



March 28, 2017

ENGROSSED SENATE BILL No. 61

DIGEST OF SB 61 (Updated March 28, 2017 12:06 pm - DI 116)

Citations Affected: IC 20-20; IC 20-26; noncode.

Synopsis: School resource officers. Requires the commission on seclusion and restraint in schools (commission) to adopt rules concerning reporting requirements for the use of seclusion and restraint by school resource officers. Requires that the commission include a member of the Indiana School Resource Officers Association. Provides that a school corporation, accredited nonpublic school, or charter school must report incidents of seclusion and restraint involving a school resource officer. Provides that the commission may adopt emergency rules under IC 4-22-2-37.1. Voids a rule adopted by the commission that excludes school resource officers from the reporting requirements. Makes changes to the duties of the commission. Provides that if the department of education (department) has been advised of a discrepancy in a school's report by the commission, the department shall require the school to provide a written explanation of the discrepancy to the department.

Effective: July 1, 2017.

Head, Raatz, Bohacek,
Randolph Lonnie M
(HOUSE SPONSOR — CLERE)

January 3, 2017, read first time and referred to Committee on Civil Law.
February 21, 2017, amended, reported favorably — Do Pass.
February 23, 2017, read second time, amended, ordered engrossed.
February 24, 2017, engrossed.
February 27, 2017, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 6, 2017, read first time and referred to Committee on Education.
March 28, 2017, amended, reported — Do Pass.

ES 61—LS 6469/DI 128



March 28, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 61

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 20-20-40-11, AS ADDED BY P.L.122-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 11. (a) The commission on seclusion and restraint
4 in schools is established.
5 (b) The commission has the following ~~nine (9)~~ **ten (10)** members:
6 (1) The designee of the state superintendent, who serves at the
7 pleasure of the state superintendent.
8 (2) A representative of the Autism Society of Indiana, chosen by
9 the organization, who serves a two (2) year term.
10 (3) A representative of the Arc of Indiana, chosen by the
11 organization, who serves a two (2) year term.
12 (4) A representative of the Indiana Council of Administrators of
13 Special Education, chosen by the organization, who serves a two
14 (2) year term.
15 (5) A representative of Mental Health America of Indiana, chosen
16 by the organization, who serves a two (2) year term.
17 (6) A parent of a student with a disability, nominated by a

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1 member described in subdivisions (1) through (5) and approved
 2 by a majority of the members described in subdivisions (1)
 3 through (5), who serves a two (2) year term.

4 (7) A parent of a student who does not have a disability,
 5 nominated by a member described in subdivisions (1) through (5)
 6 and approved by a majority of the members described in
 7 subdivisions (1) through (5), who serves a two (2) year term.

8 (8) One (1) accredited nonpublic school administrator nominated
 9 by the Indiana Non-public Education Association, who serves a
 10 two (2) year term.

11 (9) One (1) public school superintendent nominated by the
 12 Indiana Association of Public School Superintendents, who serves
 13 a two (2) year term.

14 **(10) One (1) member of the Indiana School Resource Officers**
 15 **Association, chosen by the organization, who serves a two (2)**
 16 **year term.**

17 (c) Each member of the commission who is not a state employee is
 18 entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).
 19 A member who is not a state employee is also entitled to
 20 reimbursement for traveling expenses and other expenses actually
 21 incurred in connection with the member's duties, as provided in the
 22 state travel policies and procedures established by the Indiana
 23 department of administration and approved by the budget agency.

24 SECTION 2. IC 20-20-40-13, AS ADDED BY P.L.122-2013,
 25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2017]: Sec. 13. (a) The commission has the following duties:

27 (1) To adopt rules concerning the following:

28 (A) The use of restraint and seclusion in a school corporation
 29 or an accredited nonpublic school, with an emphasis on
 30 eliminating or minimizing the use of restraint and seclusion.

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

34 (C) Requirements for notifying parents.

35 (D) Training regarding the use of restraint and seclusion,
 36 including the frequency of training and what employees must
 37 be trained.

38 (E) The distribution of the seclusion and restraint policy to
 39 parents and the public.

40 (F) Requirements for the reporting of incidents of restraint and
 41 seclusion in the annual school performance report, **including**
 42 **incidents of restraint and seclusion involving school**



- 1 **resource officers (as defined in IC 20-26-18.2-1).**
 2 **(G) Circumstances that may require more timely incident**
 3 **reporting and the requirements for such reporting.**
 4 (2) ~~Before August 1, 2013, to develop~~ **To develop and maintain**
 5 a model restraint and seclusion plan for schools that includes the
 6 following elements:
 7 (A) A statement on how students will be treated with dignity
 8 and respect and how appropriate student behavior will be
 9 promoted and taught.
 10 (B) A statement ensuring that the school will use prevention,
 11 positive behavior intervention and support, and conflict
 12 deescalation to eliminate or minimize the need for use of any
 13 of the following:
 14 (i) Seclusion.
 15 (ii) Chemical restraint.
 16 (iii) Mechanical restraint.
 17 (iv) Physical restraint.
 18 (C) A statement ensuring that any behavioral intervention used
 19 will be consistent with the student's most current behavioral
 20 intervention plan, or individualized education program, if
 21 applicable.
 22 (D) Definitions for restraint and seclusion, as defined in this
 23 chapter.
 24 (E) A statement ensuring that if a procedure listed in clause
 25 (B) is used, the procedure will be used:
 26 (i) as a last resort safety procedure, employed only after
 27 another, less restrictive procedure has been implemented
 28 without success; and
 29 (ii) in a situation in which there is an imminent risk of injury
 30 to the student, other students, school employees, or visitors
 31 to the school.
 32 (F) An indication that restraint or seclusion may be used only
 33 for a short time period, or until the imminent risk of injury has
 34 passed.
 35 (G) A documentation and recording requirement governing
 36 instances in which procedures listed in clause (B) are used,
 37 including:
 38 (i) how every incident will be documented and debriefed;
 39 (ii) how responsibilities will be assigned to designated
 40 employees for evaluation and oversight; and
 41 (iii) designation of a school employee to be the keeper of
 42 such documents.



- 1 (H) A requirement that the student's parent must be notified as
 2 soon as possible when an incident involving the student occurs
 3 that includes use of procedures listed in clause (B).
 4 (I) A requirement that a copy of an incident report must be
 5 sent to the student's parent after the student is subject to a
 6 procedure listed in clause (B).
 7 (J) Required recurrent training for appropriate school
 8 employees on the appropriate use of effective alternatives to
 9 physical restraint and seclusion, including the use of positive
 10 behavioral intervention and support and conflict deescalation.
 11 The training must include the safe use of physical restraint and
 12 seclusion in incidents involving imminent danger or serious
 13 harm to the student, school employees, or others.
 14 Consideration must be given to available school resources and
 15 the time commitments of school employees.
- 16 **(3) To update the model restraint and seclusion plan under**
 17 **subdivision (2) after reviewing incident reports and other**
 18 **information available to the commission.**
- 19 **(4) To review incident reports and forward to the attorney**
 20 **general's office any incident report that the commission**
 21 **determines warrants possible investigation by the attorney**
 22 **general's office.**
- 23 **(5) To accept and review reports from the public and advise**
 24 **the department of any discrepancies with reports from**
 25 **schools, in which case the department shall review under**
 26 **section 13.5 of this chapter.**
- 27 (b) The model policy developed by the commission must take into
 28 consideration that implementation and reporting requirements for
 29 accredited nonpublic schools may vary, and the model plan must
 30 provide accredited nonpublic schools flexibility with regards to
 31 accountability under and implementation of the plan adopted by an
 32 accredited nonpublic school under section 14 of this chapter.
- 33 SECTION 3. IC 20-20-40-13.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2017]: **Sec. 13.5. If the department has been**
 36 **advised of a discrepancy in a report under section 13(a)(5) of this**
 37 **chapter, the department shall require the school to provide a**
 38 **written explanation of the discrepancy to the department and the**
 39 **commission.**
- 40 SECTION 4. IC 20-20-40-16, AS ADDED BY P.L.122-2013,
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2017]: Sec. 16. (a) The commission:



- 1 (1) shall adopt rules under IC 4-22-2; to carry out the purposes of
 2 this chapter. and
 3 (2) may adopt emergency rules in the manner provided under
 4 IC 4-22-2-37.1;
 5 to carry out the purposes of this chapter.
 6 (b) An emergency rule adopted under subsection (a)(2) expires
 7 on the earlier of:
 8 (1) November 15, 2018; or
 9 (2) the effective date of a rule adopted under IC 4-22-2-22.5
 10 through IC 4-22-2-36 that supersedes the emergency rule.
 11 SECTION 5. IC 20-26-18.2-4 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2017]: Sec. 4. A school corporation, an
 14 accredited nonpublic school, or a charter school shall report all
 15 instances of:
 16 (1) seclusion (as defined in IC 20-20-40-9);
 17 (2) chemical restraint (as defined in IC 20-20-40-2);
 18 (3) mechanical restraint (as defined in IC 20-20-40-4); and
 19 (4) physical restraint (as defined in IC 20-20-40-5);
 20 involving a school resource officer, in accordance with the restraint
 21 and seclusion plan adopted by the school corporation, accredited
 22 nonpublic school, or charter school under IC 20-20-40-14.
 23 SECTION 6. [EFFECTIVE JULY 1, 2017] (a) 513 IAC 1-2-1(b) is
 24 void. The publisher of the Indiana Administrative Code and
 25 Indiana Register shall remove this provision from the Indiana
 26 Administrative Code.
 27 (b) This SECTION expires July 1, 2018.



COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 61, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 2. IC 20-20-40-16, AS ADDED BY P.L.122-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. **(a)** The commission:

(1) shall adopt rules under IC 4-22-2; ~~to carry out the purposes of this chapter.~~ **and**

(2) may adopt emergency rules in the manner provided under IC 4-22-2-37.1;

to carry out the purposes of this chapter.

(b) An emergency rule adopted under subsection (a)(2) expires on the earlier of:

(1) November 15, 2018; or

(2) the effective date of a rule adopted under IC 4-22-2-22.5 through IC 4-22-2-36 that supersedes the emergency rule."

Page 3, line 24, after "corporation" insert ", **an accredited nonpublic school,**".

Page 3, line 31, after "corporation" insert ", **accredited nonpublic school,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 61 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 5, Nays 0.



SENATE MOTION

Madam President: I move that Senate Bill 61 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-20-40-11, AS ADDED BY P.L.122-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) The commission on seclusion and restraint in schools is established.

(b) The commission has the following ~~nine (9)~~ **ten (10)** members:

(1) The designee of the state superintendent, who serves at the pleasure of the state superintendent.

(2) A representative of the Autism Society of Indiana, chosen by the organization, who serves a two (2) year term.

(3) A representative of the Arc of Indiana, chosen by the organization, who serves a two (2) year term.

(4) A representative of the Indiana Council of Administrators of Special Education, chosen by the organization, who serves a two (2) year term.

(5) A representative of Mental Health America of Indiana, chosen by the organization, who serves a two (2) year term.

(6) A parent of a student with a disability, nominated by a member described in subdivisions (1) through (5) and approved by a majority of the members described in subdivisions (1) through (5), who serves a two (2) year term.

(7) A parent of a student who does not have a disability, nominated by a member described in subdivisions (1) through (5) and approved by a majority of the members described in subdivisions (1) through (5), who serves a two (2) year term.

(8) One (1) accredited nonpublic school administrator nominated by the Indiana Non-public Education Association, who serves a two (2) year term.

(9) One (1) public school superintendent nominated by the Indiana Association of Public School Superintendents, who serves a two (2) year term.

(10) One (1) member of the National Association for School Resource Officers, chosen by the organization, who serves a two (2) year term.

(c) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member who is not a state employee is also entitled to



reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency."

Page 3, line 36, delete "A school resource officer".

Page 3, line 37, delete "assigned to a" and insert "A".

Page 4, line 1, delete "in" and insert "**involving a school resource officer, in**".

Re-number all SECTIONS consecutively.

(Reference is to SB 61 as printed February 22, 2017.)

HEAD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Senate Bill 61, 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 2, line 14, delete "National Association for School" and insert "**Indiana School Resource Officers Association**".

Page 2, line 15, delete "Resource Officers".

Page 3, between lines 1 and 2, begin a new line double block indented and insert:

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

Page 3, line 2, strike "Before August 1, 2013, to develop" and insert "**To develop and maintain**".

Page 4, between lines 12 and 13, begin a new line block indented and insert:

"(3) To update the model restraint and seclusion plan under subdivision (2) after reviewing incident reports and other information available to the commission.

(4) To review incident reports and forward to the attorney general's office any incident report that the commission determines warrants possible investigation by the attorney general's office.

(5) To accept and review reports from the public and advise the department of any discrepancies with reports from schools, in which case the department shall review under



section 13.5 of this chapter."

Page 4, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 3. IC 20-20-40-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 13.5. If the department has been advised of a discrepancy in a report under section 13(a)(5) of this chapter, the department shall require the school to provide a written explanation of the discrepancy to the department and the commission.**"

Page 4, line 38, after "restraint" insert "**(as defined in IC 20-20-40-2)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 61 as reprinted February 24, 2017.)

BEHNING

Committee Vote: yeas 10, nays 0.

