

By: Talarico

H.B. No. 4088

A BILL TO BE ENTITLED

AN ACT

relating to human sexuality education in public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0042 to read as follows:

Sec. 28.0042. HUMAN SEXUALITY EDUCATION. (a) In this section:

(1) "Age appropriate" means topics, messages, and teaching methods suitable to particular ages or age groups of children or adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(2) "Medically accurate" means supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience, such as the American Medical Association.

(b) A school district shall provide human sexuality education in accordance with this section at grade levels specified by the State Board of Education.

(c) The State Board of Education by rule shall adopt the

essential knowledge and skills for medically accurate, age-appropriate curriculum to be used by a school district in providing human sexuality education under this section. As age appropriate, the curriculum must:

(1) cover human sexuality, pregnancy, and sexually transmitted infections;

(2) discuss human sexuality as a normal and healthy aspect of human development;

(3) provide information about the health benefits, side effects, and proper use of the methods approved by the United States Food and Drug Administration for preventing unintended pregnancy and reducing the risk of contracting sexually transmitted infections; and

(4) promote relationship, communication, and decision-making skills, including strategies to:

(A) develop healthy, age-appropriate relationships;

(B) develop healthy life skills, including critical thinking, problem solving, effective communication, and responsible decision making about sexuality and relationships; and

(C) promote effective communication between adolescents and their parents, legal guardians, or other family members about sexuality and relationships.

(d) A school district may separate students according to sex when providing instruction under this section.

(e) A school district shall make all curriculum materials used in the district's human sexuality education available for reasonable public inspection.

(f) A school district shall adopt a policy regarding whether condoms may be distributed in connection with human sexuality education.

(g) A student shall be excused from human sexuality education on the written request of a parent or legal guardian without being subjected to any disciplinary action, academic penalty, or other sanction imposed by the school district or the student's school.

(h) Before each school year, a school district shall provide written notice to a parent or legal guardian of each student enrolled in the district of the intent to provide human sexuality education under this section. The notice must include:

(1) a summary of the basic content of the human sexuality education to be provided to the student;

(2) the district's policy on the distribution of condoms in connection with human sexuality education; and

(3) a statement of the parent's or legal guardian's right to:

(A) review curriculum materials as provided by Subsection (e); and

(B) remove the student from any part of the district's human sexuality education as provided by Subsection (g).

SECTION 2. Section 12.104(b), Education Code, as amended by Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is reenacted and amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense;

(2) the provisions in Chapter 554, Government Code; and

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E or E-1, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

(M) the requirement under Section 21.006 to report an educator's misconduct;

(N) intensive programs of instruction under Section 28.0213;

(O) the right of a school employee to report a crime, as provided by Section 37.148;

(P) bullying prevention policies and procedures under Section 37.0832;

(Q) the right of a school under Section 37.0052 to place a student who has engaged in certain bullying behavior in a disciplinary alternative education program or to expel the student;

(R) the right under Section 37.0151 to report to local law enforcement certain conduct constituting assault or harassment;

(S) a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

(T) establishment of residency under Section 25.001;

(U) [~~(T)~~] school safety requirements under Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115, 37.207, and 37.2071;

(V) [~~(T)~~] the early childhood literacy and mathematics proficiency plans under Section 11.185; [~~and~~]

(W) [~~(U)~~] the college, career, and military readiness plans under Section 11.186; and

(X) human sexuality education under Section

28.0042.

SECTION 3. Section 28.004(c), Education Code, as amended by Chapters 331 (S.B. 435), 352 (H.B. 18), and 464 (S.B. 11), Acts of the 86th Legislature, Regular Session, 2019, is reenacted and amended to read as follows:

(c) The local school health advisory council's duties include recommending:

(1) the number of hours of instruction to be provided in:

(A) health education in kindergarten through grade eight; and

(B) if the school district requires health education for high school graduation, health education, including physical health education and mental health education, in grades 9 through 12;

(2) policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns, including suicide, through coordination of:

(A) health education, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health

education;

(B) physical education and physical activity;

(C) nutrition services;

(D) parental involvement;

(E) instruction on substance abuse prevention;

(F) school health services, including mental

health services;

(G) a comprehensive school counseling program
under Section 33.005;

(H) a safe and healthy school environment; and

(I) school employee wellness;

(3) ~~[appropriate grade levels and methods of
instruction for human sexuality instruction;~~

~~[(4)]~~ strategies for integrating the curriculum
components specified by Subdivision (2) with the following
elements in a coordinated school health program for the district:

(A) school health services, including physical
health services and mental health services, if provided at a campus
by the district or by a third party under a contract with the
district;

(B) a comprehensive school counseling program
under Section 33.005;

(C) a safe and healthy school environment; and

(D) school employee wellness;

(4) [~~(5)~~] if feasible, joint use agreements or strategies for collaboration between the school district and community organizations or agencies; [~~and~~]

(5) [~~(6)~~] strategies to increase parental awareness regarding:

(A) risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance use disorders; and

(B) available community programs and services that address risky behaviors, suicide risks, and behavioral health concerns; and

(6) appropriate grade levels and curriculum for instruction regarding opioid addiction and abuse and methods of administering an opioid antagonist, as defined by Section 483.101, Health and Safety Code.

SECTION 4. Section 28.004(n), Education Code, is amended to read as follows:

(n) Any joint use agreement that a school district and community organization or agency enter into based on a recommendation of the local school health advisory council under Subsection (c)(4) [~~(e)(5)~~] must address liability for the school district and community organization or agency in the agreement.

SECTION 5. Sections 28.004(e), (f), (g), (h), (i), (i-1), and (j), Education Code, are repealed.

SECTION 6. This Act applies beginning with the 2022-2023 school year.

SECTION 7. To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.