

# SENATE BILL No. 352

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-30-5-17; IC 20-33-13.

**Synopsis:** Privacy of students and families. Provides that computer programs and assessments used in connection with a personal analysis, an evaluation, or a survey are included in the instructional materials that a school corporation must make available for inspection by students' parents. Provides that a student may not be required to participate in a personal analysis, an evaluation, or a survey that reveals or attempts to affect the student's attitudes, habits, traits, opinions, beliefs, or feelings concerning sexual orientation (in addition to the list of other matters that a student may not be required to participate in regarding a personal analysis, an evaluation, or a survey). Provides that a school corporation or school shall obtain prior written consent from the parent of a student who is less than 18 years of age and not emancipated before the student may participate in any medical health assessment or service, mental health assessment, or mental health service that is conducted in connection with the school corporation or school. Requires that, before obtaining the consent of a parent, a school corporation or school shall provide the parent informed written notice describing in detail the medical health assessment or service, mental health assessment, or mental health service. Provides that a school corporation or school may not require, without prior consent from the student's parent, a student to submit to a psychiatric or psychological examination or test or psychiatric or psychological treatment in which the purpose of the examination, test, or treatment is to reveal certain information. Establishes requirements regarding student education records, personally identifiable information of a student, and certain other information concerning a student.

**Effective:** July 1, 2018.

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## Kruse

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January 4, 2018, read first time and referred to Committee on Education and Career Development.

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Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# SENATE BILL No. 352

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 20-30-5-17, AS AMENDED BY P.L.286-2013,  
2 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 17. (a) A school corporation shall make available  
4 for inspection by the parent of a student any instructional materials,  
5 including:  
6 (1) teachers' manuals;  
7 (2) curricular materials;  
8 (3) films or other video materials;  
9 (4) tapes; ~~and~~  
10 **(5) computer programs;**  
11 **(6) assessments; and**  
12 ~~(7)~~ **(7) other materials, including online materials;**  
13 used in connection with a personal analysis, an evaluation, or a survey  
14 described in subsection (b).  
15 (b) A student shall not be required to participate in a personal  
16 analysis, an evaluation, or a survey that is not directly related to  
17 academic instruction and that reveals or attempts to affect the student's



1 attitudes, habits, traits, opinions, beliefs, or feelings concerning:

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

15 without the prior consent of the student if the student is an adult or an  
 16 emancipated minor or the prior written consent of the student's parent  
 17 if the student is an unemancipated minor. A parental consent form for  
 18 a personal analysis, an evaluation, or a survey described in this section  
 19 shall accurately reflect the contents and nature of the personal analysis,  
 20 evaluation, or survey.

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

23 (d) The governing body shall enforce this section.

24 SECTION 2. IC 20-33-13 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2018]:

27 **Chapter 13. Protection of Privacy Rights of Students and**  
 28 **Families**

29 **Sec. 1. As used in this chapter, "aggregate data" means data**  
 30 **that:**

- 31 **(1) is not limited to one (1) student;**  
 32 **(2) is not able to be used to identify an individual student; and**  
 33 **(3) can be tracked across time, organizations, and student**  
 34 **populations.**

35 **Sec. 2. (a) As used in this chapter, "biometric record" means a**  
 36 **record of one (1) or more measurable biological or behavioral**  
 37 **characteristics that can be used for automated recognition of an**  
 38 **individual.**

39 **(b) The term includes fingerprints, retina and iris patterns,**  
 40 **voice prints, DNA sequence, facial characteristics, and**  
 41 **handwriting.**

42 **Sec. 3. As used in this chapter, "de-identify" or "de-identified"**



1 means a process used to prevent an individual's identity from being  
2 connected with information.

3 Sec. 4. As used in this chapter, "mental health assessment"  
4 means:

- 5 (1) a behavioral evaluation;  
6 (2) a personality examination or analysis; or  
7 (3) any assessment regarding interest inventories that would  
8 collect or elicit information about attitudes, habits, traits,  
9 opinions, beliefs, feelings, or dispositions, including:  
10 (A) multi-tiered system of supports;  
11 (B) positive behavior intervention and supports;  
12 (C) response to intervention; or  
13 (D) universal design for learning designed to affect  
14 behavioral, emotional, or attitudinal characteristics of an  
15 individual or group.

16 Sec. 5. As used in this chapter, "mental health service" means  
17 any social, emotional, or behavioral interventions, including:

- 18 (1) multi-tiered systems of support;  
19 (2) positive behavior interventions and support;  
20 (3) response to intervention; or  
21 (4) universal design for learning designed to affect behavioral,  
22 emotional, or attitudinal characteristics of an individual or  
23 group.

24 Sec. 6. As used in this chapter, "personally identifiable  
25 information" means:

- 26 (1) the name of a student;  
27 (2) the name of a student's parent or any other family  
28 member;  
29 (3) the address of a student or any family member of a  
30 student;  
31 (4) a personal identifier, including a student's Social Security  
32 number, student number, or biometric record;  
33 (5) other indirect identifiers, including date of birth, place of  
34 birth, and mother's maiden name of a student;  
35 (6) other information that, alone or in combination, is linked  
36 or linkable to a specific student that would allow a reasonable  
37 person in the community, who does not have personal  
38 knowledge of the relevant circumstances, to identify the  
39 student with reasonable certainty; or  
40 (7) information requested by a person who the school  
41 reasonably believes knows the identity of the student to whom  
42 the education record relates.



1           **Sec. 7.** As used in this chapter, "psychiatric or psychological  
2 examination or test" means a method of obtaining information,  
3 including a group activity, that:

- 4           (1) is not directly related to academic instruction; and  
5           (2) is designed to elicit information about attitudes, habits,  
6           traits, opinions, beliefs, or feelings.

7           **Sec. 8.** As used in this chapter, "psychiatric or psychological  
8 treatment" means an activity involving the planned, systematic use  
9 of methods or techniques that:

- 10          (1) are not directly related to academic instruction; and  
11          (2) are designed to affect behavioral, emotional, or attitudinal  
12          characteristics of an individual or group.

13          **Sec. 9.** As used in this chapter, "school" means a charter school  
14 or an accredited nonpublic school.

15          **Sec. 10.** As used in this chapter, "student education record"  
16 means a record maintained by a school corporation or school that  
17 contains information directly related to a student that includes:

- 18          (1) personally identifiable information; and  
19          (2) medical or mental health information regarding the  
20          student.

21          **Sec. 11. (a)** A school corporation or school shall obtain prior  
22 written consent from the parent of a student who:

- 23          (1) is less than eighteen (18) years of age; and  
24          (2) is not emancipated;

25 before the student may participate in any medical health  
26 assessment or services, mental health assessment, or mental health  
27 service that is conducted in connection with the school corporation,  
28 school, or a contractor of a school corporation or school. A written  
29 consent under this section must include a parent opting in by  
30 signing an informed explanatory release form.

31          **(b)** Before obtaining the consent of a parent as described in  
32 subsection (a), a school corporation or school shall provide the  
33 parent informed written notice describing in detail the medical  
34 health assessment or service, mental health assessment, or mental  
35 health service, including:

- 36          (1) the purpose for the assessment or service;  
37          (2) the provider or contractor providing the assessment or  
38          service;  
39          (3) the date and time at which the assessment or service will  
40          begin; and  
41          (4) the length of time the assessment or service may likely last.

42          **Sec. 12.** A school corporation or school may not require a



1 student to submit, without prior consent from the student's parent,  
 2 to a psychiatric or psychological examination or test or psychiatric  
 3 or psychological treatment, in which the purpose of the  
 4 examination, test, or treatment is to reveal information concerning:

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

20 **Sec. 13.** Each school corporation and school shall take all  
 21 measures to protect personally identifiable information.

22 **Sec. 14.** Except as otherwise provided under state or federal law,  
 23 each school corporation and school shall:

- 24 (1) create a unique identification for each student of the  
 25 school corporation or school;  
 26 (2) de-identify all personally identifiable information for each  
 27 student when used for any purpose outside of the school  
 28 corporation or school; and  
 29 (3) maintain personally identifiable information for each  
 30 student separately from the state longitudinal data system.

31 **Sec. 15.** A school corporation or school may not provide student  
 32 information described in sections 12(1) through 12(8) of this  
 33 chapter to the department or a contractor of the department.

34 **Sec. 16. (a)** A parent of a student may request at any time to  
 35 view the student's student education record.

36 **(b)** Except as provided under federal law, a parent of a student  
 37 may deny access to the student's personally identifiable  
 38 information to any person who is not an employee of the school  
 39 corporation or school.

40 **Sec. 17.** Notwithstanding any other state law and except as  
 41 otherwise provided under federal law, a school corporation or  
 42 school may only provide de-identified aggregate data and no



1 personally identifiable information of a student when complying  
2 with any state or federal reporting requirement.

3 Sec. 18. Except as otherwise provided under federal law, any  
4 disclosure to an organization conducting studies for or on behalf of  
5 educational agencies or institutions to develop, validate, or  
6 administer predictive tests, administer student aid programs, or  
7 improve instruction, must be done through the school corporation  
8 or school and through the release of de-identified aggregate data.  
9 A student's personally identifiable information may not be released  
10 from a student education record at the local level without the  
11 informed written consent of the student's parent.

12 Sec. 19. A school corporation or school may not request or  
13 maintain a student's Social Security number.

14 Sec. 20. Except as otherwise provided under federal law, a  
15 school corporation or school may not release personally  
16 identifiable information from a student's student education record  
17 without the written consent of the student's parent.

18 Sec. 21. Any student identification number or other unique  
19 personal identifier that is displayed on a student's identification  
20 badge or card may not be used to access a student's student  
21 education record except when used in conjunction with one (1) or  
22 more factors that authenticate the user's identity, such as a  
23 personal identification number, password, or other factor known  
24 or possessed only by the person authorized to access a student's  
25 education record.

26 Sec. 22. (a) Before a school corporation or school may transfer  
27 student education records or any other personally identifiable  
28 information of a student, the school corporation or school shall  
29 notify the student's parent regarding the reason for the disclosure  
30 and the purpose for which the information will be used.

31 (b) A school corporation or school may not transfer student  
32 information described in subsection (a) without the consent of the  
33 student's parent.

34 Sec. 23. (a) Each school corporation and school shall provide a  
35 student's parent the option of opting out of including any  
36 personally identifiable information of the student in directory  
37 information.

38 (b) Each school corporation and school shall provide notice to  
39 a student's parent that includes, as applicable, the following  
40 information:

41 (1) That the directory information is given to outside vendors  
42 and testing contractors.



- 1           **(2) That outside vendors and contractors align unique**
- 2           **personal identifiers to the directory information.**

