AN ACT

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

The General Assembly finds and declares as follows:

(1) Discussions between youth and their parents or guardians is the most important way to help youth make the best decisions for their current and future health, safety and overall well-being.

(2) However, Pennsylvania's schools and other community groups also have a responsibility to help ensure that the youth have the knowledge and skills necessary to enable them to make informed life decisions, to protect their health and safety, to facilitate pleasurable and satisfying relationships while preventing unintended pregnancy, to reduce the risk of sexually transmitted infections (STIs) and
to reduce the acts of sexual violence and human trafficking. 
(3) Research has identified that the physical and 
emotional health of young people is related to their academic 
performance. Young people who are able to avoid unintended 
pregnancy, STIs, sexual abuse, interpersonal violence and 
harassment are more likely to be successful in school. 
Furthermore, school-based sexuality education can reduce 
bullying, increase understanding of gender and gender norms, 
improve knowledge and skills that support healthy 
relationships, build child sex abuse prevention skills and 
reduce dating and intimate partner violence. Sexuality 
education also contributes to facilitating an understanding 
of respectful, pleasurable and satisfying relationships 
throughout the lifespan.
The General Assembly of the Commonwealth of Pennsylvania 
hereby enacts as follows:
Section 1. The act of March 10, 1949 (P.L.30, No.14), known 
as the Public School Code of 1949, is amended by adding a 
section to read:
Section 1512.2. Sexuality Education.--(a) Each school shall 
provide students with sexuality education that meets the 
following criteria:
(1) Information presented is medically accurate and 
evidence-based, including, but not limited to:
   (i) The effectiveness, safety, proper use, health benefits 
and side effects of all contraceptive methods approved by the 
Food and Drug Administration for preventing unintended 
pregnancy.
   (ii) Information about sexually transmitted infections 
(STIs), including how STIs are transmitted and are not transmitted and the
effectiveness of various risk-reducing strategies, including medication approved by the Food and Drug Administration such as preexposure prophylaxis (PrEP) medication and postexposure prophylaxis (PEP) medication and information about Gardasil and the importance of getting vaccinated against human papillomavirus (HPV).

(iii) Information about body autonomy, establishing safe boundaries and recognizing signs of predatory grooming or coercive behaviors that may lead to victimization.

(iv) Information about sexual violence, human trafficking and protections and resources for victims.

(2) Instruction and materials:

(i) Are age-appropriate, as determined by sexuality health experts and recommended by the American Academy of Pediatrics.

(ii) Include the following information:

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

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

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

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

(E) The importance of healthy relationships and interpersonal interaction that are based on consent, mutual respect and open communication.

(F) Relevant elementary education topics such as friendship, body parts and puberty, including an explanation of menstruation.
and how menstrual products should be used and unwelcome, unwanted or nonconsensual touching.

(G) Up-to-date information on available local resources for sexual and reproductive health care and risk reduction and anti-victimization education, including how to access the resources and the legal rights afforded to individuals accessing the resources and resources available for victims of sexual harassment, assault or violence.

(H) Information about sexual violence and human trafficking incidence rates, resources for victims and implications for individuals convicted of sex-related crimes.

(I) Up-to-date contact information for the school's Title IX Coordinator and information on how to contact the coordinator and the school's policy regarding a student's privacy rights when disclosing information to a teacher or counselor.

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

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

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

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

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

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

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

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

(C) Consequences of sexting may include charges of criminal activity, such as possession or production of child pornography and disseminating of indecent material to minors.

(vi) Discuss sexual activity addressing the physical, mental, emotional and social aspects of human sexuality, including pleasure and overall well-being, as well as the risk for STIs and unintended pregnancy.

(vii) Support any student who would like to communicate with parents, guardians, health care providers and other youth-serving or trusted adults about sexuality without jeopardizing the student's safety and well-being.

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

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

(4) Information must be medically accurate, evidence-based and nonjudgmental.

(b) (1) If the parent or guardian of a student under eighteen (18) years of age, or a student who is eighteen (18) years of age or older, provides a written request to the school that the student be excused from all or any part of sexuality education, the student shall be excused from all or any part of the sexuality education required under subsection (a) and may not be subject to disciplinary action or academic penalty for
not participating in sexuality education instruction. The school, including a teacher or other employee at the school, may not provide an opt-out for the student absent the written request as specified in this section.

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

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

(ii) a form for excusing a student from all or any part of sexuality education.

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

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

(1) withhold health-promoting or lifesaving information about sexuality-related topics, including abortion, HIV, sexual violence or human trafficking;

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

(3) promote gender, racial or sexual stereotypes and biases;

(4) are insensitive or unresponsive to the needs of:

(i) sexually active young people;

(ii) teen parents;

(iii) youth who have been pregnant or have impregnated someone else;

(iv) survivors of sexual violence, abuse or human trafficking;

(v) youth of all physical, developmental and cognitive abilities; or

(iv) youth of all gender identities, gender expressions or sexual orientations.

(5) are inconsistent with the ethical imperatives of medicine and public health.

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

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

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

(g) Each school shall include a sexual violence awareness educational program. The school may collaborate with local rape crisis centers, sexual assault programs, sexual violence programs or human trafficking prevention programs in the development of the educational curricula.
(h) Nothing in this section shall limit a student's ability or right to seek or have access to counseling services. Notwithstanding any other provision of this section, a parent or guardian may not opt out a student from counseling services.

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

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

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

(3) "Comprehensive sexuality education" shall mean instruction which:

(i) addresses the physical, mental, emotional and sociocultural aspects of human sexuality;

(ii) is designed to motivate and assist students in maintaining and improving their sexual health, preventing disease, reducing sexual health-related risk behaviors and reducing the chance of becoming a victim of sexual violence or human trafficking;

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

(iv) is presented in a format accessible to students with disabilities and students who are English language learners.

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

(5) "Gender identity" shall mean the internal sense of an individual regarding whether the individual is a man, a woman, a boy, a girl, transgender, gender nonconforming or nonbinary, regardless of the individual's designated sex at birth or gender expression.

(6) "Healthy relationship" shall mean an interpersonal relationship that is based on mutual respect, pleasure, satisfaction, consent and open communication and is free of physical abuse, sexual abuse, emotional abuse, coercion, violence and exploitation.

(7) "Inclusive" shall mean sexuality education curriculum which ensures that students from historically marginalized communities are reflected in classroom materials and lessons and that materials are presented to all students in accessible formats meeting their disability or language needs.

(8) "Medically accurate" shall mean information 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, including the American Medical Association, the American Academy of Pediatrics and the Department of Health.

(9) "School" shall mean any public school, including a charter school or cyber charter school, intermediate unit, area vocational-technical school or approved private special education school operating within this Commonwealth.

(10) "Sexting" shall mean the procurement or distribution of sexually explicit photographs or messages via electronic means.
such as a cell phone, digital application or Internet platform.

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

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

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

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

Section 2003-G. Education program.

(a) General rule.--Institutions of higher education and private licensed schools shall establish a sexual violence awareness educational program. Institutions of higher education and private licensed schools may collaborate with a Statewide nonprofit organization, local rape crisis center or local sexual assault program that arranges for the provision of services to sexual violence and rape victims in the development of a sexual violence awareness education program. Each education program shall provide the following:

* * *

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

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

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