

# HOUSE BILL REPORT

## HB 2184

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**As Reported by House Committee On:**  
Education

**Title:** An act relating to requiring comprehensive sexual health education, which includes affirmative consent curriculum, in all public schools by the 2022-23 school year in accordance with the recommendations of the sexual health education work group established in section 503(3) of the 2019-2021 omnibus operating appropriations act.

**Brief Description:** Requiring comprehensive sexual health education with an affirmative consent curriculum in all public schools by the 2022-23 school year in accordance with the recommendations of the sexual health education work group.

**Sponsors:** Representatives Stonier and Santos.

**Brief History:**

**Committee Activity:**

Education: 1/16/20, 2/3/20 [DPS].

**Brief Summary of Substitute Bill**

- Requires every public school to provide comprehensive sexual health education (CSHE) to each student by the 2022-23 school year.
- Defines "comprehensive sexual health education" and establishes differentiated instructional requirements for students in kindergarten through grade 3 and students in grades 4 through 12.
- Establishes requirements for frequency of instruction through four different grade-level groupings.
- Establishes new reporting duties for public schools and the Office of the Superintendent of Public Instruction (OSPI).
- Establishes new technical support duties for the OSPI.
- Requires public schools that provide CSHE to ensure that the curriculum, instruction, and materials include information about affirmative consent and bystander training.

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### HOUSE COMMITTEE ON EDUCATION

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist, Callan, Ortiz-Self, Stonier, Thai and Valdez.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Caldier, Corry, Rude and Ybarra.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Harris.

**Staff:** Ethan Moreno (786-7386).

### **Background:**

#### Health and Physical Education Standards.

In 2016 the Office of the Superintendent of Public Instruction (OSPI) adopted new Health and Physical Education Standards (Health and P.E. Learning Standards) for kindergarten through grade 12. The Health and P.E. Learning Standards are part of the broader state learning standards that the OSPI adopts for all public school students. The Health and P.E. Learning Standards took effect in the 2017-18 school year.

School districts do not ratify or formally adopt the state learning standards, and with certain exceptions, curriculum choices are locally determined. Districts, however, are obligated by law to teach three health-related courses: human immunodeficiency virus (HIV) prevention; cardiopulmonary resuscitation instruction; and the use of external defibrillators.

#### Sexual Health Education—General Information.

Public schools may provide sexual health education to their students, but are not required to do so. Public schools that offer sexual health education must assure that the education is medically and scientifically accurate, age-appropriate, and appropriate for students regardless of gender, race, disability status, or sexual orientation. Sexual health education must include information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases.

Sexual health education provided to students must be consistent with the January 2005 guidelines for sexual health information and disease prevention (Sexual Health Information Guidelines) developed by the Department of Health (DOH) and the OSPI. A school may choose to use separate, outside speakers or prepared curriculum to teach different content areas or units within the comprehensive sexual health program if all speakers, curriculum, and materials meet specified statutory requirements.

#### Curriculum Review and School Selection.

The Superintendent of Public Instruction (SPI), in consultation with the DOH, is required to develop a list of sexual health education curricula that are consistent with the Sexual Health Information Guidelines. This list is intended to serve as a resource for schools, teachers, or any other organization or community group, and must be updated no less frequently than annually and made available on the websites of the OSPI and the DOH.

Public schools that offer sexual health education are encouraged to review their sexual health curricula and choose a curriculum from the list developed by the OSPI. The list does not represent the exclusive options, however, as any public school that offers sexual health education may identify, choose, or develop any other curriculum, provided the curriculum chosen or developed complies with applicable statutory requirements.

#### Provisions for Excusing Students from Sexual Health Education and Parental Review.

Any parent or legal guardian who wishes to have his or her child excused from any planned instruction in sexual health education may do so upon filing a written request with the school district board of directors, the principal of the school the child attends, or a designee of those school officials. Additionally, any parent or legal guardian may review the sexual health education curriculum offered in their child's school by filing a written request with the school district board of directors, the principal of the child's school, or the principal's designee.

#### Other Duties of Agencies Relating to Sexual Health Education.

The SPI and the DOH are required to make the Sexual Health Information Guidelines available to school districts, teachers, and guest speakers on their websites. Within available resources, the SPI and the DOH must make any related information, model policies, curricula, or other resources available as well.

Regarding reporting requirements, the OSPI, through its Washington State School Health Profiles Survey or other existing reporting mechanism, is required to ask public schools to identify any curricula used to provide sexual health education and to report the results of these inquiries to the Legislature on a biennial basis.

#### Comprehensive Sexual Health Education Work Group.

Legislation adopted in 2019 directed the OSPI to convene a work group to:

- review provisions related to sexual health education in the Health and P.E. Learning Standards;
- review existing sexual health education curricula in use in the state for the purpose of identifying gaps or potential inconsistencies with the health and physical education learning standards;
- consider revisions to sexual health education provisions in statute; and
- consider the merits and challenges associated with requiring all public schools to offer comprehensive sexual health education to students in all grades by September 1, 2022.

The OSPI issued a report for the Comprehensive Sexual Health Education Work Group, including findings and recommendations, in December 2019.

#### Social-Emotional Learning.

Social-emotional learning (SEL) is the process of developing and applying the skills, attitudes, behavior, and knowledge that afford individuals the opportunity to identify and regulate emotions and behaviors, form meaningful relationships, and make responsible decisions.

Legislation adopted in 2019 directed the OSPI to adopt SEL standards and benchmarks, and revise the SEL standards and benchmarks as appropriate. The 2019 legislation also directed

the OSPI to align the programs it oversees with the standards for SEL and integrate the standards where appropriate.

#### Protected Class Status.

Antidiscrimination provisions in Washington law establish the right to be free from discrimination because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

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### **Summary of Substitute Bill:**

#### Provision of Comprehensive Sexual Health Education to All Students.

Every public school must provide comprehensive sexual health education (CSHE) to each student by the 2022-23 school year. The requirement to provide CSHE includes a multi-year phase-in process:

- beginning in the 2021-22 school year, CSHE must be provided to all public school students in grades 6 through 12; and
- beginning in the 2022-23 school year, CSHE must be provided to all public school students.

The provided CSHE is specifically required to be consistent with the Health and P.E. Learning Standards and the January 2005 Sexual Health Information Guidelines developed by the DOH and the OSPI.

Public schools retain the authority to choose a curriculum from the list developed by the OSPI or to identify, choose, or develop a different curriculum if it complies with applicable requirements.

#### Definition of Comprehensive Sexual Health Education and Requirements for Grades 4 Through 12.

"Comprehensive sexual health education" is defined as recurring instruction in human development and reproduction that is age-appropriate and inclusive of all students, regardless of their protected class status under specific laws. All information, instruction, and materials used in providing CSHE must be medically and scientifically accurate.

The definition of CSHE further specifies that CSHE instruction for students in grades 4 through 12 must include information about:

- the physiological, psychological, and sociological developmental processes experienced by an individual;
- the development of intrapersonal and interpersonal skills to communicate, respectfully and effectively, to reduce health risks and choose healthy behaviors;
- health care and prevention resources;
- the development of meaningful relationships and avoidance of exploitative relationships;

- understanding the influences of family, peers, community and the media throughout life on healthy sexual relationships; and
- affirmative consent and recognizing and responding safely and effectively when violence, or a risk of violence, is or may be present with strategies that include bystander training.

A statement of legislative intent is included specifying that nothing in the CSHE requirements expresses legislative intent to require that CSHE, or components of CSHE, be integrated into curriculum, materials, or instruction in unrelated subject matters or courses.

### Frequency of Instruction and Requirements for Kindergarten Through Grade 3.

The provision of CSHE in public schools must be provided no less than:

- once to students in kindergarten through grade 3. The CSHE provided to these students must be instruction in SEL that is consistent with the SEL standards and benchmarks adopted by the OSPI;
- once to students in grades 4 through 5;
- twice to students in grades 6 through 8; and
- twice to students in grades 9 through 12.

The curriculum, instruction, and materials used to provide the CSHE must be medically and scientifically accurate, age-appropriate, and inclusive of all students, regardless of their protected class status, and must include information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases.

### Duties Related to the Phasing-In of Comprehensive Sexual Health Education.

Duties related to the broad phasing-in of classroom instruction for CSHE begin one year earlier. Beginning in the 2020-21 school year, any public school that provides CSHE must ensure that the curriculum, instruction, and materials include information about affirmative consent, a defined term, and bystander training.

School district boards of directors for districts with one or more schools that are not providing CSHE in the 2019-20 school year, the 2020-21 school year, or both, must prepare for incorporating information about affirmative consent and bystander training into its CSHE curriculum, instruction, and materials. In meeting this requirement, the school district boards of directors must also, no later than the 2020-21 school year, consult with parents and guardians of students, local communities, and the Washington State School Directors' Association.

### New and Modified Implementation Duties for the Office of the Superintendent of Public Instruction.

The OSPI is directed to provide technical assistance to schools and school districts that is consistent with the authority of schools and districts to review, select, and develop CHSE curricula.

Subject to the availability of specific legislative funding, the OSPI is directed to periodically review and revise, as necessary, training materials for classroom teachers and principals to implement CSHE requirements. The training materials may be in an electronic format, and the initial review must be completed by March 1, 2021.

Additionally, existing provisions directing the SPI and the DOH to make any related information, model policies, curricula, or other resources available are modified to specify that the information, policies, curricula and other resources must be, to the extent permitted by applicable federal law, posted on the websites of the OSPI and the DOH.

Provisions for Excusing Students from Sexual Health Education and Parental Review.

Provisions governing parental review of the CSHE curriculum and the excusing of students from the CSHE are generally unchanged, except that the person or entity to whom a request to excuse a student from instruction is directed is expressly directed to grant the request.

List of Curricula Reviewed for Consistency with Requirements by the Office of the Superintendent of Public Instruction.

The materials that OSPI must consider when in developing a list of CSHE curricula that complies with specified requirements is expanded to include an evaluation of the curricula's consistency with the Health and P.E. Learning Standards.

Modifications to Reporting Duties of Schools and the Office of the Superintendent of Public Instruction.

Data collection and reporting duties of schools and the OSPI are modified. Each public school, annually by September 1, must identify to the OSPI any curricula used by the school to provide CSHE. The materials provided by schools must also describe how the provided classroom instruction aligns with the CSHE requirements. The OSPI must report the results of the submissions to the education committees of the Legislature on a biennial basis, beginning after the 2022-23 school year.

**Substitute Bill Compared to Original Bill:**

The substitute bill makes numerous changes to the original bill including:

- defining "comprehensive sexual health education" and establishing informational content requirements for instruction provided to students in grades 4 through 12;
- establishing a grade-based schedule for the provision of CSHE by specifying that CSHE must be provided no less than: once to students in kindergarten through grade 3; once to students in grades 4 through 5; twice to students in grades 6 through 8; and twice to students in grades 9 through 12;
- establishing that CSHE instruction for students in kindergarten through grade 3 must be instruction in SEL that is consistent with the SEL standards and benchmarks adopted by the OSPI;
- specifying that the curriculum, instruction, and materials used to provide CSHE must be inclusive of all students, regardless of their protected class status under specified laws, rather than appropriate for all students, regardless of gender, race, disability status, or sexual orientation;
- modifying reporting duties of schools and the OSPI with respect to CSHE curriculum and provided instruction;
- directing the OSPI to provide technical assistance to schools and school districts that is consistent with the authority of schools and districts to review, select, and develop comprehensive sexual health education curricula;

- directing the OSPI, subject to specific funding provisions, to periodically review and revise, as necessary, training materials, which may be in an electronic format, for classroom teachers and principals to implement the CSHE requirements, and to complete the initial review by March 1, 2021;
- stating legislative intent by specifying that nothing in the CSHE requirements expresses legislative intent to require that CSHE, or components of CSHE, be integrated into curriculum, materials, or instruction in unrelated subject matters or courses;
- conditioning website postings by the OSPI and the DOH related to CSHE materials upon compliance with applicable federal law; and
- defining "public schools" by referencing an existing definition that includes common schools, charter schools, and other specified schools.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Society is at the cusp of a necessary culture shift: human resource policies across the country and on the legislative campus have been reevaluated because of an epidemic of inappropriate behavior. Society must reevaluate how people are treated in professional settings. Students' stories demonstrate that there are far more instances of unwanted sexual advances and manipulative sexual relationships than society realizes and that students do not feel as though they have the tools to properly respond. The Legislature can respond in a meaningful way through this bill. Equity is an issue, so is clear direction regarding what is to be taught in each grade band.

Comprehensive sexual education instruction will help with sexual violence. Providing instructions in CSHE decreases stigma and will help transgender students. Sex education is supported by a majority of Americans, including more than 90 percent of parents.

Sex is pervasive in our society. According to the Centers for Disease Control and prevention, males have their first intercourse at 16.8 years of age. For females, the age is 17.2. The Internet exposes kids to sexual activity and kids share that information. Are we better off with medically accurate, comprehensive information or to have students live their lives with half-truths? The negative impacts of irresponsible sex are widespread for individuals and society. In all subjects, society prefers to have people educated rather than ignorant. Is it different with this subject?

Information and instruction would have helped with respect to sexual violence a person was exposed to. Times are changing and students have easy access to good and bad information.

Students need the right information at a young age to prepare themselves for higher education and the world.

Changes in law are not enough to respond to sexual violence. Culture change is needed and society needs to invest in prevention, and to teach children what consent is.

Age-appropriate CSHE will reinforce values parents seek to instill in children, help parents to better communicate with their children, and will benefit children in a meaningful way.

A strong majority of families support requiring schools to offer medically-accurate, age-appropriate CSHE in schools, but 40 percent of schools currently offer no sexual health education. It is clear that the values of our communities are not yet reflected in our schools. This legislation serves the interest of the public.

Many students learn about consent and protection only from peers. Stigmatizing topics that make parents uncomfortable robs students of information. School curricula must reflect and serve the entire population.

(Opposed) The Battleground School District purchased the Flash curricula and the community objected to it. A majority of the members of the community indicated that they would opt their students out of all or part of the sexual education instruction. Most parents want sexual education for their children: not CSHE, not abstinence, but a good risk avoidance program. Regarding curricula choice, parents have varying degrees of bad choices. The bill will have negative fiscal impacts for the districts. The districts already have difficulty passing levies and this will make that harder, plus it will require compliance costs. Sexual education curriculum decisions should not be made by an unelected, and unaccountable work group. Those decisions should be made by the local school board and the parents who elect them.

Citizens examined the CSHE curriculum that was being considered for Spokane schools and were shocked and appalled at the inappropriate content. Spokane decided to choose a more appropriate program. The SPI doesn't seem to take into account the considerations of concerned citizens.

This bill will have negative consequences if adopted. Parents are the best teachers of these matters. Empowered parents are the best course of action.

Parents are the most important protective factors for children and they should be empowered. This bill will cost the schools for curriculum and ongoing training. The bill does not solve the conflict of double opting out for sexual education and HIV education. Curriculum decisions should be local decisions, but this curriculum is controlled by an unelected panel. The affirmative consent provisions are unacceptable. Kids should be taught about commitment and fidelity. Age appropriateness is violated through this bill. Parents want more choices, but they do not feel included in these education decisions.

This bill will coerce children into sexual activity through the guise of education. The state mandate to provide instruction will invalidate consent in that context. How will parents opt



out of instruction if it is integrated into every subject? Parents are the best teachers and should be empowered to do so.

The OSPI is required to submit sexual education curriculum reports to the Legislature biannually, but they have not done so and lawmakers do not know what schools are teaching. When more schools teach CSHE, more students opt out. This creates more students with less information, and this is unacceptable. Kids should have good information that is supported by parents.

No child should be lured by a school district into the waiting arms of the pornography industry, but this bill will do so through the CSHE curricula. The OSPI is proposing an untested approach through this bill and without parental knowledge.

The curriculum does not adequately address important health facts. Infection rates are not declining. Oral cancers are on the rise, but it is not addressed in the curriculum. How will this help? The breakdown in family is critical. Society should work on restoring the family. The kids are hurting because of the lack of the father. This education will not solve the real problem.

**Persons Testifying:** (In support) Representative Stonier, prime sponsor; Jessica Cole, Parents and Friends of Lesbians and Gays and Healing Bridges; Darrell Johnson; Andrea Alejandra, Washington State University-Vancouver Student Government; Ben Santos, King County Prosecuting Office; Lynda Zeman; Gracie Anderson; and Heather Madsen.

(Opposed) Dawn Seaver; John Jourdan, Students for Life Action; John Schrock; LeAnna Benn, Teen-Aid; Melissa Walker; MaryAnne John; Riel Lord; and Randall Rathbun.

**Persons Signed In To Testify But Not Testifying:** More than 20 persons signed in. Please see committee staff for information.