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ENGROSSED SUBSTITUTE SENATE BILL 5395

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AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington                      66th Legislature                      2019 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Wilson, C., Randall, Keiser, Saldaña, Takko, Mullet, Wellman, Das, Nguyen, Billig, Pedersen, Rolfes, Darneille, Dhingra, Hasegawa, Hunt, and Kuderer; by request of Superintendent of Public Instruction)

READ FIRST TIME 02/22/19.

1            AN ACT Relating to requiring comprehensive sexual health  
2 education that is consistent with the Washington state health and  
3 physical education K-12 learning standards and that requires  
4 affirmative consent curriculum; and amending RCW 28A.300.475.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 28A.300.475 and 2007 c 265 s 2 are each amended to  
7 read as follows:

8            (1) ~~((By September 1, 2008,))~~ (a)(i) In accordance with the  
9 requirements of this section, every public school ~~((that offers))~~  
10 shall provide comprehensive sexual health education ~~((must assure~~  
11 ~~that))~~ to each student by the 2022-23 school year. The curriculum,  
12 instruction, and materials used to provide the comprehensive sexual  
13 health education ~~((is))~~ must be medically and scientifically  
14 accurate, age-appropriate, ~~((appropriate for students regardless of~~  
15 ~~gender, race, disability status, or sexual orientation))~~ and  
16 inclusive of all students, regardless of their protected class status  
17 under chapter 49.60 RCW, and must include ~~((s))~~ information about  
18 abstinence and other methods of preventing unintended pregnancy and  
19 sexually transmitted diseases. ~~((All sexual health information,~~  
20 ~~instruction, and materials must be medically and scientifically~~

1 ~~accurate.~~) Abstinance may not be taught to the exclusion of other  
2 materials and instruction on contraceptives and disease prevention.

3 (ii) (A) Beginning in the 2020-21 school year, any public school  
4 that provides comprehensive sexual health education must ensure that  
5 the curriculum, instruction, and materials include information about  
6 affirmative consent and bystander training.

7 (B) The school district boards of directors of one or more public  
8 schools that are not providing comprehensive sexual health education  
9 in either the 2019-20 school year, the 2020-21 school year, or both,  
10 must prepare for incorporating information about affirmative consent  
11 and bystander training into the comprehensive sexual health education  
12 curriculum, instruction, and materials required by this section. In  
13 satisfying the requirements of this subsection (1) (a) (ii) (B), school  
14 district boards of directors must also, no later than the 2020-21  
15 school year, consult with parents and guardians of students, local  
16 communities, and the Washington state school directors' association.

17 (b) A public school may choose to use separate, outside speakers  
18 or prepared curriculum to teach different content areas or units  
19 within ~~(the)~~ its comprehensive sexual health education program ~~(as~~  
20 long as) if all speakers, curriculum, and materials used are in  
21 compliance with this section.

22 (c) Comprehensive sexual health education must be consistent with  
23 the Washington state health and physical education K-12 learning  
24 standards and the January 2005 guidelines for sexual health  
25 information and disease prevention developed by the department of  
26 health and the office of the superintendent of public instruction.

27 ~~(2) ((As used in chapter 265, Laws of 2007, "medically and~~  
28 ~~scientifically accurate" means information that is verified or~~  
29 ~~supported by research in compliance with scientific methods, is~~  
30 ~~published in peer-review journals, where appropriate, and is~~  
31 ~~recognized as accurate and objective by professional organizations~~  
32 ~~and agencies with expertise in the field of sexual health including~~  
33 ~~but not limited to the American college of obstetricians and~~  
34 ~~gynecologists, the Washington state department of health, and the~~  
35 ~~federal centers for disease control and prevention.)) (a) Beginning~~  
36 in the 2021-22 school year, comprehensive sexual health education  
37 must be provided to all public school students in grades six through  
38 twelve.

39 (b) Beginning in the 2022-23 school year, comprehensive sexual  
40 health education must be provided to all public school students.

1       (c) The provision of comprehensive sexual health education to  
2 public school students as required by (a) and (b) of this subsection  
3 (2) must be provided no less than:

4       (i) Once to students in kindergarten through grade three;

5       (ii) Once to students in grades four through five;

6       (iii) Twice to students in grades six through eight; and

7       (iv) Twice to students in grades nine through twelve.

8       (3) The office of the superintendent of public instruction and  
9 the department of health shall make the Washington state health and  
10 physical education K-12 learning standards and the January 2005  
11 guidelines for sexual health information and disease prevention  
12 available to public schools ((districts)), teachers, and guest  
13 speakers on their web sites. Within available resources, the office  
14 of the superintendent of public instruction and the department of  
15 health shall also, and to the extent permitted by applicable federal  
16 law, make any related information, model policies, curricula, or  
17 other resources available ((as well)) on their web sites.

18       (4) The office of the superintendent of public instruction, in  
19 consultation with the department of health, shall develop a list of  
20 comprehensive sexual health education curricula that are consistent  
21 with the 2005 guidelines for sexual health information and disease  
22 prevention, the Washington state health and physical education K-12  
23 learning standards, and this section. This list ((shall be intended  
24 to)), which may serve as a resource for schools, teachers, or any  
25 other organization or community group, ((and shall)) must be updated  
26 ((no less frequently than)) at least annually, and must be made  
27 available on the web sites of the office of the superintendent of  
28 public instruction and the department of health.

29       (5) Subject to the availability of amounts appropriated for this  
30 specific purpose, the office of the superintendent of public  
31 instruction shall periodically review and revise, as necessary,  
32 training materials, which may be in an electronic format, for  
33 classroom teachers and principals to implement the applicable  
34 requirements of this section. The initial review required by this  
35 subsection (5) must be completed by March 1, 2021.

36       (6) (a) Public schools ((that offer sexual health education)) are  
37 encouraged to review their comprehensive sexual health education  
38 curricula and choose a curriculum from the list developed under  
39 subsection (4) of this section. Any public school ((that offers  
40 sexual health education)) may identify, choose, or develop any other

1 curriculum(~~(7)~~) if (~~the curriculum chosen or developed~~) it complies  
2 with the requirements of this section.

3 (b) If a public school chooses a curriculum that is not from the  
4 list developed under subsection (4) of this section, the public  
5 school or applicable school district, in consultation with the office  
6 of the superintendent of public instruction, must conduct a review of  
7 the selected or developed curriculum to ensure compliance with the  
8 requirements of this section using a comprehensive sexual health  
9 education curriculum analysis tool of the office of the  
10 superintendent of public instruction.

11 (c) The office of the superintendent of public instruction shall  
12 provide technical assistance to public schools and school districts  
13 that is consistent with the curricula review, selection, and  
14 development provisions in (a) and (b) of this subsection (6).

15 ~~((6))~~ (7)(a) Any parent or legal guardian who wishes to have  
16 his or her child excused from any planned instruction in  
17 comprehensive sexual health education may do so upon filing a written  
18 request with the school district board of directors or its designee,  
19 or the principal of the school his or her child attends, or the  
20 principal's designee. The person or entity to whom the request is  
21 directed must grant the written request to have the student excused  
22 from this instruction in accordance with this subsection. In  
23 addition, any parent or legal guardian may review the comprehensive  
24 sexual health education curriculum (~~offered~~) provided in his or her  
25 child's school by filing a written request with the school district  
26 board of directors, the principal of the school his or her child  
27 attends, or the principal's designee.

28 ~~((7) The office of the superintendent of public instruction~~  
29 ~~shall, through its Washington state school health profiles survey or~~  
30 ~~other existing reporting mechanism, ask public)~~ (b) At the beginning  
31 of the 2021-22 school year, each school providing comprehensive  
32 sexual health education must notify parents and guardians, in writing  
33 or in accordance with the methods the school finds most effective in  
34 communicating with parents, that the school will be providing  
35 comprehensive sexual health education during the school year. The  
36 notice must include, or provide a means for electronic access to, all  
37 course materials, by grade, that will be used at the school during  
38 the instruction.

39 (8)(a) Public schools (~~to~~) shall annually, by September 1st,  
40 identify to the office of the superintendent of public instruction

1 any curricula used by the school to provide comprehensive sexual  
2 health education (~~(, and shall report the results of this inquiry to~~  
3 ~~the legislature on a biennial basis, beginning with the 2008-09~~  
4 ~~school year)) as required by this section. Materials provided by  
5 schools under this subsection (8)(a) must also describe how the  
6 provided classroom instruction aligns with the requirements of this  
7 section.~~

8 (b) The office of the superintendent of public instruction shall  
9 summarize and, in accordance with RCW 43.01.036, report the results  
10 provided under (a) of this subsection (8) to the education committees  
11 of the house of representatives and the senate biennially, beginning  
12 after the 2022-23 school year.

13 ~~((8) The requirement)) (9) RCW 28A.600.480(2), which encourages  
14 school employees, students, and volunteers to report harassment,  
15 intimidation, or bullying ((under RCW 28A.600.480(2))), applies to  
16 this section.~~

17 (10) Nothing in this section expresses legislative intent to  
18 require that comprehensive sexual health education, or components of  
19 comprehensive sexual health education, be integrated into curriculum,  
20 materials, or instruction in unrelated subject matters or courses.

21 (11) For the purposes of this section:

22 (a) "Affirmative consent" means a conscious and voluntary  
23 agreement to engage in sexual activity as a requirement before sexual  
24 activity;

25 (b) "Comprehensive sexual health education" means recurring  
26 instruction in human development and reproduction that is age-  
27 appropriate and inclusive of all students, regardless of their  
28 protected class status under chapter 49.60 RCW. All curriculum,  
29 instruction, and materials used in providing comprehensive sexual  
30 health education must be medically and scientifically accurate and  
31 must use language and strategies that recognize all members of  
32 protected classes under chapter 49.60 RCW. Comprehensive sexual  
33 health education for students in kindergarten through grade three  
34 must be instruction in social-emotional learning that is consistent  
35 with learning standards and benchmarks adopted by the office of the  
36 superintendent of public instruction under RCW 28A.300.478.  
37 Comprehensive sexual health education for students in grades four  
38 through twelve must include information about:

39 (i) The physiological, psychological, and sociological  
40 developmental processes experienced by an individual;

1       (ii) The development of intrapersonal and interpersonal skills to  
2 communicate, respectfully and effectively, to reduce health risks,  
3 and choose healthy behaviors and relationships that are based on  
4 mutual respect and affection, and are free from violence, coercion,  
5 and intimidation;

6       (iii) Health care and prevention resources;

7       (iv) The development of meaningful relationships and avoidance of  
8 exploitative relationships;

9       (v) Understanding the influences of family, peers, community, and  
10 the media throughout life on healthy sexual relationships; and

11       (vi) Affirmative consent and recognizing and responding safely  
12 and effectively when violence, or a risk of violence, is or may be  
13 present with strategies that include bystander training;

14       (c) "Medically and scientifically accurate" means information  
15 that is verified or supported by research in compliance with  
16 scientific methods, is published in peer-reviewed journals, where  
17 appropriate, and is recognized as accurate and objective by  
18 professional organizations and agencies with expertise in the field  
19 of sexual health including but not limited to the American college of  
20 obstetricians and gynecologists, the Washington state department of  
21 health, and the federal centers for disease control and prevention;  
22 and

23       (d) "Public schools" has the same meaning as in RCW 28A.150.010.

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