

SENATE BILL NO. 315

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING HEALTH EDUCATION; PROVIDING CRITERIA FOR COMPREHENSIVE PERSONAL HEALTH AND SAFETY EDUCATION AND COMPREHENSIVE SEXUAL HEALTH EDUCATION; AUTHORIZING SCHOOL DISTRICTS TO PROVIDE CONSENT EDUCATION; AUTHORIZING STUDENTS TO OPT OUT OF COMPREHENSIVE PERSONAL HEALTH AND SAFETY EDUCATION AND COMPREHENSIVE SEXUAL HEALTH EDUCATION; AUTHORIZING INDIVIDUALS TO REVIEW COMPREHENSIVE PERSONAL HEALTH AND SAFETY EDUCATION AND COMPREHENSIVE SEXUAL HEALTH EDUCATION CURRICULA; PROVIDING DEFINITIONS; AMENDING SECTION 20-5-103, MCA; REPEALING SECTION 20-7-120, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 7], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Adapt" means to modify an evidence-based or evidence-informed program model for use with a particular demographic, ethnic, linguistic, or cultural group.

(2) "Age and developmentally appropriate" means suitable to particular ages or age groups of children and adolescents, based on the developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(3) "Characteristics of effective programs" means development, content, and implementation of programs that:

(a) have been shown to be effective in increasing knowledge, clarifying values and attitudes, increasing skills, and impacting behavior;

1 (b) are widely recognized by leading medical and public health agencies to be effective in
2 changing sexual behaviors that lead to sexually transmitted infections, including HIV, unintended pregnancy,
3 interpersonal violence, and sexual violence among young people; and

4 (c) are taught by professionals who provide a safe learning space, free from shame, stigma, and
5 ideology, and are trained in trauma-informed teaching methodologies.

6 (4) "Comprehensive personal health and safety education" means age and developmentally
7 appropriate education that aligns with the national sex education standards, including information on consent
8 and healthy relationships, anatomy and physiology, puberty and adolescent sexual development, gender
9 identity and expression, sexual orientation and identity, sexual health, and interpersonal violence.

10 (5) "Comprehensive sexual health education" has the same meaning as "comprehensive personal
11 health and safety education" as defined in this section.

12 (6) "Consent" means an affirmative, knowing, conscious, ongoing, and voluntary agreement to
13 engage in interpersonal, physical, or sexual activity. The agreement can be revoked at any point, including
14 during the course of interpersonal, physical, or sexual activity.

15 (7) "Culturally appropriate" means affirming culturally diverse individuals, families, and
16 communities in an inclusive, respectful, and effective manner, including using materials and instruction that are
17 inclusive of race, ethnicity, language, cultural background, immigration status, religion, disability, gender,
18 gender identity, gender expression, sexual orientation, and sexual behavior.

19 (8) "Evidence-based program" means a program for which systematic, empirical research or
20 evaluation has provided evidence of effectiveness.

21 (9) "Evidence-informed program" means a program that uses the best available research and
22 practice knowledge to guide program design and implementation.

23 (10) "Gender stereotype" means a generalized view or preconception about what attributes,
24 characteristics, or roles are or ought to be taught, possessed by, or performed by people based on their gender
25 identity.

26 (11) "Healthy relationships" means relationships between individuals that consist of mutual respect,
27 trust, honesty, support, fairness, equity, separate identities, physical and emotional safety, and good
28 communication.

1 (12) "HIV" has the same meaning as provided in 50-16-1003.

2 (13) "Identity" means a person's understanding of how the person identifies their own sexual
3 orientation, gender, gender identity, or gender expression without stereotypes, shame, or stigma.

4 (14) "Inclusive" means inclusion of marginalized communities that include but are not limited to
5 people of color, immigrants, people of diverse sexual orientations, gender identities, and gender expressions,
6 people who are intersex, people with disabilities, people who have experienced interpersonal or sexual
7 violence, and others.

8 (15) "Interpersonal violence" means violent behavior used to establish power and control over
9 another person.

10 (16) "Medically accurate" means verified or supported by the weight of research conducted in
11 compliance with accepted scientific methods and published in peer-reviewed journals, if applicable, or
12 comprising information recognized as accurate and objective.

13 (17) "Pre-exposure prophylaxis" or "PrEP" means medications approved by the United States food
14 and drug administration and recommended by the United States public health service or the U.S. department of
15 health and human services, centers for disease control and prevention, for HIV pre-exposure prophylaxis and
16 related pre-exposure prophylaxis services, including but not limited to HIV and sexually transmitted infection
17 screening, treatment for sexually transmitted infections, medical monitoring, laboratory services, and sexual
18 health counseling, to reduce the likelihood of HIV infection for individuals who are not living with HIV but are
19 vulnerable to HIV exposure.

20 (18) "Postexposure prophylaxis" or "PeP" means the medications that are recommended by the
21 U.S. department of health and human services, centers for disease control and prevention, and other public
22 health authorities to help prevent HIV infection after potential occupational or nonoccupational HIV exposure.

23 (19) "Sexual violence" means discrimination, bullying, harassment, sexual harassment, sexual
24 abuse, sexual assault, intimate partner violence, incest, rape, and human trafficking.

25 (20) "Trauma informed" means having addressed vital information about sexuality and well-being
26 that takes into consideration how adverse life experiences may potentially influence a person's well-being and
27 decisionmaking.

28

1 **NEW SECTION. Section 2. Comprehensive personal health and safety education --**

2 **comprehensive sexual health education -- requirements.** (1) A school district may provide age and
3 developmentally appropriate comprehensive personal health and safety education and comprehensive sexual
4 health education for students in 4th through 12th grade.

5 (2) A class that teaches comprehensive personal health and safety education or comprehensive
6 sexual health education is encouraged to use course material and instruction that:

7 (a) is age and developmentally appropriate, medically accurate, complete, culturally appropriate,
8 inclusive, and trauma informed;

9 (b) replicates or substantially incorporates elements of evidence-based programs, evidence-
10 informed programs, or characteristics of effective programs;

11 (c) is inclusive and sensitive to the needs of students based on their status as pregnant or
12 parenting, living with sexually transmitted infections including HIV, sexually active, asexual, or intersex, or
13 based on their gender, gender identity, gender expression, sexual orientation, sexual behavior, or disability;

14 (d) is accessible to students with disabilities, which may include the use of a modified curriculum or
15 materials, instruction in an alternative format, assistive technology, or auxiliary aids;

16 (e) helps students develop self-advocacy skills for effective communication with parents or
17 guardians, health and social service professionals, other trusted adults, and peers about sexual health and
18 relationships;

19 (f) provides information to help students develop skills for developing health relationships and
20 preventing and dealing with interpersonal violence and sexual violence;

21 (g) provides information to help students safely use the internet, including social media, dating or
22 relationship websites and applications, and texting;

23 (h) provides information about local resources where students can obtain additional information
24 and confidential services related to parenting, bullying, interpersonal violence, sexual violence, suicide
25 prevention, sexual and reproductive health, mental health, substance abuse, sexual orientation, gender identity,
26 gender expression, and other related issues; and

27 (i) includes information about state laws related to minor confidentiality and minor consent,
28 including exceptions, consent education, mandated reporting of child abuse and neglect, the safe

1 relinquishment of a newborn child, minors' access to confidential health care and related services, school
 2 policies addressing the prevention of and response to interpersonal and sexual violence, school breastfeeding
 3 accommodations, and school policies addressing the prevention of and response to sexual harassment.

4 (3) A school may use guest lecturers or resource persons to provide instruction or presentations in
 5 accordance with [sections 1 through 7]. Instruction and materials for comprehensive personal health and safety
 6 education or comprehensive sexual health education provided by guest lecturers and resource persons may
 7 not conflict with the provisions of [sections 1 through 7].

8
 9 **NEW SECTION. Section 3. Consent education -- requirements.** (1) A school district may provide
 10 age and developmentally appropriate consent education for students in 4th through 12th grade.

11 (2) In 4th through 12th grades, instruction and materials are encouraged to include age and
 12 developmentally appropriate instruction on consent and how to give and receive consent.

13 (3) In 4th through 12th grades, topics of instruction and discussion may include but are not limited
 14 to:

- 15 (a) setting appropriate physical boundaries with others;
- 16 (b) respecting physical boundaries of others;
- 17 (c) the right to refuse to engage in behaviors or activities that are uncomfortable or unsafe;
- 18 (d) dealing with unwanted physical contact; and
- 19 (e) helping a peer deal with unwanted physical contact.

20 (4) In 6th through 12th grades, topics of instruction and discussion may include but are not limited
 21 to topics that address that:

- 22 (a) consent is a freely given agreement to sexual activity;
- 23 (b) consent to one particular sexual activity does not constitute consent to other types of sexual
 24 activity;
- 25 (c) a person's lack of verbal or physical resistance or a person's submission resulting from the use
 26 or threat of force does not constitute consent;
- 27 (d) a person's manner of dress does not constitute consent;
- 28 (e) a person's consent to past sexual activity does not constitute consent to future sexual activity;

1 (f) a person's consent to engage in sexual activity with one person does not constitute consent to
2 engage in sexual activity with another person;

3 (g) a person can withdraw consent at any time;

4 (h) the legal age of consent is set in statute and what the legal age of consent is; and

5 (i) a person cannot consent to sexual activity if that person is unable to understand the nature of
6 the activity or the person is unable to give knowing consent due to certain circumstances that may include but
7 are not limited to being because the person is:

8 (i) incapacitated due to the use or influence of alcohol or drugs;

9 (ii) asleep or unconscious;

10 (iii) a minor; or

11 (iv) incapacitated due to a mental disability.

12

13 **NEW SECTION. Section 4. Comprehensive health education -- prohibitions on materials and**

14 **instruction.** A class that teaches comprehensive personal health and safety education or comprehensive
15 sexual health education is discouraged from using course material and instruction that:

16 (1) reflects or promotes bias against any person on the basis of the person's race, ethnicity,
17 language, cultural background, citizenship, religion, HIV status, family structure, disability, gender, gender
18 identity, gender expression, sexual orientation, or sexual behavior;

19 (2) employs gender stereotypes;

20 (3) is insensitive or unresponsive to the needs of survivors of interpersonal violence and sexual
21 violence;

22 (4) proselytizes any religious doctrine;

23 (5) deliberately withholds health-promoting or life-saving information about culturally appropriate
24 health care and services, including reproductive health services, hormone therapy, and treatments and options
25 approved by the United States food and drug administration, including but not limited to PrEP and PeP; or

26 (6) is inconsistent with the ethical imperatives of medicine and public health.

27

28 **NEW SECTION. Section 5. Student participation -- opt-out option.** (1) A student may not be

1 required to take or participate in any class or course in comprehensive personal health and safety education or
2 comprehensive sexual health education.

3 (2) A student's parent or guardian may opt the student out of comprehensive personal health and
4 safety education or comprehensive sexual health education by submitting a request in writing.

5 (3) A school district may not impose disciplinary action, academic penalty, suspension or
6 expulsion, or any other sanction against a student who refuses to take or participate in a comprehensive
7 personal health and safety education or comprehensive sexual health education class, course, or program.

8 (4) A school district may not require active parental consent for comprehensive personal health
9 and safety education or comprehensive sexual health education.

10

11 **NEW SECTION. Section 6. Curriculum review for parents and guardians.** (1) An individual,
12 including a parent or guardian of a student, must be afforded an opportunity to review the scope and sequence
13 of instructional materials to be used in a class or course under [sections 1 through 7], either electronically or in
14 person.

15 (2) A school district shall annually post on its website, if it has one, any curriculum that is used to
16 provide comprehensive personal health and safety education and comprehensive sexual health education, and
17 the name and contact information, including an email address, of school personnel who can respond to
18 inquiries about instruction and materials.

19

20 **NEW SECTION. Section 7. Reporting requirements.** (1) The superintendent shall, through existing
21 reporting mechanisms if available, direct each school district to identify the following:

22 (a) whether instruction on comprehensive personal health and safety education and
23 comprehensive sexual health education is provided;

24 (b) whether the instruction is provided by a teacher in the school, a consultant, or a community
25 group or organization, including the name of the outside consultant, community group, or organization;

26 (c) the number of students receiving instruction;

27 (d) the number of students excused from instruction; and

28 (e) the duration of instruction.

1 (2) The superintendent shall present the reports collected under this section to the legislature in
2 accordance with 5-11-210.

3

4 **Section 8.** Section 20-5-103, MCA, is amended to read:

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

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

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

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

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

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

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

17 (d) The child is excused pursuant to ~~20-7-120~~ section 5."

18

19 **NEW SECTION. Section 9. Repealer.** The following section of the Montana Code Annotated is
20 repealed:

21 20-7-120. Excused absences from curriculum requirements -- notice -- prohibited activities.

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23 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 7] are intended to be
24 codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [sections 1
25 through 7].

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27 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2023.

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