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# A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

**PART I**

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2 SECTION 1. The legislature finds that sexuality health  
3 education promotes healthy attitudes on adolescent growth and  
4 development, body image, gender and sexuality, dating,  
5 relationships, and family. The legislature further finds that  
6 sexuality health education should positively affect adolescent  
7 behavior and provide teens with the information, skills, and  
8 support the need to develop positive values, make healthy  
9 decisions, and respect the important role that sexuality plays  
10 throughout a person's life. In the past three years, several  
11 states, including Hawaii, have enacted laws that require school  
12 districts that teach sexuality health education to include age  
13 appropriate, medically accurate health education. The  
14 legislature finds, however, that the effectiveness of sexuality  
15 health education in Hawaii's schools could be bolstered by  
16 providing clearer guidance on a comprehensive approach to  
17 sexuality health education, greater flexibility in the



1 implementation of the curricula, and greater public access to  
2 the curricula.

3 The purpose of this part, therefore, is to:

- 4 (1) Specify additional elements to include in Hawaii's  
5 existing sexuality health education law;
- 6 (2) Require the department of education to provide  
7 information on the curricula to the public; and
- 8 (3) Require minimum education and training requirements  
9 for sexuality health education teachers.

10 SECTION 2. Section 321-11.1, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§321-11.1[+] **Medically accurate sexuality health**  
13 **education.** (a) Sexuality health education programs funded by  
14 the State shall provide medically accurate and factual  
15 information that [~~is~~]:

- 16 (1) Is age appropriate [~~and includes~~];
- 17 (2) Includes education on abstinence, contraception, and  
18 methods of disease prevention to prevent unintended  
19 pregnancy and sexually transmitted disease, including  
20 human immunodeficiency virus [~~-~~];
- 21 (3) Helps students develop relationships and communication  
22 skills to form healthy relationships that are based on



1 mutual respect and affection and free from violence,  
2 coercion, and intimidation;

3 (4) Helps students develop skills in critical thinking,  
4 problem solving, decision making, and stress  
5 management to make healthy decisions about sexuality  
6 and relationships; and

7 (5) Encourages students to communicate with their parents,  
8 guardians, and other trusted adults about sexuality  
9 and intimate relations.

10 (b) At their own discretion, teachers may answer in good  
11 faith any question initiated by a student or students that is  
12 reasonably related to and consistent with the material of a  
13 course provided pursuant to subsection (a).

14 (c) The department of education may eliminate or modify  
15 components of instruction under subsection (a)(2) in elementary  
16 school for reasons of age appropriateness.

17 (d) Sexuality health education under subsection (a) shall  
18 not discriminate on the basis of sex, race, ethnicity, national  
19 origin, disability, religion, sexual orientation, or gender  
20 identity.

21 (e) The department of education shall develop, maintain,  
22 and make available to the public a current list of sexuality



1 health education curricula that are consistent with the  
2 requirements under subsection (a).

3 (f) The department of education shall establish minimum  
4 education and training qualifications for sexuality health  
5 education teachers.

6 ~~[-(b)-]~~ (g) For the purposes of this section:

7 "Age appropriate" means suitable to a particular age or age  
8 group based on developing cognitive, emotional, and behavioral  
9 capacity typical for that age or age group.

10 "Factual information" means medical, psychiatric,  
11 psychological, empirical, or statistical information that is  
12 verified or supported by research conducted by recognized  
13 medical, psychiatric, psychological, and public health  
14 professionals or organizations.

15 "Medically accurate" means verified or supported by  
16 research conducted in compliance with accepted scientific  
17 methods and recognized as accurate and objective by professional  
18 organizations and agencies with expertise in the relevant field,  
19 such as the federal Centers for Disease Control and Prevention,  
20 the American Public Health Association, the American Academy of  
21 Pediatrics, and the American College of Obstetricians and  
22 Gynecologists.



1 "Sexuality health education" means education in any medium  
2 regarding human development and sexuality, including education  
3 on pregnancy, family planning, and sexually transmitted  
4 diseases."

5 **PART II**

6 SECTION 3. The Hawaii Revised Statutes is amended by  
7 adding a new chapter to title 21 to be appropriately designated  
8 and to read as follows:

9 **"CHAPTER**

10 **LEAVE OF ABSENCE FOR ORGAN, BONE MARROW, OR**

11 **PERIPHERAL BLOOD STEM CELL DONATION**

12 § -1 **Definitions.** As used in this chapter:

13 "Employee" means a person who may be permitted, required,  
14 or directed by an employer for wages or pay to engage in any  
15 employment and who has been employed by that employer for at  
16 least one year immediately preceding the commencement of leave  
17 provided under this chapter.

18 "Employee benefits" means all benefits, other than salary  
19 and wages, provided or made available to an employee by an  
20 employer and includes group life insurance, health insurance,  
21 disability insurance, and pensions, regardless of whether  
22 benefits are provided by a policy or practice of an employer.



1 "Employer" means any private:

- 2 (1) Person;
- 3 (2) Partnership;
- 4 (3) Corporation;
- 5 (4) Association; or
- 6 (5) Other business entity,

7 that employs fifty or more employees.

8 § -2 **Inapplicability.** This chapter shall not apply to  
9 any leave of absence provided to any public employee serving as  
10 an organ or bone marrow donor pursuant to section 78-23.6.

11 § -3 **Paid leave requirement.** (a) Subject to subsection  
12 (d), an employer shall provide to an employee a paid leave of  
13 absence not exceeding:

- 14 (1) Seven days each calendar year to serve as a bone  
15 marrow donor or peripheral blood stem cell donor; and
- 16 (2) Thirty days each calendar year to serve as an organ  
17 donor;

18 provided that the employee shall submit written verification to  
19 the employer that the employee is an organ donor, bone marrow  
20 donor, or peripheral blood stem cell donor and that there is a  
21 medical necessity for the donation of the organ, bone marrow, or  
22 peripheral blood stem cells.



1           (b) Any period of time during which an employee is  
2 required to be absent from work to serve as an organ donor, bone  
3 marrow donor, or peripheral blood stem cell donor shall not  
4 constitute a break in the employee's continuous service for the  
5 purpose of the employee's right to salary adjustments, sick  
6 leave, vacation, annual leave, or seniority. During any period  
7 that an employee takes leave pursuant to subsection (a), the  
8 employer shall maintain and pay for coverage under a group  
9 health plan, as defined in section 5000(b) of the Internal  
10 Revenue Code of 1986, as amended, for the full duration of the  
11 leave, in the same manner as the coverage would have been  
12 maintained if the employee had been actively at work during the  
13 leave period.

14           (c) This chapter shall not affect the obligation of an  
15 employer to comply with any collective bargaining agreement or  
16 employee benefit plan that provides greater leave rights to  
17 employees than the rights provided under this chapter.

18           (d) An employer may require as a condition of an  
19 employee's initial receipt of leave provided pursuant to this  
20 section that the employee take up to three days of earned but  
21 unused sick leave, vacation, or paid time off for bone marrow or  
22 peripheral blood stem cell donation and up to two weeks of



1 earned but unused sick leave, vacation, or paid time off for  
2 organ donation, unless doing so would violate the provisions of  
3 any applicable collective bargaining agreement.

4 (e) Notwithstanding any other provision to the contrary,  
5 leave provided pursuant to this section shall not be taken  
6 concurrently with any leave taken pursuant to the federal Family  
7 and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or  
8 chapter 398.

9 (f) Leave provided pursuant to this section may be taken  
10 in one or more periods, but in no event shall exceed the amount  
11 of leave prescribed in subsection (a).

12 § -4 **Restoration of employment.** An employer, upon  
13 expiration of a leave authorized by this chapter, shall restore  
14 an employee to the position held by the employee when the leave  
15 began or to a position with equivalent seniority status,  
16 employee benefits, pay, and other terms and conditions of  
17 employment. An employer may decline to restore an employee as  
18 required in this section because of conditions unrelated to the  
19 employee's exercise of rights under this chapter.

20 § -5 **Employee rights.** (a) An employer shall not  
21 interfere with, restrain, or deny the exercise of, or an attempt  
22 to exercise, a right established by this chapter.





1 (b) An employer shall not discharge, fine, suspend, expel,  
2 discipline, or in any other manner discriminate against an  
3 employee who:

4 (1) Exercises a right provided under this chapter; or

5 (2) Opposes a practice made unlawful by this chapter.

6 § -6 **Civil action.** An employee may bring a civil action  
7 to enforce this chapter. The court may enjoin any act or  
8 practice that violates this chapter and may order any equitable  
9 relief necessary and appropriate to redress the violation or to  
10 enforce this chapter."

11 **PART III**

12 SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Keiki Caucus; Comprehensive Sex Education; Employment; Leave of Absence; Organ, Bone Marrow, or Peripheral Blood Stem Cell Donation

**Description:**

Specifies additional elements to include in Hawaii's existing sexuality health education law. Requires the Department of Education to provide specified information to the public. Requires minimum education and training qualifications for sexuality health education teachers. Requires certain private employers to allow employees to take paid leaves of absence for organ, bone marrow, or peripheral blood stem cell donation. Requires employers to restore an employee returning from leave to the same or equivalent position. Establishes a private right of action for employees seeking enforcement of provisions.  
(SD1)

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