**5395-S.E AMH ED H4971.4 - NOT FOR FLOOR USE**

**ESSB 5395** - H COMM AMD

By Committee on Education

**ADOPTED 03/04/2020**

Strike everything after the enacting clause and insert the following:

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

(1) ((~~By September 1, 2008,~~)) (a)(i) In accordance with the requirements of this section, every public school ((~~that offers~~)) shall provide comprehensive sexual health education ((~~must assure that~~)) to each student by the 2022-23 school year. The curriculum, instruction, and materials used to provide the comprehensive sexual health education ((~~is~~)) must be medically and scientifically accurate, age-appropriate, ((~~appropriate for students regardless of gender, race, disability status, or sexual orientation~~)) and inclusive of all students, regardless of their protected class status under chapter 49.60 RCW, and must include((~~s~~)) information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases. ((~~All sexual health information, instruction, and materials must be medically and scientifically accurate.~~)) Abstinence may not be taught to the exclusion of other materials and instruction on contraceptives and disease prevention.

(ii)(A) Beginning in the 2020-21 school year, any public school that provides comprehensive sexual health education must ensure that the curriculum, instruction, and materials include information about affirmative consent and bystander training.

(B) The school district boards of directors of one or more public schools that are not providing comprehensive sexual health education in either the 2019-20 school year, the 2020-21 school year, or both, must prepare for incorporating information about affirmative consent and bystander training into the comprehensive sexual health education curriculum, instruction, and materials required by this section. In satisfying the requirements of this subsection (1)(a)(ii)(B), 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.

(b) A public school may choose to use separate, outside speakers or prepared curriculum to teach different content areas or units within ((~~the~~)) its comprehensive sexual health education program ((~~as long as~~)) if all speakers, curriculum, and materials used are in compliance with this section.

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

(2) ((~~As used in chapter 265, Laws of 2007, "medically and scientifically accurate" means information that is verified or supported by research in compliance with scientific methods, is published in peer-review journals, where appropriate, and is recognized as accurate and objective by professional organizations and agencies with expertise in the field of sexual health including but not limited to the American college of obstetricians and gynecologists, the Washington state department of health, and the federal centers for disease control and prevention.~~)) (a) Beginning in the 2021-22 school year, comprehensive sexual health education must be provided to all public school students in grades six through twelve.

(b) Beginning in the 2022-23 school year, comprehensive sexual health education must be provided to all public school students.

(c) The provision of comprehensive sexual health education to public school students as required by (a) and (b) of this subsection (2) must be provided no less than:

(i) Once to students in kindergarten through grade three;

(ii) Once to students in grades four through five;

(iii) Twice to students in grades six through eight; and

(iv) Twice to students in grades nine through twelve.

(3) The office of the superintendent of public instruction and the department of health shall make the Washington state health and physical education K-12 learning standards and the January 2005 guidelines for sexual health information and disease prevention available to public schools ((~~districts~~)), teachers, and guest speakers on their web sites. Within available resources, the office of the superintendent of public instruction and the department of health shall also, and to the extent permitted by applicable federal law, make any related information, model policies, curricula, or other resources available ((~~as well~~)) on their web sites.

(4) The office of the superintendent of public instruction, in consultation with the department of health, shall develop a list of comprehensive sexual health education curricula that are consistent with the 2005 guidelines for sexual health information and disease prevention, the Washington state health and physical education K-12 learning standards, and this section. This list ((~~shall be intended to~~)), which may serve as a resource for schools, teachers, or any other organization or community group, ((~~and shall~~)) must be updated ((~~no less frequently than~~)) at least annually, and must be made available on the web sites of the office of the superintendent of public instruction and the department of health.

(5) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall periodically review and revise, as necessary, training materials, which may be in an electronic format, for classroom teachers and principals to implement the applicable requirements of this section. The initial review required by this subsection (5) must be completed by March 1, 2021.

(6)(a) Public schools ((~~that offer sexual health education~~)) are encouraged to review their comprehensive sexual health education curricula and choose a curriculum from the list developed under subsection (4) of this section. Any public school ((~~that offers sexual health education~~)) may identify, choose, or develop any other curriculum((~~,~~)) if ((~~the curriculum chosen or developed~~)) it complies with the requirements of this section.

(b) If a public school chooses a curriculum that is not from the list developed under subsection (4) of this section, the public school or applicable school district, in consultation with the office of the superintendent of public instruction, must conduct a review of the selected or developed curriculum to ensure compliance with the requirements of this section using a comprehensive sexual health education curriculum analysis tool of the office of the superintendent of public instruction.

(c) The office of the superintendent of public instruction shall provide technical assistance to public schools and school districts that is consistent with the curricula review, selection, and development provisions in (a) and (b) of this subsection (6).

((~~(6)~~)) (7)(a) Any parent or legal guardian who wishes to have his or her child excused from any planned instruction in comprehensive sexual health education may do so upon filing a written request with the school district board of directors or its designee, or the principal of the school his or her child attends, or the principal's designee. The person or entity to whom the request is directed must grant the written request to have the student excused from this instruction in accordance with this subsection. In addition, any parent or legal guardian may review the comprehensive sexual health education curriculum ((~~offered~~)) provided in his or her child's school by filing a written request with the school district board of directors, the principal of the school his or her child attends, or the principal's designee.

((~~(7) The office of the superintendent of public instruction shall, through its Washington state school health profiles survey or other existing reporting mechanism, ask public~~)) (b) At the beginning of the 2021-22 school year, each school providing comprehensive sexual health education must notify parents and guardians, in writing or in accordance with the methods the school finds most effective in communicating with parents, that the school will be providing comprehensive sexual health education during the school year. The notice must include, or provide a means for electronic access to, all course materials, by grade, that will be used at the school during the instruction.

(8)(a) Public schools ((~~to~~)) shall annually, by September 1st, identify to the office of the superintendent of public instruction any curricula used by the school to provide comprehensive sexual health education((~~, and shall report the results of this inquiry to the legislature on a biennial basis, beginning with the 2008-09 school year~~)) as required by this section. Materials provided by schools under this subsection (8)(a) must also describe how the provided classroom instruction aligns with the requirements of this section.

(b) The office of the superintendent of public instruction shall summarize and, in accordance with RCW 43.01.036, report the results provided under (a) of this subsection (8) to the education committees of the house of representatives and the senate biennially, beginning after the 2022-23 school year.

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

(10) Nothing in this section expresses legislative intent to require that comprehensive sexual health education, or components of comprehensive sexual health education, be integrated into curriculum, materials, or instruction in unrelated subject matters or courses.

(11) For the purposes of this section:

(a) "Affirmative consent" means a conscious and voluntary agreement to engage in sexual activity as a requirement before sexual activity;

(b) "Comprehensive sexual health education" means recurring instruction in human development and reproduction that is age-appropriate and inclusive of all students, regardless of their protected class status under chapter 49.60 RCW. All curriculum, instruction, and materials used in providing comprehensive sexual health education must be medically and scientifically accurate and must use language and strategies that recognize all members of protected classes under chapter 49.60 RCW. Comprehensive sexual health education for students in kindergarten through grade three must be instruction in social-emotional learning that is consistent with learning standards and benchmarks adopted by the office of the superintendent of public instruction under RCW 28A.300.478. Comprehensive sexual health education for students in grades four through twelve must include information about:

(i) The physiological, psychological, and sociological developmental processes experienced by an individual;

(ii) The development of intrapersonal and interpersonal skills to communicate, respectfully and effectively, to reduce health risks, and choose healthy behaviors and relationships that are based on mutual respect and affection, and are free from violence, coercion, and intimidation;

(iii) Health care and prevention resources;

(iv) The development of meaningful relationships and avoidance of exploitative relationships;

(v) Understanding the influences of family, peers, community, and the media throughout life on healthy sexual relationships; and

(vi) 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;

(c) "Medically and scientifically accurate" means information that is verified or supported by research in compliance with scientific methods, is published in peer-reviewed journals, where appropriate, and is recognized as accurate and objective by professional organizations and agencies with expertise in the field of sexual health including but not limited to the American college of obstetricians and gynecologists, the Washington state department of health, and the federal centers for disease control and prevention; and

(d) "Public schools" has the same meaning as in RCW 28A.150.010."

Correct the title.

EFFECT: The striking amendment makes the following changes to the underlying Senate bill:

(1) Requires every public school to provide comprehensive sexual health education (CSHE) to each student by the 2022-23 school year, instead of requiring every public school to provide CSHE by September 1, 2021, and makes corresponding changes to the two-year phase-in process, with CSHE provided to students in grades 6 through 12 in the 2021-22 school year and to all students in the 2022-23 school year;

(2) Defines "comprehensive sexual health education" and establishes differentiated instructional requirements for students in kindergarten through grade 3 and students in grades 4 through 12;

(3) Specifies, in the definition of CSHE, that CSHE instruction for students in kindergarten through grade 3 must be instruction in social-emotional learning that is consistent with social-emotional learning standards and benchmarks adopted by the Office of the Superintendent of Public Instruction (OSPI);

(4) Establishes specific CSHE content requirements for students in grades 4 through 12;

(5) Specifies 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;

(6) Removes provisions requiring the provided CSHE to include skills-based instruction that: Encourages healthy relationships based on mutual respect and affection; teaches how to identify and respond to attitudes and behaviors that contribute to sexual violence; and emphasizes the importance of affirmative consent, a defined term;

(7) Removes provisions requiring the CSHE curriculum to be evidence-informed, a defined term;

(8) Modifies technical support and curriculum selection provisions for schools by requiring 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 CSHE curricula; and, if applicable, the requirement to use a CSHE curriculum analysis tool;

(9) Modifies provisions requiring public schools to use a curriculum review tool developed by the OSPI when choosing CSHE curricula that is not from the list developed by the OSPI by requiring the schools or applicable districts to use a CSHE curriculum analysis tool, and by obligating schools or districts to consult with the OSPI to ensure compliance with applicable requirements;

(10) Directs the OSPI, subject to funding provisions, to periodically review and revise, as necessary, training materials for classroom teachers and principals to implement the CSHE requirements, and to complete the initial review by March 1, 2021;

(11) Modifies reporting duties of schools and the OSPI with respect to CSHE curriculum and provided instruction, including by requiring public schools to annually identify to the OSPI the CSHE curriculum they are using and how classroom instruction applies with statutory requirements for CSHE instruction, and requiring the OSPI to provide related reports to the Legislature biannually, beginning after the 2022-23 school year;

(12) Specifies 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;

(13) Conditions web site postings by the OSPI and the Department of Health related to CSHE materials upon compliance with applicable federal law;

(14) Defines "public schools" by referencing an existing definition that includes common schools, charter schools, and other specified schools;

(15) Requires schools that provide CSHE to, at the beginning of the 2021-22 school year, notify parents or guardians, in writing or in accordance with the methods the school finds most effective in communicating with parents, that the school will be providing CSHE instruction during the school year; and

(16) Specifies that the notice must include, or provide a means for electronic access to, all course materials, by grade, that will be used at the school during the instruction.