

## 1 SENATE BILL NO. 99

2 INTRODUCED BY C. SMITH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PARAMETERS FOR K-12 HUMAN SEXUALITY  
5 EDUCATION; ~~REQUIRING A SCHOOL DISTRICT TO OBTAIN WRITTEN CONSENT FROM A PARENT~~  
6 ~~OR GUARDIAN BEFORE INSTRUCTING STUDENTS IN HUMAN SEXUALITY EDUCATION; ALLOWING A~~  
7 PARENT OR GUARDIAN OF A CHILD TO REMOVE THE CHILD FROM HUMAN SEXUALITY  
8 INSTRUCTION; PROVIDING A DEFINITION OF HUMAN SEXUALITY INSTRUCTION; REQUIRING A  
9 SCHOOL DISTRICT TO INFORM A PARENT OR GUARDIAN WHEN EVENTS OR COURSES ON HUMAN  
10 SEXUALITY WILL BE HELD OR TAUGHT; PROHIBITING A SCHOOL DISTRICT FROM ALLOWING ANY  
11 ABORTION SERVICES PROVIDER TO OFFER MATERIALS OR INSTRUCTION AT A SCHOOL; AMENDING  
12 SECTION 20-5-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 **Section 1.** Section 20-5-103, MCA, is amended to read:

17 **"20-5-103. Compulsory attendance and excuses.** (1) Except as provided in subsection (2), any  
18 parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older  
19 prior to the first day of school in any school fiscal year shall cause the child to attend the school in which the  
20 child is enrolled for the school term and each school day in the term prescribed by the trustees of the district  
21 until the later of the following dates:

22 (a) the child's 16th birthday; or

23 (b) the date of completion of the work of the 8th grade.

24 (2) The provisions of subsection (1) do not apply in the following cases:

25 (a) The child has been excused under one of the conditions specified in 20-5-102.

26 (b) The child is absent because of illness, bereavement, or other reason prescribed by the policies of  
27 the trustees.

28 (c) The child has been suspended or expelled under the provisions of 20-5-202.

1           (d) The child is excused pursuant to [section 2]."

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3           NEW SECTION. Section 2. Excused absences from curriculum requirements -- notice --

4 **prohibited activities.** ~~(1) A school may not allow a child to attend a course of instruction, a class period, an~~  
 5 ~~assembly, an organized school function, or instruction of any type that involves human sexual education,~~  
 6 ~~human sexuality issues, or information regarding sexual acts unless that child's parent or guardian agrees in~~  
 7 ~~writing to allow the child to attend the instruction. Pursuant to 20-5-103, a child is excused from participating in~~  
 8 ~~the instruction unless the child fails to attend after the parent or guardian has agreed in writing to allow the~~  
 9 ~~child's attendance.~~

10           (1) A PARENT, GUARDIAN, OR OTHER PERSON WHO IS RESPONSIBLE FOR THE CARE OF A CHILD MAY REFUSE TO  
 11 ALLOW THE CHILD TO ATTEND OR WITHDRAW THE CHILD FROM A COURSE OF INSTRUCTION, A CLASS PERIOD, AN  
 12 ASSEMBLY, AN ORGANIZED SCHOOL FUNCTION, OR INSTRUCTION PROVIDED BY THE DISTRICT THROUGH ITS STAFF OR  
 13 GUESTS INVITED AT THE REQUEST OF THE DISTRICT REGARDING HUMAN SEXUALITY INSTRUCTION. THE WITHDRAWAL OR  
 14 REFUSAL TO ATTEND IS AN EXCUSED ABSENCE PURSUANT TO 20-5-103.

15           (2) Any school implementing or maintaining a curriculum, providing materials, or holding an event or  
 16 assembly ~~that involves human sexual education, human sexuality issues, or information regarding sexual acts~~  
 17 AT WHICH THE DISTRICT PROVIDES HUMAN SEXUALITY INSTRUCTION, whether introduced by school educators,  
 18 administrators, or officials or by guests invited at the request of the school, shall adopt a policy ensuring  
 19 parental or guardian notification no less than 48 hours prior to holding an event or assembly or introducing  
 20 materials for instructional use.

21           (3) A school district shall ANNUALLY notify the parent or guardian of each student SCHEDULED TO BE  
 22 enrolled in HUMAN SEXUALITY INSTRUCTION in the district or school IN ADVANCE OF THE INSTRUCTION of:

23           (a) the basic content of the district's or school's human sexuality instruction intended to be taught to  
 24 the student; and

25           (b) the parent's or guardian's right to ~~include~~ WITHDRAW the student ~~in~~ FROM the district's or school's  
 26 human sexuality instruction.

27           (4) A school district shall make all curriculum materials used in the district's or school's human  
 28 sexuality instruction available for public inspection prior to the use of the materials in actual instruction.

1 (5) A school district or its personnel or agents may not permit a person, entity, or any affiliate or agent  
2 of the person or entity to offer, sponsor, or furnish in any manner any course materials or instruction relating to  
3 human sexuality or sexually transmitted diseases to its students or personnel if the person, entity, or any  
4 affiliate or agent of the person or entity is a provider of abortion services.

5 (6) FOR PURPOSES OF THIS SECTION, "HUMAN SEXUALITY INSTRUCTION" MEANS TEACHING OR OTHERWISE  
6 PROVIDING INFORMATION ABOUT HUMAN SEXUALITY, INCLUDING INTIMATE RELATIONSHIPS, HUMAN SEXUAL ANATOMY,  
7 SEXUAL REPRODUCTION, SEXUALLY TRANSMITTED INFECTIONS, SEXUAL ACTS, SEXUAL ORIENTATION, GENDER IDENTITY,  
8 ABSTINENCE, CONTRACEPTION, OR REPRODUCTIVE RIGHTS AND RESPONSIBILITIES.

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10 NEW SECTION. Section 3. Codification instruction. [Section 2] is intended to be codified as an  
11 integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [section 2].

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13 NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are  
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
15 the part remains in effect in all valid applications that are severable from the invalid applications.

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17 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2021.

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