



Reprinted  
January 30, 2024

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## HOUSE BILL No. 1073

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DIGEST OF HB 1073 (Updated January 29, 2024 2:53 pm - DI 134)

**Citations Affected:** IC 20-20; 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, subject to available funding, to have electronic recording equipment in each designated special education classroom, seclusion area, and time-out area not later than July 1, 2025. Provides that electronic recording equipment must be active and recording when certain areas are in use, and that any recorded audio files, 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 recordings. Provides that specified individuals employed by a school corporation may request to review to review recordings.

**Effective:** July 1, 2024.

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### Cash, Haggard, Payne

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January 8, 2024, read first time and referred to Committee on Education.  
January 25, 2024, amended, reported — Do Pass.  
January 29, 2024, read second time, amended, ordered engrossed.

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HB 1073—LS 6482/DI 143





Reprinted  
January 30, 2024

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

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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

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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 20-35-15 IS ADDED TO THE INDIANA CODE  
37 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2024]:

39 **Chapter 15. Special Education Transparency**

40 **Sec. 1. (a) As used in this chapter, "electronic recording**  
41 **equipment" means a digital audio visual camera that is capable of:**

42 **(1) capturing audio for the entirety of a location described in**



- 1           **IC 20-35-15-2; and**  
 2           **(2) recording and storing audio files, digital images, and**  
 3           **video.**  
 4           **(b) As used in this chapter, "seclusion" has the meaning set**  
 5           **forth in IC 20-20-40-9.**  
 6           **(c) As used in this chapter, "time-out" has the meaning set forth**  
 7           **in IC 20-20-40-10.**  
 8           **Sec. 2. (a) Not later than July 1, 2025, subject to available**  
 9           **funding, each school corporation must have electronic recording**  
 10           **equipment in each designated:**  
 11           **(1) special education classroom where a majority of the**  
 12           **students have severe disabilities;**  
 13           **(2) seclusion area; and**  
 14           **(3) time-out area;**  
 15           **within the school corporation.**  
 16           **(b) The electronic recording equipment required by subsection**  
 17           **(a) must:**  
 18           **(1) be active and recording whenever the designated special**  
 19           **education classroom, seclusion area, or time-out area is in**  
 20           **use; and**  
 21           **(2) store recorded audio files, recorded images, and video for**  
 22           **not less than sixty (60) days.**  
 23           **Sec. 3. (a) After July 1, 2025, a parent of a special education**  
 24           **student who is enrolled in a school corporation may request to**  
 25           **review any electronic recording that documents an occurrence:**  
 26           **(1) that resulted in an incident report under**  
 27           **IC 20-20-40-13(a)(2)(H); or**  
 28           **(2) that the parent reasonably believes to have negatively**  
 29           **affected the education or physical or emotional health of the**  
 30           **parent's special education student.**  
 31           **A parent of a special education student may not request to review**  
 32           **an electronic recording under this subsection that does not have a**  
 33           **direct correlation to an incident concerning the parent's special**  
 34           **education student as described under subdivision (1) or (2).**  
 35           **(b) Upon receipt of a request made under subsection (a)(1), a**  
 36           **school corporation must do the following:**  
 37           **(1) Immediately preserve any electronic recording that**  
 38           **documents the incident report, if a recording exists.**  
 39           **(2) Respond to the requesting parent not later than five (5)**  
 40           **business days after the parent makes the request to inform the**  
 41           **parent:**  
 42           **(A) whether an electronic recording corresponding to the**



- 1 request exists; and  
 2 (B) when the parent may review the electronic recording.  
 3 (c) Upon receipt of a request made under subsection (a)(2), a  
 4 school corporation must respond to the requesting parent not later  
 5 than five (5) business days after the parent makes the request to:  
 6 (1) discuss the parent's reasonable belief concerning an  
 7 electronic recording described in subsection (a)(2);  
 8 (2) preserve any electronic recording identified pursuant to  
 9 the discussion described in subdivision (1); and  
 10 (3) inform the parent when the parent may review any  
 11 electronic recording preserved under subdivision (2).  
 12 (d) If:  
 13 (1) a parent makes a request under subsection (a); and  
 14 (2) pursuant to the procedures described in subsections (b)  
 15 and (c) an electronic recording exists;  
 16 a school corporation must allow a requesting parent to review the  
 17 recording.  
 18 Sec. 4 (a) After July 1, 2025:  
 19 (1) a teacher;  
 20 (2) an instructional assistant; or  
 21 (3) another educational professional;  
 22 employed by a school corporation and whose primary  
 23 responsibility is to provide instruction or assistance to students  
 24 with severe disabilities may request to review any electronic record  
 25 described in section 2 of this chapter.  
 26 (b) Upon receipt of a request made under subsection (a), a  
 27 school corporation must immediately preserve any electronic  
 28 recording that may exist and make the recording available to the  
 29 requester within five (5) business days.





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1073, 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:

Page 4, delete lines 36 through 42.

Page 5, delete lines 1 through 20.

Page 5, line 21, delete "IC 20-35-14" and insert "IC 20-35-15".

Page 5, line 24, delete "14." and insert "15."

Page 5, line 26, delete "video" and insert "audio visual".

Page 5, line 26, delete "of" and insert "of:".

**(1) capturing audio for the entirety of a location described in IC 20-35-15-2; and**

**(2) recording and storing audio files, digital images, and video."**

Page 5, delete line 27.

Page 5, delete lines 30 through 33.

Page 5, line 34, delete "(d)" and insert "(c)".

Page 5, line 36, delete "January 1, 2025," and insert "July 1, 2025,".

Page 5, line 39, delete "classroom;" and insert "classroom where a majority of the students have severe disabilities;".

Page 5, line 40, after "area;" insert "and".

Page 5, delete line 41.

Page 5, line 42, delete "(4)" and insert "(3)".

Page 6, line 5, delete "sensory room,".

Page 6, line 7, delete "images" and insert "audio files, recorded images,".

Page 6, line 9, delete "January 1, 2025," and insert "July 1, 2025,".

Page 7, after line 3, begin a new paragraph and insert:

**"Sec. 4 (a) After July 1, 2025:**

**(1) a teacher;**

**(2) an instructional assistant; or**

**(3) another educational professional;**

**employed by a school corporation and whose primary responsibility is to provide instruction or assistance to students with severe disabilities may request to review any electronic record described in section 2 of this chapter.**

**(b) Upon receipt of a request made under subsection (a), a school corporation must immediately preserve any electronic recording that may exist and make the recording available to the requester within five (5) business days."**



Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1073 as introduced.)

BEHNING

Committee Vote: yeas 8, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1073 be amended to read as follows:

Page 5, line 8, after "2025," insert "**subject to available funding**".  
Renumber all SECTIONS consecutively.

(Reference is to HB 1073 as printed January 25, 2024.)

CASH

