

By: González of El Paso

H.B. No. 3719

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 28.0041 to read as follows:

Sec. 28.0041. HUMAN SEXUALITY EDUCATION. (a) In this section:

(1) "Age-appropriate" means 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 curricula to be used by a school district in providing human sexuality education under this section. As age-appropriate, the curricula must:

- 1 (1) include affirming information regarding gender
2 identity, gender expression, and sexual orientation;
- 3 (2) cover human sexuality, pregnancy, and sexually
4 transmitted infections;
- 5 (3) discuss human sexuality as a normal and healthy
6 aspect of human development;
- 7 (4) discuss:
 - 8 (A) consent as an unambiguous and voluntary
9 agreement from each participant to engage in each physical act; and
 - 10 (B) the importance of respecting personal
11 boundaries;
- 12 (5) present abstinence from sexual activity as the
13 preferred choice of behavior in relationship to all sexual activity
14 for unmarried persons of school age;
- 15 (6) devote sufficient attention to abstinence from
16 sexual activity to emphasize the importance of abstinence;
- 17 (7) emphasize that abstinence from sexual activity, if
18 used consistently and correctly, is the only method that is 100
19 percent effective in preventing pregnancy and sexually transmitted
20 infections;
- 21 (8) provide information about the health benefits,
22 side effects, and proper use of the methods approved by the United
23 States Food and Drug Administration for preventing unintended
24 pregnancy and reducing the risk of contracting sexually transmitted
25 infections;
- 26 (9) cover women's health, including the importance and
27 purpose of regular gynecological exams, Pap smear screenings, and

1 testing for sexually transmitted infections;

2 (10) promote relationship, communication, and
3 decision-making skills, including strategies to:

4 (A) develop healthy, age-appropriate
5 relationships;

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

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

12 (11) discuss the basic protections provided by Title
13 IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et
14 seq.) regarding sexual harassment and sexual assault or abuse,
15 including:

16 (A) a student's rights under that provision;

17 (B) how to identify and report incidents of
18 sexual harassment or sexual assault or abuse; and

19 (C) the availability of relevant services for
20 victims of sexual harassment or sexual assault or abuse, such as
21 mental health or trauma counseling, academic accommodations, or
22 health service referrals.

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

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

1 (f) A school district shall adopt a policy regarding whether
2 male or female condoms may be distributed in connection with human
3 sexuality education.

4 (g) A school district shall adopt a best practice-based
5 policy regarding the provision of menstrual products to students
6 enrolled in the district.

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

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

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

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

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

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

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

26 SECTION 2. Section [12.104](#)(b), Education Code, as amended by
27 Chapters 324 (S.B. 1488), 522 (S.B. 179), and 735 (S.B. 1153), Acts

1 of the 85th Legislature, Regular Session, 2017, is reenacted and
2 amended to read as follows:

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

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

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

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

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

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

16 (D) accelerated instruction under Section
17 28.0211;

18 (E) high school graduation requirements under
19 Section 28.025;

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

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

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

26 (I) extracurricular activities under Section
27 33.081;

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

3 (K) health and safety under Chapter 38;

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

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

8 (N) intensive programs of instruction under
9 Section 28.0213;

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

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

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

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

21 (S) ~~(P)~~ a parent's right to information
22 regarding the provision of assistance for learning difficulties to
23 the parent's child as provided by Sections 26.004(b)(11) and
24 26.0081(c) and (d); and

25 (T) human sexuality education under Section
26 28.0041.

27 SECTION 3. Section 28.004(c), Education Code, is amended to

1 read as follows:

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

4 (1) the number of hours of instruction to be provided
5 in health education;

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

10 (A) health education;

11 (B) physical education and physical activity;

12 (C) nutrition services;

13 (D) parental involvement;

14 (E) instruction to prevent the use of
15 e-cigarettes, as defined by Section 161.081, Health and Safety
16 Code, and tobacco;

17 (F) school health services;

18 (G) counseling and guidance services;

19 (H) a safe and healthy school environment; and

20 (I) school employee wellness;

21 (3) policies adopted by the district regarding the
22 human sexuality education provided under Section 28.0041
23 ~~[appropriate grade levels and methods of instruction for human~~
24 ~~sexuality instruction]~~;

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

- 1 (A) school health services;
- 2 (B) counseling and guidance services;
- 3 (C) a safe and healthy school environment; and
- 4 (D) school employee wellness; and
- 5 (5) if feasible, joint use agreements or strategies
- 6 for collaboration between the school district and community
- 7 organizations or agencies.

8 SECTION 4. Sections 28.004(e), (f), (g), (h), (i), (i-1),
9 and (j), Education Code, are repealed.

10 SECTION 5. This Act applies beginning with the 2020-2021
11 school year.

12 SECTION 6. To the extent of any conflict, this Act prevails
13 over another Act of the 86th Legislature, Regular Session, 2019,
14 relating to nonsubstantive additions to and corrections in enacted
15 codes.

16 SECTION 7. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2019.