

SENATE BILL 1392

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 37; Title 49; Title 63; Title 68 and Section 71-
5-133, relative to human reproduction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-34-102, is amended by adding the following as new subdivisions:

() "Minor" has the same meaning as defined in § 1-3-105;

() "Public charter school" means a public school in this state that is established and operating under the terms of a charter agreement and in accordance with the Tennessee Public Charter Schools Act of 2002, compiled in title 49, chapter 13;

() "Public school" means a school that:

(A) Is operated by this state, a political subdivision of this state, or a governmental agency within this state; and

(B) Receives financial assistance from this state.

SECTION 2. Tennessee Code Annotated, Section 68-34-103, is amended by deleting the section.

SECTION 3. Tennessee Code Annotated, Section 68-34-104, is amended by deleting the language "It is the policy and authority of this state that:" and substituting the language "It is the policy and authority of this state, its political subdivisions, and all agencies and institutions thereof that:".

SECTION 4. Tennessee Code Annotated, Section 68-34-104, is amended by deleting subdivision (1) and substituting:

(1) Medically acceptable contraceptive procedures, supplies, and information must be readily and practicably available to each and every person desirous of the same regardless of sex, race, income, number of children, marital status, citizenship, motive, or age, except as follows:

(A) Section 68-1-1205 applies as it relates to this section;

(B) Information provided to minors pursuant to this section must not:

(i) Promote, implicitly or explicitly, any gateway sexual activity, as defined in § 49-6-1301, or health message that encourages students to experiment with noncoital sexual activity;

(ii) Provide or distribute materials on school grounds that condone, encourage, or promote student sexual activity among unmarried students;

(iii) Display or conduct demonstrations with devices specifically manufactured for sexual stimulation; or

(iv) Distribute contraception on school property. However, medically accurate information about contraception and condoms may be provided so long as the information is presented in a manner consistent with subdivisions (1)(B)(i)–(iii) and clearly informs students that while those methods may reduce the risk of acquiring sexually transmitted diseases or becoming pregnant, only abstinence removes all risk; and

(C) Information presented in a public school or public charter school under this chapter is subject to § 49-6-1306;

SECTION 5. Tennessee Code Annotated, Section 68-34-104, is amended by deleting subdivision (4) and substituting:

(4) Dissemination of medically acceptable contraceptive information by duly authorized persons in state and county health and welfare departments, in medical facilities at institutions of higher learning, and at other agencies and instrumentalities of this state is consistent with public policy. The textbook and instructional materials quality commission must approve all medically acceptable contraceptive information distributed at public schools or public charter schools;

SECTION 6. Tennessee Code Annotated, Section 68-34-107, is amended by deleting the section and substituting:

(a) Except as provided in subsection (b), a physician may furnish contraceptive supplies and information to a minor who:

(1) Is pregnant, a parent, married, or is an emancipated minor, as defined in § 37-10-302;

(2) Has the consent of the minor's parent or legal guardian;

(3) Has been referred for the service by another physician, a clergy member, a family planning clinic, a school or institution of higher learning, or an agency or instrumentality of this state or subdivision of the state; or

(4) Requests and is in need of birth control procedures, supplies, or information.

(b) Notwithstanding subdivision (a)(3), a minor must receive parental permission to receive contraceptive supplies and information if the referring agency is a public school or public charter school.

SECTION 7. Tennessee Code Annotated, Section 68-1-1205, is amended by deleting the language "birth control devices and contraceptives" and substituting the language "contraceptive supplies, procedures, and information".

SECTION 8. Tennessee Code Annotated, Section 68-1-1205, is amended by deleting the language "prescribe any form of birth control device or contraceptive" and substituting the language "prescribe or provide contraceptive supplies, procedures, or information".

SECTION 9. The commissioner of education and the commissioner of health are authorized to promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 10. For rule promulgation purposes, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2021, the public welfare requiring it.