

By: González of El Paso

H.B. No. 4017

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 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 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.

1 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular
2 Session, 2021, is reenacted and 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;

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

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

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

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

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

18 (D) accelerated instruction under Section
19 28.0211;

20 (E) high school graduation requirements under
21 Section 28.025;

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

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

26 (H) prekindergarten programs under Subchapter E
27 or E-1, Chapter 29, except class size limits for prekindergarten

1 classes imposed under Section 25.112, which do not apply;

2 (I) extracurricular activities under Section

3 33.081;

4 (J) discipline management practices or behavior

5 management techniques under Section 37.0021;

6 (K) health and safety under Chapter 38;

7 (L) the provisions of Subchapter A, Chapter 39;

8 (M) public school accountability and special

9 investigations under Subchapters A, B, C, D, F, G, and J, Chapter

10 39, and Chapter 39A;

11 (N) the requirement under Section 21.006 to

12 report an educator's misconduct;

13 (O) intensive programs of instruction under

14 Section 28.0213;

15 (P) the right of a school employee to report a

16 crime, as provided by Section 37.148;

17 (Q) bullying prevention policies and procedures

18 under Section 37.0832;

19 (R) the right of a school under Section 37.0052

20 to place a student who has engaged in certain bullying behavior in a

21 disciplinary alternative education program or to expel the student;

22 (S) the right under Section 37.0151 to report to

23 local law enforcement certain conduct constituting assault or

24 harassment;

25 (T) a parent's right to information regarding the

26 provision of assistance for learning difficulties to the parent's

27 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

1 (U) establishment of residency under Section
2 25.001;

3 (V) school safety requirements under Sections
4 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
5 37.207, and 37.2071;

6 (W) the early childhood literacy and mathematics
7 proficiency plans under Section 11.185;

8 (X) the college, career, and military readiness
9 plans under Section 11.186; ~~and~~

10 (Y) ~~(X)~~ parental options to retain a student
11 under Section 28.02124; and

12 (Z) human sexuality education under Section
13 28.0042.

14 SECTION 3. Sections 28.004(c) and (j), Education Code, are
15 amended to read as follows:

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

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

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

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

26 (2) policies, procedures, strategies, and curriculum
27 appropriate for specific grade levels designed to prevent physical

1 health concerns, including obesity, cardiovascular disease, Type 2
2 diabetes, and mental health concerns, including suicide, through
3 coordination of:

4 (A) health education, which must address
5 physical health concerns and mental health concerns to ensure the
6 integration of physical health education and mental health
7 education;

8 (B) physical education and physical activity;

9 (C) nutrition services;

10 (D) parental involvement;

11 (E) instruction on substance abuse prevention;

12 (F) school health services, including mental
13 health services;

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

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

17 (I) school employee wellness;

18 (3) policies adopted by the district regarding the
19 human sexuality education provided under Section 28.0042
20 ~~[appropriate grade levels and methods of instruction for human~~
21 ~~sexuality instruction]~~;

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

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

1 district;

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

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

5 (D) school employee wellness;

6 (5) if feasible, joint use agreements or strategies
7 for collaboration between the school district and community
8 organizations or agencies;

9 (6) strategies to increase parental awareness
10 regarding:

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

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

17 (7) appropriate grade levels and curriculum for
18 instruction regarding opioid addiction and abuse and methods of
19 administering an opioid antagonist, as defined by Section 483.101,
20 Health and Safety Code; and

21 (8) appropriate grade levels and curriculum for
22 instruction regarding child abuse, family violence, dating
23 violence, and sex trafficking, including likely warning signs that
24 a child may be at risk for sex trafficking, provided that the local
25 school health advisory council's recommendations under this
26 subdivision do not conflict with the essential knowledge and skills
27 developed by the State Board of Education under this subchapter.

1 (j) A school district shall make all curriculum materials
2 used in the district's [~~human sexuality instruction or~~] instruction
3 relating to the prevention of child abuse, family violence, dating
4 violence, and sex trafficking[~~7~~] available by:

5 (1) for curriculum materials in the public domain:

6 (A) providing a copy of the curriculum materials
7 by mail or e-mail to a parent of a student enrolled in the district
8 on the parent's request; and

9 (B) posting the curriculum materials on the
10 district's Internet website, if the district has an Internet
11 website; and

12 (2) for copyrighted curriculum materials, allowing a
13 parent of a student enrolled in the district to:

14 (A) review the curriculum materials at the
15 student's campus at any time during regular business hours;

16 (B) purchase a copy of the curriculum materials
17 from the publisher as provided by the district's purchase agreement
18 for the curriculum materials under Subsection [~~(j-1) or~~] (j-2); or

19 (C) review the curriculum materials online
20 through a secure electronic account in a manner that prevents the
21 curriculum materials from being copied and that otherwise complies
22 with copyright law.

23 SECTION 4. Sections 28.004(e), (e-1), (e-2), (e-3), (f),
24 (g), (h), (i), (j-1), and (p)(2), Education Code, are repealed.

25 SECTION 5. This Act applies beginning with the 2024-2025
26 school year.

27 SECTION 6. To the extent of any conflict, this Act prevails

1 over another Act of the 88th Legislature, Regular Session, 2023,
2 relating to nonsubstantive additions to and corrections in enacted
3 codes.

4 SECTION 7. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2023.