

1 HOUSE BILL NO. 566

2 INTRODUCED BY F. ANDERSON, S. KERNS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS FOR SCHOOLS TO PROVIDE
5 NOTICE TO PARENTS AND GUARDIANS PRIOR TO THE PROVISION OF HUMAN SEXUALITY
6 INSTRUCTION; REVISING THE DEFINITION OF "HUMAN SEXUALITY INSTRUCTION"; PROVIDING A
7 DEFINITION OF "IDENTITY INSTRUCTION"; REQUIRING PARENT OR GUARDIAN PERMISSION FOR A
8 CHILD TO RECEIVE IDENTITY INSTRUCTION; ESTABLISHING A REMEDY FOR KNOWING,
9 PURPOSEFUL, AND REPEATED VIOLATIONS; CLARIFYING AVAILABLE REMEDIES AND REQUIRING
10 TRUSTEES TO REPORT VIOLATIONS TO THE BOARD OF PUBLIC EDUCATION; AMENDING SECTION
11 20-7-120, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 20-7-120, MCA, is amended to read:

16 **"20-7-120. Excused absences from curriculum requirements Human sexuality instruction --**
17 **notice to parents -- excused absences -- prohibited activities.** (1) (a) A parent, guardian, or other person
18 who is responsible for the care of a child may refuse to allow the child to attend or withdraw the child from a
19 ~~course of instruction, a class period, an assembly, an organized school function, or instruction provided by the~~
20 ~~district through its staff or guests invited at the request of the district regarding~~ human sexuality instruction. The
21 withdrawal or refusal to attend is an excused absence pursuant to 20-5-103.

22 (b) A school may not allow a child to attend identity instruction unless that child's parent or
23 guardian agrees in writing to allow the child to attend. Pursuant to 20-5-103, a child is excused from
24 participating in the identity instruction unless the child fails to attend after the parent or guardian has agreed in
25 writing to allow the child's attendance.

26 ~~(2) Any school implementing or maintaining a curriculum, providing materials, or holding an event or~~
27 ~~assembly at which the district provides human sexuality instruction, whether introduced by school educators,~~

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1 ~~administrators, or officials or by guests invited at the request of the school, shall adopt a policy ensuring~~
2 ~~parental or guardian notification no less than 48 hours prior to holding an event or assembly or introducing~~
3 ~~materials for instructional use.~~

4 ~~(2) ANY SCHOOL IMPLEMENTING OR MAINTAINING A CURRICULUM, PROVIDING MATERIALS, OR HOLDING AN~~
5 ~~EVENT OR ASSEMBLY AT WHICH THE DISTRICT THAT PROVIDES HUMAN SEXUALITY INSTRUCTION or identity instruction;~~
6 ~~WHETHER INTRODUCED BY SCHOOL EDUCATORS, ADMINISTRATORS, OR OFFICIALS OR BY GUESTS INVITED AT THE~~
7 ~~REQUEST OF THE SCHOOL, SHALL ADOPT A POLICY ENSURING PARENTAL OR GUARDIAN NOTIFICATION NOT LESS THAN 2~~
8 ~~SCHOOL DAYS OR MORE THAN 10 SCHOOL DAYS PRIOR TO HOLDING AN EVENT OR ASSEMBLY OR FIRST INTRODUCING~~
9 ~~MATERIALS FOR INSTRUCTIONAL USE.~~

10 ~~(3)(2)(3)~~ A school district shall annually notify the parent or guardian of each student scheduled
11 to be enrolled in A COURSE THAT INCLUDES UNITS OR LESSONS ON human sexuality instruction or identity
12 instruction in the district or school in advance of the instruction of:

13 (a) the basic content of the district's or school's human sexuality instruction or identity instruction
14 intended to be taught to the student AND THE AVAILABILITY OF ALL CURRICULUM MATERIALS RELATED TO HUMAN
15 SEXUALITY instruction or identity instruction IN THE COURSE FOR REVIEW PURSUANT TO SUBSECTION (4); ~~and~~

16 (b) the parent's or guardian's right to withdraw the student from the district's or school's human
17 sexuality instruction; and

18 ~~(c) the requirement that the parent or guardian provide written permission to allow the child to~~
19 attend identity instruction.

20 ~~(4)(3)(4)~~ A school district shall make all curriculum materials used in the district's or school's
21 human sexuality instruction and identity instruction available for public inspection prior to the use of the
22 materials in actual instruction.

23 ~~(5)(4)(5)~~ A school district or its personnel or agents may not permit a person, entity, or any
24 affiliate or agent of the person or entity to offer, sponsor, or furnish in any manner any course materials or
25 instruction relating to human sexuality or sexually transmitted diseases to its students or personnel if the
26 person, entity, or any affiliate or agent of the person or entity is a provider of abortion services.

27 ~~(6)(5)(6)~~ (A) For the purposes of this section, the following terms apply:

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1 ~~(i) "human-Human~~ sexuality instruction" means teaching or otherwise providing information about
2 PUPIL INSTRUCTION THAT PRIMARILY FOCUSES ON TEACHING OR OTHERWISE PROVIDING INFORMATION TO STUDENTS
3 WITH A PRIMARY FOCUS- instruction in which the main learning objective is ON ANY OF THE FOLLOWING human
4 sexuality TOPICS: human sexuality, including intimate relationships, INTIMATE RELATIONSHIPS, human sexual
5 anatomy, sexual reproduction, sexually transmitted infections, sexual acts, sexual orientation, gender identity,
6 SEXUAL ORIENTATION, GENDER IDENTITY, abstinence, or contraception, or reproductive rights and responsibilities,
7 OR REPRODUCTIVE RIGHTS AND RESPONSIBILITIES in a science or health enhancement course in which, pursuant to
8 federal law, students are separated by sex or are allowed to be separated by sex for the instruction.

9 (ii) "Identity instruction" means instruction that contains a focus on sexual orientation, gender
10 identity, and gender expression.

11 (iii) "Instruction" means the conduct of organized learning activities, including the providing of
12 materials, for students in a public school, whether conducted by a teacher or other school staff or guests invited
13 at the request of the school or district and regardless of the duration, venue, or method of delivery.

14 (b) Neither "human sexuality instruction" or "identity instruction" includes or applies to a teacher's
15 brief response to an unexpected student-initiated inquiry related to the topics under each term if the response is
16 only to the extent necessary to resolve the inquiry or to maintain civility and decorum in the classroom.

17 (B) THE TERM DOES NOT INCLUDE CLASSROOM DISCUSSION THAT ORIGINATES FROM A PUPIL AN EMPLOYEE
18 RESPONDS TO AS NECESSARY TO RESOLVE A POINT OF DISCUSSION RAISED BY THE PUPIL.

19 (B) THE TERM DOES NOT INCLUDE THE INCIDENTAL MENTION OF THESE TOPICS IN WORKS OF ART OR
20 LITERATURE.

21 (C) THE TERM ALSO DOES NOT APPLY TO A TEACHER'S RESPONSE TO AN UNEXPECTED STUDENT-INITIATED
22 INQUIRY, TO THE EXTENT NEEDED, IN THE DISCRETION OF THE TEACHER, TO RESOLVE THE INQUIRY OR TO MAINTAIN
23 CIVILITY AND DECORUM AMONG STUDENTS INVOLVED IN A STUDENT-INITIATED DISCUSSION OF THESE TOPICS.

24 (6)(7) IN ADDITION TO THE NOTICE REQUIRED IN SUBSECTION (2) (3), A SCHOOL DISTRICT SHALL ADOPT A
25 POLICY TO ENSURE AN ANNUAL NOTICE IS AVAILABLE, INCLUDING AN ELECTRONIC LINK TO MATERIALS OR SUMMARIES OF
26 MATERIALS, CONSISTENT WITH COPYRIGHT LAWS, FOR:

27 (A) THE DISTRICT'S HEALTH ENHANCEMENT CURRICULUM, INCLUDING LESSON PLANS OR OTHER MATERIALS

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1 USED FOR HUMAN SEXUALITY INSTRUCTION ~~or identity instruction~~; AND

2 (B) A CALENDAR OF EVENTS OR ASSEMBLIES AT WHICH HUMAN SEXUALITY INSTRUCTION ~~or identity~~
3 ~~instruction~~ WILL BE PROVIDED.

4 ~~(7)(8) THE SCHOOL DISTRICT SHALL PREPARE A SUMMARY OF THE DISTRICT'S HEALTH ENHANCEMENT~~
5 ~~CURRICULUM. THE DISTRICT SHALL REVIEW AND PREPARE ANY UPDATES TO THE SUMMARY EACH YEAR. THE SUMMARY IS~~
6 ~~PUBLIC INFORMATION AND IS SUBJECT TO THE PUBLIC'S RIGHT TO ACCESS THE INFORMATION PURSUANT TO 2-6-1003.~~

7 ~~(8)(9) A PERSON WHO KNOWINGLY, PURPOSELY, AND REPEATEDLY VIOLATES THIS SECTION MAY BE SUBJECT~~
8 ~~TO DISCIPLINARY ACTION AGAINST THE PERSON'S TEACHER OR SPECIALIST CERTIFICATE BY THE BOARD OF PUBLIC~~
9 ~~EDUCATION.~~

10 ~~(9) (a) Remedies for the violation of this section include but are not limited to those under 20-4-~~
11 ~~110.~~

12 ~~(b) If, after investigating a violation under this section, the trustees of a district find that an~~
13 ~~individual has knowingly or repeatedly violated this section, the trustees shall report the findings to the board of~~
14 ~~public education pursuant to 20-4-110.~~

15 ~~(c) Nothing in this subsection (9) precludes an individual from filing a suit asserting a violation of~~
16 ~~this section or any other claim otherwise allowed by law and nothing in this subsection (9) requires exhaustion~~
17 ~~of the other remedies prior to filing a suit."~~

18

19 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2023.

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- END -