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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1586 Session of  
2019

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INTRODUCED BY SIMS, DALEY, RABB, SCHLOSSBERG, DONATUCCI, BURGOS,  
KINSEY, A. DAVIS, SOLOMON, ISAACSON, McCLINTON, HILL-EVANS,  
KIRKLAND, BRIGGS, KRUEGER, FRANKEL, COMITTA, CEPHAS, DAWKINS,  
HOHENSTEIN, MADDEN, ROZZI, FITZGERALD, YOUNGBLOOD, STURLA,  
SHUSTERMAN AND OTTEN, JUNE 6, 2019

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REFERRED TO COMMITTEE ON EDUCATION, JUNE 6, 2019

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AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," in terms and courses of study,  
6 providing for sexual health education; in sexual violence  
7 education at institutions of higher education, further  
8 providing for education program; and imposing duties on the  
9 Department of Education and the Department of Health.

10 The General Assembly finds and declares as follows:

11 (1) Discussions between youth and their parents or  
12 guardians is the most important way to help youth make  
13 responsible and healthy life decisions.

14 (2) However, Pennsylvania's schools and other community  
15 groups also have a responsibility to help ensure that the  
16 youth have the knowledge and skills necessary to enable them  
17 to make informed life decisions, to protect their health, to  
18 prevent unintended pregnancy and to reduce the risk of  
19 sexually transmitted infections (STIs).

20 (3) Research has identified highly effective sex

1 education and HIV prevention programs that positively affect  
2 multiple behavioral outcomes and achieve positive health  
3 impacts, which include the delay of sexual activity, a  
4 reduction in the frequency of sex, the number of partners and  
5 the incidence of unprotected sex and an increase in use of  
6 condoms and contraception among sexually active participants.  
7 Long-term outcomes and impacts include lower STI and  
8 unintended pregnancy rates.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
12 as the Public School Code of 1949, is amended by adding a  
13 section to read:

14 Section 1512.2. Sexual Health Education.--(a) Each school  
15 shall provide students with sexual health education that meets  
16 the following criteria:

17 (1) Information presented is medically accurate and  
18 evidence-based, including, but not limited to:

19 (i) The effectiveness, safety, proper use, health benefits  
20 and side effects of all contraceptive methods approved by the  
21 Food and Drug Administration for preventing unintended  
22 pregnancy.

23 (ii) Information about sexually transmitted infections  
24 (STIs), including how STIs are and are not transmitted and the  
25 effectiveness of various risk-reducing strategies, including  
26 medication approved by the Food and Drug Administration such as  
27 preexposure prophylaxis (PrEP) medication and postexposure  
28 prophylaxis (PEP) medication.

29 (2) Instruction and materials:

30 (i) Are age-appropriate.

1 (ii) Include the following information:

2 (A) The anatomy and physiology of the human body,  
3 particularly as it relates to human reproductive organs and  
4 functions.

5 (B) The benefits of and reasons for delaying sexual  
6 activity.

7 (C) That not engaging in sexual activity is the only  
8 completely reliable way to prevent pregnancy and to reduce the  
9 risk of contracting STIs, including HIV.

10 (D) The effect of alcohol and drug use on decision making  
11 and partner communication.

12 (E) The importance of healthy relationships that are based  
13 on mutual respect and open communication.

14 (F) Relevant elementary education topics such as friendship,  
15 body parts, puberty and "good touch versus bad touch."

16 (G) Up-to-date information on available local resources for  
17 sexual and reproductive health care, including how to access the  
18 resources and the legal rights afforded to individuals accessing  
19 the resources and resources available for victims of sexual  
20 harassment or assault.

21 (H) Up-to-date contact information for the school's Title IX  
22 Coordinator.

23 (iii) Address healthy relationships and social pressures  
24 related to sexual behaviors.

25 (iv) Establish an affirmative consent standard that includes  
26 the following information:

27 (A) Both parties are responsible for obtaining affirmative  
28 consent before proceeding with any sexual activity, including  
29 between individuals who have previously engaged in sexual  
30 activity with one another.

1 (B) The absence of protest or resistance does not constitute  
2 affirmative consent.

3 (C) Past sexual relations and existing relationships are not  
4 indicative of affirmative consent.

5 (v) Emphasize the dangers and risks of sexting. The emphasis  
6 shall include the following information:

7 (A) Images are easily shared and can be made publicly  
8 available online.

9 (B) Once distributed online, images can be difficult to  
10 remove.

11 (C) Consequences of sexting may include charges of criminal  
12 activity, such as child pornography and disseminating of  
13 indecent material to minors.

14 (vi) Discuss sexual activity as it relates to risk for STIs  
15 and unintended pregnancy.

16 (vii) Encourage students to communicate with parents,  
17 guardians, health care providers and other youth-serving or  
18 trusted adults about sexuality without jeopardizing the  
19 student's safety and well-being.

20 (viii) Are inclusive and do not promote bias against  
21 students, regardless of race, religion, national origin, gender,  
22 gender identity, gender expression, sexual orientation, sexual  
23 expression or disability.

24 (3) Instructors are permitted to answer in good faith any  
25 questions initiated by students that are germane to the material  
26 of the course.

27 (b) (1) If the parent or guardian of a student under 18  
28 years of age provides a written request to the school that the  
29 student be excused from all or any part of sexual health  
30 education, the student shall be excused from all or any part of

1 the sexual health education required under subsection (a) and  
2 may not be subject to disciplinary action or academic penalty  
3 for not participating in sexual health education instruction.

4 (2) The following shall be made publicly available to  
5 students, parents and guardians through the school district's  
6 publicly accessible Internet website, if available, the school  
7 district's student manual or by other means of communication  
8 currently used by the school district:

9 (i) information about the school district's sexual health  
10 education instruction, including curriculum, information being  
11 provided to students and a list of written and audio-visual  
12 materials used for the education; and

13 (ii) a form for excusing a student under 18 years of age  
14 from all or any part of sexual health education.

15 (c) The Department of Education, in consultation with the  
16 Department of Health, shall develop and maintain a list of  
17 sexual health education curricula consistent with the  
18 requirements of this section. The list shall be updated at least  
19 annually and made available on the Department of Education's  
20 publicly accessible Internet website. The Department of  
21 Education shall promulgate rules necessary to provide oversight  
22 and to implement and administer the provisions of this section.

23 (d) Money appropriated by the General Assembly for sexual  
24 health education shall not contravene the provisions of this  
25 section and may not be used for health education programs that:

26 (1) withhold health-promoting or lifesaving information  
27 about sexuality related topics, including HIV;

28 (2) are medically inaccurate or have been scientifically  
29 shown to be ineffective;

30 (3) promote gender or racial stereotypes and biases;

1 (4) are insensitive or unresponsive to the needs of sexually  
2 active young people, survivors of sexual violence, youth of all  
3 physical, developmental and mental abilities or youth of all  
4 gender identities, gender expressions or sexual orientations; or  
5 (5) are inconsistent with the ethical imperatives of  
6 medicine and public health.

7 (e) (1) Local school districts shall approve and select  
8 curricula, textbooks and instructional materials from the list  
9 maintained by the Department of Education under subsection (c).

10 (2) The curricula selected must be consistent with the  
11 educational criteria required under subsection (a).

12 (f) Each school shall include comprehensive sexual education  
13 training within the professional education plan under section  
14 1205.1 and continuing professional education program under  
15 section 1205.2 for teachers certified to teach health and sexual  
16 education.

17 (g) Nothing in this section shall limit a student's ability  
18 or right to seek or have access to counseling services.  
19 Notwithstanding any other provision of this section, a parent or  
20 guardian may not opt out a student from counseling services.

21 (h) As used in this section, the following words and phrases  
22 shall have the meanings given to them in this subsection:

23 (1) "Affirmative consent" shall mean an affirmative, willing  
24 and conscious ongoing agreement between both parties of legal  
25 age to engage in sexual activity.

26 (2) "Age-appropriate" shall mean topics, messages and  
27 teaching methods suitable to particular ages or groups of  
28 children and adolescents, based on developing cognitive,  
29 emotional and behavioral capacity typical for the age or age  
30 group.

1 (3) "Comprehensive sexual education" shall mean instruction  
2 which:

3 (i) addresses the physical, mental, emotional and social  
4 aspects of human sexuality;

5 (ii) is designed to motivate and assist students in  
6 maintaining and improving their sexual health, preventing  
7 disease and reducing sexual health-related risk behaviors; and

8 (iii) enables and empowers students to develop and  
9 demonstrate sexual health-related knowledge, attitudes, skills  
10 and practices that are age-appropriate.

11 (4) "Gender expression" shall mean the expression of an  
12 individual's gender, which may be through behavior, clothing,  
13 haircut or voice and may not conform to socially defined  
14 behaviors and characteristics typically associated with being  
15 either masculine or feminine.

16 (5) "Gender identity" shall mean the internal sense of an  
17 individual regarding whether the individual is female, male, a  
18 combination of male and female, neither, or another gender  
19 altogether, regardless of the individual's designated sex at  
20 birth or gender expression.

21 (6) "Healthy relationship" shall mean an interpersonal  
22 relationship that is based on mutual respect and open  
23 communication and is free of physical abuse, sexual abuse,  
24 emotional abuse, coercion and violence.

25 (7) "Inclusive" shall mean sexual health education  
26 curriculum which ensures that students from historically  
27 marginalized communities are reflected in classroom materials  
28 and lessons.

29 (8) "Medically accurate" shall mean information supported by  
30 peer-reviewed research conducted in compliance with accepted

1 scientific methods and recognized as accurate by leading  
2 professional organizations and agencies with relevant  
3 experience, including the American Medical Association and the  
4 Department of Health.

5 (9) "School" shall mean any public school, including a  
6 charter school or cyber charter school, intermediate unit or  
7 area vocational-technical school operating within this  
8 Commonwealth.

9 (10) "Sexting" shall mean the procurement or distribution of  
10 sexually explicit photographs or messages via electronic means  
11 such as a cell phone.

12 (11) "Sexual health" shall mean a state of physical, mental  
13 and social well-being in relation to sexuality, requiring a  
14 positive and respectful approach to sexuality and sexual  
15 relationships that are free of coercion, discrimination and  
16 violence.

17 (12) "Sexual orientation" shall mean an individual's  
18 attraction, including physical and emotional attraction, to  
19 other people of the same gender, a different gender or all  
20 genders.

21 (13) "STIs" Shall mean an infectious disease that spreads  
22 from person to person during sexual contact.

23 Section 2. Section 2003-G(a)(2) of the act is amended to  
24 read:

25 Section 2003-G. Education program.

26 (a) General rule.--Institutions of higher education and  
27 private licensed schools shall establish a sexual violence  
28 awareness educational program. Institutions of higher education  
29 and private licensed schools may collaborate with a Statewide  
30 nonprofit organization, local rape crisis center or local sexual



1 assault program that arranges for the provision of services to  
2 sexual violence and rape victims in the development of a sexual  
3 violence awareness education program. Each education program  
4 shall provide the following:

5 \* \* \*

6 (2) A discussion of affirmative sexual consent,  
7 including [an explanation that the victim is not at fault]  
8 the information contained in the affirmative consent standard  
9 under section 1512.2(a) (2) (iv).

10 \* \* \*

11 Section 3. The addition of section 1512.2 of the act shall  
12 apply to school years beginning after the effective date of this  
13 section.

14 Section 4. This act shall take effect in 90 days.