

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

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

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

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

12 (A) develop healthy, age-appropriate
13 relationships;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (2) the provisions in Chapter [554](#), Government Code;

1 and

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

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

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

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

12 (D) accelerated instruction under Section
13 28.0211;

14 (E) high school graduation requirements under
15 Section 28.025;

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

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

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

22 (I) extracurricular activities under Section
23 33.081;

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

26 (K) health and safety under Chapter 38;

27 (L) public school accountability under

1 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

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

4 (N) intensive programs of instruction under
5 Section 28.0213;

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

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

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

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

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

19 (T) establishment of residency under Section
20 25.001;

21 (U) [~~(T)~~] school safety requirements under
22 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,
23 37.207, and 37.2071;

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

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

1 (X) human sexuality education under Section
2 28.0042.

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

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

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

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

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

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

22 (A) health education, which must address
23 physical health concerns and mental health concerns to ensure the
24 integration of physical health education and mental health
25 education;

26 (B) physical education and physical activity;

27 (C) nutrition services;

- 1 (D) parental involvement;
- 2 (E) instruction on substance abuse prevention;
- 3 (F) school health services, including mental
- 4 health services;
- 5 (G) a comprehensive school counseling program
- 6 under Section 33.005;
- 7 (H) a safe and healthy school environment; and
- 8 (I) school employee wellness;

9 (3) ~~[appropriate grade levels and methods of~~
10 ~~instruction for human sexuality instruction,~~

11 [~~4~~] strategies for integrating the curriculum
12 components specified by Subdivision (2) with the following elements
13 in a coordinated school health program for the district:

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

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

20 (C) a safe and healthy school environment; and

21 (D) school employee wellness;

22 (4) [~~5~~] if feasible, joint use agreements or
23 strategies for collaboration between the school district and
24 community organizations or agencies; ~~and~~

25 (5) [~~6~~] strategies to increase parental awareness
26 regarding:

27 (A) risky behaviors and early warning signs of

1 suicide risks and behavioral health concerns, including mental
2 health disorders and substance use disorders; and

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

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

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

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

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

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

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

25 SECTION 8. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 4088

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2021.