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ENGROSSED SUBSTITUTE SENATE BILL 5395

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State of Washington

66th Legislature

2019 Regular Session

**By** Senate Early Learning & K-12 Education (originally sponsored by Senators Wilson, C., Randall, Keiser, Saldaña, Takko, Mullet, Wellman, Das, Nguyen, Billig, Pedersen, Rolfes, Darneille, Dhingra, Hasegawa, Hunt, and Kuderer; by request of Superintendent of Public Instruction)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to requiring comprehensive sexual health  
2 education that is consistent with the Washington state health and  
3 physical education K-12 learning standards and that requires  
4 affirmative consent curriculum; and amending RCW 28A.300.475.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 28A.300.475 and 2007 c 265 s 2 are each amended to  
7 read as follows:

8 (1) (a) By September 1, ~~((2008))~~ 2021, every public school ~~((that~~  
9 ~~offers))~~ must provide comprehensive sexual health education ~~((must~~  
10 ~~assure that sexual health education))~~ as an integral part of the  
11 curriculum that is evidence-informed, medically and scientifically  
12 accurate, age-appropriate, ~~((appropriate))~~ and inclusive for all  
13 students regardless of ~~((gender, race, disability status, or sexual~~  
14 ~~orientation,))~~ their protected class status under chapter 49.60 RCW  
15 and includes information ~~((about))~~ and skills-based instruction that:

16 (i) Includes both abstinence and other methods of preventing  
17 unintended pregnancy and sexually transmitted diseases;

18 (ii) Encourages healthy relationships that are based on mutual  
19 respect and affection and are free from violence, coercion, and  
20 intimidation;

1 (iii) Teaches how to identify and respond to attitudes and  
2 behaviors that contribute to sexual violence; and

3 (iv) Emphasizes the importance of affirmative consent, meaning  
4 conscious and voluntary agreement to engage in sexual activity, as a  
5 requirement before sexual activity.

6 (b) In addition:

7 (i) All sexual health information, instruction, and materials  
8 must be medically and scientifically accurate((~~-~~));

9 (ii) Abstinence may not be taught to the exclusion of other  
10 materials and instruction on contraceptives and disease  
11 prevention((~~-~~));

12 (iii) Instruction and materials must be inclusive and use  
13 language and strategies that recognize all members of a protected  
14 class under chapter 49.60 RCW;

15 (iv) A public school may choose to use separate, outside speakers  
16 or prepared curriculum to teach different content areas or units  
17 within the comprehensive sexual health education program as long as  
18 all speakers, curriculum, and materials used are in compliance with  
19 this section((~~-~~)); and

20 (v) Comprehensive sexual health education must be consistent with  
21 the Washington state health and physical education K-12 learning  
22 standards and the January 2005 guidelines for sexual health  
23 information and disease prevention developed by the department of  
24 health and the office of the superintendent of public instruction.

25 (2) By September 1, 2020, comprehensive sexual health education  
26 must be phased in beginning with students in grades six through  
27 twelve. By September 1, 2021, comprehensive sexual health education  
28 must be phased in for students in grades kindergarten through five.  
29 Full statewide implementation for all public schools and all grade  
30 levels must be achieved by September 1, 2021.

31 (3) As used in ((chapter 265, Laws of 2007,)) this section:

32 (a) "Evidence-informed" means a program that is informed by  
33 scientific research and effective practice and replicates evidence-  
34 based programs or substantially incorporates elements of effective  
35 programs.

36 (b) "Medically and scientifically accurate" means information  
37 that is verified or supported by research in compliance with  
38 scientific methods, is published in ((peer-review)) peer-reviewed  
39 journals, where appropriate, and is recognized as accurate and  
40 objective by professional organizations and agencies with expertise

1 in the field of sexual health including but not limited to the  
2 American college of obstetricians and gynecologists, the (~~Washington~~  
3 ~~state~~) department of health, and the federal centers for disease  
4 control and prevention.

5 ~~((3))~~ (4) The superintendent of public instruction (~~and the~~  
6 ~~department of health~~) shall make the Washington state health and  
7 physical education K-12 learning standards and the January 2005  
8 guidelines for sexual health information and disease prevention  
9 available to public schools (~~(districts)~~), teachers, and guest  
10 speakers on (~~their~~) the office of the superintendent of public  
11 instruction's web sites. Within available resources, the  
12 superintendent of public instruction (~~and the department of health~~)  
13 shall make any related information, model policies, curricula, or  
14 other resources available as well.

15 ~~((4))~~ (5)(a) The superintendent of public instruction, in  
16 consultation with the department of health, shall develop a list of  
17 comprehensive sexual health education curricula that are consistent  
18 with the 2005 guidelines for sexual health information and disease  
19 prevention, the Washington state health and physical education K-12  
20 learning standards, and this section. This list shall (~~be intended~~  
21 ~~to~~) serve as a resource for school(~~s~~) districts, teachers, or any  
22 other organization or community group, and shall be updated (~~no less~~  
23 ~~frequently than annually~~) at least biannually and made available on  
24 the web site(~~s~~) of the office of the superintendent of public  
25 instruction (~~and the department of health~~).

26 ~~((5))~~ (b) By September 1, 2019, the superintendent of public  
27 instruction must develop comprehensive sexual health education  
28 instructional materials review tools and make them available on the  
29 office of the superintendent of public instruction's web site.

30 (6) Public schools (~~that offer sexual health education are~~  
31 ~~encouraged to review their sexual health curricula and~~) must choose  
32 a curriculum from the list developed under subsection (~~(4))~~ (5) of  
33 this section (~~. Any public school that offers sexual health education~~  
34 ~~may~~) or use the review tools developed under subsection (5)(b) of  
35 this section to identify, choose, or develop any other curriculum (~~(~~  
36 ~~if the curriculum chosen or developed)~~) that complies with the  
37 requirements of this section. Public schools must use the review  
38 tools when choosing curricula other than those from the list  
39 developed under subsection (5) of this section.

1        ~~((6))~~ (7) ~~((Any))~~ Parents or legal guardians who ~~((wishes))~~  
2 wish to have ~~((his or her child))~~ their children excused from any  
3 planned instruction in comprehensive sexual health education may do  
4 so upon filing a written request with the school district board of  
5 directors or its designee, or the principal of the school ~~((his or~~  
6 ~~her))~~ their child attends, or the principal's designee. School  
7 districts must grant a parent's or legal guardian's written request  
8 to have his or her child excused from this instruction. In addition,  
9 ~~((any))~~ parents or legal guardians may review the comprehensive  
10 sexual health education curriculum offered in ~~((his or her))~~ their  
11 child's school by filing a written request with the school district  
12 board of directors, the principal of the school ~~((his or her))~~ their  
13 child attends, or the principal's designee.

14        ~~((7))~~ (8) The office of the superintendent of public  
15 instruction ~~((shall, through its Washington state school health~~  
16 ~~profiles survey or other existing reporting mechanism, ask))~~ must  
17 require public school~~((s))~~ districts to ~~((identify any))~~ report, on  
18 an annual basis, curricula used to provide comprehensive sexual  
19 health education~~((, and shall))~~. The superintendent of public  
20 instruction must report the results of this inquiry to the education  
21 committees of the legislature ~~((on a biennial basis, beginning with~~  
22 ~~the 2008-09 school year~~ by November 1, 2021, and biennially  
23 thereafter.

24        ~~((8) The requirement)~~ (9) RCW 28A.600.480(2), which encourages  
25 school employees, students, and volunteers to report harassment,  
26 intimidation, or bullying ~~((under RCW 28A.600.480(2))~~, applies to  
27 this section.

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