



February 2, 2024

SENATE BILL No. 128

DIGEST OF SB 128 (Updated January 31, 2024 3:03 pm - DI 152)

Citations Affected: IC 20-26; IC 20-30.

Synopsis: Human sexuality instruction. Defines "governing authority" of a school. Defines "school" as a school maintained by a school corporation, charter school, or state accredited nonpublic school. Provides that, if a school instructs students on human sexuality, the school's governing authority must first approve and publish certain information concerning the instruction in a conspicuous place on the website of the school, and requires a school to provide a direct link to that information in a school's written request for consent for instruction on human sexuality. Prohibits a school from using learning materials for instruction on human sexuality unless approved by the school's governing authority.

Effective: Upon passage; July 1, 2024.

**Byrne, Raatz, Garten, Donato,
Deery, Doriot, Buchanan, Johnson T,
Crane, Rogers**

January 8, 2024, read first time and referred to Committee on Education and Career Development.
February 1, 2024, amended, reported favorably — Do Pass.

SB 128—LS 6605/DI 152



February 2, 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.

SENATE BILL No. 128

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 20-26-5.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 5.1. Transparency in Instruction on Human Sexuality**

5 **Sec. 1. As used in this chapter, "governing authority" refers to:**

- 6 (1) the governing body of a school corporation; or
7 (2) the equivalent authority of a governing body as described
8 in subdivision (1) for a:

9 (A) charter school; or

10 (B) state accredited nonpublic school.

11 **Sec. 2. As used in this chapter, "learning material" means any**
12 **material used for student instruction on human sexuality, including**
13 **the following:**

- 14 (1) Textbooks and other printed materials.
15 (2) Audiovisual materials.
16 (3) Materials in electronic or digital formats, including
17 materials accessible through the Internet.

SB 128—LS 6605/DI 152



- 1 **(4) All materials and information to be presented or provided**
 2 **to students in connection with instruction on human sexuality.**
 3 **(5) Any other curricular materials.**
- 4 **Sec. 3. As used in this chapter, "school" means the following:**
 5 **(1) A school maintained by a school corporation.**
 6 **(2) A charter school.**
 7 **(3) A state accredited nonpublic school.**
- 8 **Sec. 4. In addition to the adoption of curricular materials under**
 9 **IC 20-26-12-24, if a school provides instruction on human sexuality**
 10 **to students in grades 4 through 12, the governing authority shall,**
 11 **before July 1 of each year, approve the following:**
- 12 **(1) Each grade level, course, or class in which students will**
 13 **receive instruction on human sexuality.**
 14 **(2) If the instruction is provided by an instructor teaching**
 15 **multiple subjects to a single class, the weeks during which**
 16 **instruction on human sexuality will be taught.**
 17 **(3) Whether, for each grade level, course, or class, instruction**
 18 **on human sexuality will be taught to:**
 19 **(A) male and female students in a unified setting; or**
 20 **(B) male and female students in separate settings.**
 21 **(4) Each grade level, course, or class in which instruction on**
 22 **human sexuality will be taught and whether the instruction**
 23 **will be provided by a male or female instructor.**
 24 **(5) A short description of the topics that will be discussed**
 25 **during instruction on human sexuality.**
 26 **(6) All learning material that will be used for instruction on**
 27 **human sexuality for each grade level, course, or class.**
- 28 **Sec. 5. Before the beginning of each school year, a governing**
 29 **authority shall publish the following in a conspicuous place on the**
 30 **school's website:**
- 31 **(1) The information approved under section 4(1) through 4(5)**
 32 **of this chapter.**
 33 **(2) A list of all learning material approved under section 4(6)**
 34 **of this chapter.**
- 35 **Sec. 6. A school or an employee of a school may not use any**
 36 **learning material that is not approved by the governing authority**
 37 **as described under section 4(6) of this chapter.**
- 38 SECTION 2. IC 20-30-5-17, AS AMENDED BY P.L.154-2018,
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2024]: Sec. 17. (a) Each school corporation shall make
 41 available for inspection by the parent of a student any instructional
 42 materials, including teachers' manuals, curricular materials, films or



- 1 other video materials, tapes, and other materials, used in connection
 2 with:
- 3 (1) a personal analysis, an evaluation, or a survey described in
 4 subsection (b); or
 - 5 (2) instruction on human sexuality.
- 6 (b) A student shall not be required to participate in a personal
 7 analysis, an evaluation, or a survey that is not directly related to
 8 academic instruction and that reveals or attempts to affect the student's
 9 attitudes, habits, traits, opinions, beliefs, or feelings concerning:
- 10 (1) political affiliations;
 - 11 (2) religious beliefs or practices;
 - 12 (3) mental or psychological conditions that may embarrass the
 13 student or the student's family;
 - 14 (4) sexual behavior or attitudes;
 - 15 (5) illegal, antisocial, self-incriminating, or demeaning behavior;
 - 16 (6) critical appraisals of other individuals with whom the student
 17 has a close family relationship;
 - 18 (7) legally recognized privileged or confidential relationships,
 19 including a relationship with a lawyer, minister, or physician; or
 - 20 (8) income (except as required by law to determine eligibility for
 21 participation in a program or for receiving financial assistance
 22 under a program);
- 23 without the prior consent of the student if the student is an adult or an
 24 emancipated minor or the prior written consent of the student's parent
 25 if the student is an unemancipated minor. A parental consent form for
 26 a personal analysis, an evaluation, or a survey described in this
 27 subsection shall accurately reflect the contents and nature of the
 28 personal analysis, evaluation, or survey.
- 29 (c) Before a school may provide a student with instruction on human
 30 sexuality, the school must provide the parent of the student or the
 31 student, if the student is an adult or an emancipated minor, with a
 32 written request for consent of instruction. A consent form provided to
 33 a parent of a student or a student under this subsection must accurately
 34 summarize the contents and nature of the instruction on human
 35 sexuality that will be provided to the student, ~~and~~ indicate that a parent
 36 of a student or an adult or emancipated minor student has the right to
 37 review and inspect all materials related to the instruction on human
 38 sexuality, **and provide a direct link to the information and material**
 39 **published on the school's website pursuant to IC 20-26-5.1-5.** The
 40 written consent form may be sent in an electronic format. The parent
 41 of the student or the student, if the student is an adult or an
 42 emancipated minor, may return the consent form indicating that the



1 parent of the student or the adult or emancipated student:
 2 (1) consents to the instruction; or
 3 (2) declines instruction.
 4 If a student does not participate in the instruction on human sexuality,
 5 the school shall provide the student with alternative academic
 6 instruction during the same time frame that the instruction on human
 7 sexuality is provided.
 8 (d) If the parent of the student or the student, if the student is an
 9 adult or an emancipated minor, does not respond to the written request
 10 provided by the school under subsection (c) within twenty-one (21)
 11 calendar days after receiving the request under subsection (c), the
 12 school shall provide the parent of the student, or the student, if the
 13 student is an adult or an emancipated minor, a written notice requesting
 14 that the parent of the student, or the student, if the student is an adult
 15 or an emancipated minor, indicate, in a manner prescribed by the
 16 school, whether the parent of the student or the adult or emancipated
 17 student:
 18 (1) consents to the instruction; or
 19 (2) declines instruction.
 20 A notice provided to a parent of a student or a student under this
 21 subsection must accurately summarize the contents and nature of the
 22 instruction on human sexuality that will be provided to the student and
 23 indicate that a parent of a student or an adult or emancipated minor
 24 student has the right to review and inspect all materials related to the
 25 instruction on human sexuality. The notice may be sent in an electronic
 26 format. If the school does not receive a response within ten (10) days
 27 after the notice, the student will receive the instruction on human
 28 sexuality unless the parent or the adult or emancipated student
 29 subsequently opts out of the instruction for the student.
 30 (e) The department and the governing body shall give parents and
 31 students notice of their rights under this section.
 32 (f) The governing body shall enforce this section.
 33 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 128, 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 2, line 29, after "following" insert "**in a conspicuous place**".

Page 2, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 2. IC 20-30-5-17, AS AMENDED BY P.L.154-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 17. (a) Each school corporation shall make available for inspection by the parent of a student any instructional materials, including teachers' manuals, curricular materials, films or other video materials, tapes, and other materials, used in connection with:

- (1) a personal analysis, an evaluation, or a survey described in subsection (b); or
- (2) instruction on human sexuality.

(b) 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:

- (1) political affiliations;
- (2) religious beliefs or practices;
- (3) mental or psychological conditions that may embarrass the student or the student's family;
- (4) sexual behavior or attitudes;
- (5) illegal, antisocial, self-incriminating, or demeaning behavior;
- (6) critical appraisals of other individuals with whom the student has a close family relationship;
- (7) legally recognized privileged or confidential relationships, including a relationship with a lawyer, minister, or physician; or
- (8) income (except as required by law to determine eligibility for participation in a program or for receiving financial assistance under a program);

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. A parental consent form for a personal analysis, an evaluation, or a survey described in this subsection shall accurately reflect the contents and nature of the personal analysis, evaluation, or survey.

SB 128—LS 6605/DI 152



(c) Before a school may provide a student with instruction on human sexuality, the school must provide the parent of the student or the student, if the student is an adult or an emancipated minor, with a written request for consent of instruction. A consent form provided to a parent of a student or a student under this subsection must accurately summarize the contents and nature of the instruction on human sexuality that will be provided to the student, ~~and~~ indicate that a parent of a student or an adult or emancipated minor student has the right to review and inspect all materials related to the instruction on human sexuality, **and provide a direct link to the information and material published on the school's website pursuant to IC 20-26-5.1-5.** The written consent form may be sent in an electronic format. The parent of the student or the student, if the student is an adult or an emancipated minor, may return the consent form indicating that the parent of the student or the adult or emancipated student:

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

If a student does not participate in the instruction on human sexuality, the school shall provide the student with alternative academic instruction during the same time frame that the instruction on human sexuality is provided.

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

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

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



subsequently opts out of the instruction for the student.

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

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 128 as introduced.)

RAATZ, Chairperson

Committee Vote: Yeas 8, Nays 5.

