

# Initiative No. 1106

March 12, 2020

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## BILL REQUEST - CODE REVISER'S OFFICE

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BILL REQ. #: I-3794.1/20

ATTY/TYPIST: CL:lcl

BRIEF DESCRIPTION:

# Initiative No. 1106

March 12, 2020

AN ACT Relating to sexual health and HIV/AIDS education, medical accuracy, and parental review for public schools; amending 2007 c 265 s 1 (uncodified); adding a new section to chapter 28A.300 RCW; creating a new section; and repealing RCW 28A.230.070 and 28A.300.475.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** This act may be known and cited as the sexual health education and parental choice act.

**Sec. 2.** 2007 c 265 s 1 (uncodified) is amended to read as follows:

~~((1))~~ The legislature finds that young people should have the knowledge and skills necessary to build healthy relationships, and to protect themselves from unintended pregnancy and sexually transmitted infections and subsequent diseases, including HIV infection. The primary responsibility for sexual health education is with parents and guardians. ~~((However, this responsibility also extends to schools and other community groups.))~~ It is in the public's best interest to ensure that young people are equipped with medically and scientifically accurate, age-appropriate information that will help them avoid unintended pregnancies, remain free of sexually transmitted diseases, and make informed, responsible decisions throughout their lives.

~~((2) The legislature intends to support and advance the standards established in the January 2005 guidelines for sexual health information and disease prevention developed by the office of the superintendent of public instruction and the department of health. These guidelines are a fundamental tool to help school districts, teachers, guest speakers, health and counseling providers, community groups, parents, and guardians choose, develop,~~

~~and evaluate sexual health curricula to better meet the health and safety needs of adolescents and young adults in their communities.))~~

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Every public school that offers sexual health education must assure that sexual health education is: Medically and scientifically accurate; age-appropriate; appropriate for students regardless of gender, race, disability status, sexual orientation, creed, or religion; includes information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted infections and subsequent diseases; teaches age of majority under RCW 26.28.010; and teaches child support enforcement requirements. Except as otherwise specifically provided by law, age of majority means being at the age of eighteen years.

(2) All sexual health information, instruction, and materials must be medically and scientifically accurate and developmentally appropriate based on age and the ability to mitigate the consequences of given behaviors. Abstinence must be taught with the inclusion of other materials. Instruction on contraceptives and disease prevention may be included only when it is developmentally and educationally appropriate.

(3) (a) Each school district shall, at least one month before teaching sex education classes including HIV/AIDS prevention education or in any classroom, conduct at least one presentation during weekend and evening hours for the parents and guardians of students concerning the curricula and materials that will be used for the education. The parents and guardians must be notified by the school district of the presentation through parent and/or school email, on the school and/or school district web site, and on the forms provided for families who choose to not participate.

(b) Parents must be notified that curricula and materials are made available for inspection on the school and/or school district web site and on the forms provided for families who choose to not

participate. A student may not be required to participate in sex education, HIV/AIDS prevention, or sexual health education if the student's parent or guardian objects in writing to the participation.

(4) All sexual health education programs must include an emphasis on abstinence as the only one hundred percent effective means of preventing unintended pregnancy, HIV, and other sexually transmitted infections and subsequent diseases with equal time given to motivation, benefits, and skills for choosing abstinence as is given to the teaching of birth control, contraceptive methods, and gender identity. The construct of gender identity, including the health risks associated with gender identity, may not be taught as a construct earlier than eighth grade.

(5) All materials must explain the dangers of sexual intercourse, with or without condoms, including, but not limited to, disease, unwanted pregnancy, and economic, social, and emotional impacts.

(6) Sexually transmitted infections and HIV/AIDS prevention education must stress the life-threatening potential consequences of contracting AIDS and must stress that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the HIV virus through sexual contact. It must also teach that condoms and other artificial means of birth control are not a certain means of preventing the spread of the sexually transmitted infections, including HIV/AIDS, and reliance on condoms puts a person at risk for exposure to the disease.

(7) A school may choose to use separate, outside speakers or prepared curriculum to teach different content areas or units within the sexual risk avoidance education as the primary prevention health program as long as all speakers, curriculum, and materials used are in compliance with this section. All sexual health materials, names, and contact information for qualified outside speakers, including all ancillary materials and outline content, must be available at the district office and school campus for parental inspection and

review throughout the year. Sexual health education must be consistent with the local school guidelines in order to respect community standards and local district committee guidelines for sexual health information and disease.

(8) Public schools that offer sexual health education are encouraged to review their sexual health curricula to keep the content current. Any public school that offers sexual health education may identify, choose, or develop any other curriculum if the curriculum chosen or developed complies with the requirements of this section. A local curriculum must stress that parents, appropriate community groups, and local school districts are to work in concert in designing, selecting, and evaluating the sexual health curriculum.

(9) Any parent or legal guardian who wishes to have his or her child excused from any planned instruction in sexual health and HIV/AIDS education may do so upon filing a written request with the school district board of directors, its designee, the principal of the school his or her child attends, or the principal's designee. In addition, any parent or legal guardian or local citizen may review the sexual health education curriculum offered through their local school district on the web site or in person. Instructors or administrators that ignore the parental request for excusal must be reported to the local district superintendent and school board, included in the teacher performance evaluation records, and the number of those noncompliance reports must be included in the district's biannual report to the state legislature.

(10) Alternative educational opportunities must be allowed for excused students. Parents may provide alternative activities to be completed during that time or may choose activities provided by the school. A student may not be penalized in grades or credit due to the decision made to not participate in the sexual health instruction or HIV/AIDS classes. The requirement to report harassment, intimidation, or bullying under RCW 28A.600.480 applies to this subsection.

(11) The office of the superintendent of public instruction shall develop a reporting mechanism to ask public schools to identify any curricula used to provide sexual health education, and shall report the results of this inquiry to the legislature and make it available on the office of the superintendent web site, on a biennial basis, beginning with the 2019-20 school year.

(12) Every public school must identify, using the definitions in subsection (13) of this section, the type of sexual education being taught at each grade level in the school.

(13) For purposes of this section:

(a) "Abstinence" means delaying sexual activity. Abstinence is one hundred percent effective in avoiding sexually transmitted infections and reducing teen pregnancies. It is not a contraceptive method. It is a decision that uses the logic of primary prevention seeking optimal health outcomes. Abstinence may not be for a lifetime but it is until there is maturity, a committed relationship, and the ability to cope with the formation of a healthy family. Abstinence education teaches communication, goal setting skills, advantages, and relationship skills to increase success in the optimal health outcomes of delayed sexual activity and family formation.

(b) "Age appropriate" means deemed appropriate by the local school board and in accordance with the following guidelines that consider the developmental capabilities and legal guidelines for the health and safety of the minor child. The local school board is the entity with the greatest capability to respond to the local culture and needs.

(i) Personal safety and hygiene are appropriate for K-3;

(ii) Social skills, ethics in relationships, hygiene, and personal safety are appropriate for fourth through sixth grades;

(iii) Body changes, hygiene, friendship, refusal skills, pornography dangers, cyber safety, harassment, and sexual abuse prevention are appropriate for seventh and eighth grades; and

(iv) Community appropriate sexual health is appropriate for ninth through twelfth grades.

(c) "Medically and scientifically accurate" means information that is verified or supported by research in compliance with scientific methods, may be published in peer-review journals, where appropriate, and is recognized as accurate and objective by recognized organizations and agencies with expertise in the field of sexual health including, but not limited to, the American college of obstetricians and gynecologists, the Washington state department of health, the federal centers for disease control and prevention, and research organizations performing research under state or federal projects.

(d) "Sexual health education" means reproductive health education that includes the diseases, disorders, and conditions that affect the functioning of the male and female reproductive systems during all stages of life. Disorders of reproduction include birth defects, developmental disorders, low birth weight, premature birth, reduced fertility, impotence, and menstrual disorders.

(e) "Sexual risk avoidance education" means an approach to sex education that focuses on risk avoidance instead of sexual risk reduction or comprehensive sex education when it comes to sexual activity. Sexual risk avoidance education communicates how this approach mirrors other public health models designed to encourage avoidance instead of reduction of risky behavior, such as underage drinking or the use of illegal drugs. Sexual risk avoidance education teaches that avoiding sexual activity before marriage is the surest way to avoid its risks. It also encourages youth to pursue good decision-making skills. Sexual risk avoidance education normalizes the optimal health behavior of avoiding nonmarital sexual activity, with a focus being on the future health, psychological well-being, and economic success of youth. Further, it addresses the social culture, psychological, and health gains to be realized by refraining from nonmarital sexual activity and engaging in healthy relationships. Sexual risk avoidance education addresses adverse

cultural and adverse childhood experiences. Sexual risk avoidance education teaches participants how to voluntarily refrain from nonmarital sexual activity. Sexual risk avoidance programs also teach the benefits associated with self-regulation, success sequencing for poverty prevention, healthy relationships, goal setting, and resisting sexual coercion, dating violence, and other youth risk behaviors such as underage drinking or illicit drug use without normalizing teen sexual activity.

(f) "Support enforcement" means the collection of child support moneys from noncustodial parents. Teaching support enforcement includes teaching the heavy consequences for noncompliance under chapter 388-14A WAC.

NEW SECTION. **Sec. 4.** The following acts or parts of acts are each repealed:

(1)RCW 28A.230.070 (AIDS education in public schools—Limitations—Program adoption—Model curricula—Student's exclusion from participation) and 1994 c 245 s 7 & 1988 c 206 s 402; and

(2)RCW 28A.300.475 (Medically accurate sexual health education—Curricula—Participation excused—Parental review) and 2020 c . . . s 1 (Engrossed Substitute Senate Bill No. 5395) and 2007 c 265 s 2.

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