time-out (as defined by IC 20-20-40-10).

21 SECTION 7. IC 20-35-14 IS ADDED TO THE INDIANA CODE
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2024]:

24 **Chapter 14. Special Education Transparency**

25 **Sec. 1. (a)** As used in this chapter, "electronic recording
 26 equipment" means a digital video camera that is capable of
 27 recording and storing digital images and video.

28 (b) As used in this chapter, "seclusion" has the meaning set
 29 forth in IC 20-20-40-9.

30 (c) As used in this chapter, "sensory room" refers to a
 31 designated area that is designed to support an individual's sensory
 32 preferences and needs, permit self-regulation, and prepare the
 33 individual for learning and interacting with others.

34 (d) As used in this chapter, "time-out" has the meaning set forth
 35 in IC 20-20-40-10.

36 **Sec. 2. (a)** Not later than January 1, 2025, each school
 37 corporation must have electronic recording equipment in each
 38 designated:

- 39 (1) special education classroom;
 40 (2) seclusion area;
 41 (3) sensory room; and
 42 (4) time-out area;



1 within the school corporation.

2 (b) The electronic recording equipment required by subsection
3 (a) must:

4 (1) be active and recording whenever the designated special
5 education classroom, seclusion area, sensory room, or
6 time-out area is in use; and

7 (2) store recorded images and video for not less than sixty (60)
8 days.

9 Sec. 3. (a) After January 1, 2025, a parent of a special education
10 student who is enrolled in a school corporation may request to
11 review any electronic recording that documents an occurrence:

12 (1) that resulted in an incident report under
13 IC 20-20-40-13(a)(2)(H); or

14 (2) that the parent reasonably believes to have negatively
15 affected the education or physical or emotional health of the
16 parent's special education student.

17 A parent of a special education student may not request to review
18 an electronic recording under this subsection that does not have a
19 direct correlation to an incident concerning the parent's special
20 education student as described under subdivision (1) or (2).

21 (b) Upon receipt of a request made under subsection (a)(1), a
22 school corporation must do the following:

23 (1) Immediately preserve any electronic recording that
24 documents the incident report, if a recording exists.

25 (2) Respond to the requesting parent not later than five (5)
26 business days after the parent makes the request to inform the
27 parent:

28 (A) whether an electronic recording corresponding to the
29 request exists; and

30 (B) when the parent may review the electronic recording.

31 (c) Upon receipt of a request made under subsection (a)(2), a
32 school corporation must respond to the requesting parent not later
33 than five (5) business days after the parent makes the request to:

34 (1) discuss the parent's reasonable belief concerning an
35 electronic recording described in subsection (a)(2);

36 (2) preserve any electronic recording identified pursuant to
37 the discussion described in subdivision (1); and

38 (3) inform the parent when the parent may review any
39 electronic recording preserved under subdivision (2).

40 (d) If:

41 (1) a parent makes a request under subsection (a); and

42 (2) pursuant to the procedures described in subsections (b)



1 **and (c) an electronic recording exists;**
2 **a school corporation must allow a requesting parent to review the**
3 **recording.**

