
A BILL FOR AN ACT

RELATING TO SEXUALITY HEALTH EDUCATION.

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

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . SEXUALITY HEALTH EDUCATION

5 §302A-A Definitions. As used in this part, unless the
6 context otherwise requires:

7 "Abstinence" means not participating in any activity that
8 puts an individual at risk for pregnancy or a sexually
9 transmitted disease.

10 "Abstinence-centered" means that the majority of the
11 content of a curriculum promotes sexual risk avoidance as the
12 primary goal, and supplemental topics in the curriculum, such as
13 healthy relationships and substance abuse, reinforce the goal of
14 primary prevention.

15 "Age-appropriate" means designed to teach concepts,
16 information, and skills based on the social, cognitive,
17 emotional, and experience level of most students at a particular
18 age level.



1 "Evidence-based approach" means an approach that:

- 2 (1) Has a clear theoretical base that integrates research
3 findings with practical implementation expertise that
4 is relevant to the field;
- 5 (2) Matches the needs and desired outcomes for the
6 intended audience; and
- 7 (3) Demonstrates improved outcomes for the intended
8 audience.

9 "Gateway sexual activity" means sexual contact that
10 encourages an individual to engage in a non-abstinent behavior.

11 "Medically accurate" means information that is grounded in
12 evidence-based, peer-reviewed science and research.

13 "Risk avoidance" means an approach that encourages the
14 prevention of participation in risk behaviors as opposed to
15 merely reducing the consequences of those risk behaviors.

16 "Sexual activity" means sexual penetration, sexual contact,
17 or both.

18 "Sexual contact" means the intentional touching of another
19 person's covered or uncovered genitalia area, groin, inner
20 thigh, buttock, or female breast, if the intentional touching
21 can be reasonably construed as being for the purpose of sexual
22 arousal or gratification.



1 "Sexuality health education program" means a medically
2 accurate sexuality health education funded by the State, subject
3 to section 321-11.1, and presented to public schools governed by
4 chapter 302A.

5 "Sexually transmitted disease" means a disease or infection
6 that is caused by bacteria, virus, or parasite and is
7 transmitted from one person to another through sexual contact.

8 §302A-B Sexuality health education program. (a) The
9 department shall adopt rules pursuant to chapter 91 for the
10 implementation, evaluation, and periodic review of each
11 sexuality health education program.

12 (b) Prior to adopting a sexuality health education
13 program, the department shall conduct at least one public
14 hearing in each county to present the proposed sexuality health
15 education program. Prior to rendering a decision, the
16 department shall provide the general public with an opportunity
17 to testify at its decision-making hearing.

18 (c) Each June, the department shall schedule at least one
19 public hearing in each county on each sexuality health education
20 program. The public shall have the opportunity to testify at
21 the hearing.



1 (d) The department shall undertake appropriate measures,
2 whether in a public hearing or in parent conferences, to ensure
3 and maintain the highest level of community and parental support
4 for each sexuality health education program.

5 §302A-C Teaching; prohibitions. A sexuality health
6 education program shall not use the services of any individual
7 or organization to assist in teaching if that individual or
8 organization endorses student non-abstinence as an appropriate
9 or acceptable behavior, or if that individual or organization
10 promotes, encourages, urges, advocates, or condones gateway
11 sexual activity.

12 §302A-D Sexuality health education program curriculum.

13 (a) A sexuality health education program curriculum shall
14 promote abstinence-centered sex education that builds a
15 foundation of knowledge and skills relating to character
16 development, human development, decision-making, abstinence,
17 contraception, and disease prevention, to the extent that the
18 topic and the manner of communication is age-appropriate.
19 Specifically, the curriculum shall:

20 (1) Exclusively and emphatically promote sexual risk
21 avoidance through abstinence, regardless of a
22 student's current or prior sexual experience;



- 1 (2) Encourage sexual health by helping students understand
2 how sexual activity affects the whole person including
3 the physical, social, emotional, psychological,
4 economic, and educational consequences of non-marital
5 sexual activity;
- 6 (3) Teach the:
- 7 (A) Positive results of avoiding sexual activity;
- 8 (B) Skills needed to make healthy decisions;
- 9 (C) Advantages of and skills for student success in
10 pursuing educational and life goals;
- 11 (D) Components of healthy relationships; and
- 12 (E) Social science research supporting the benefits
13 of reserving the expression of human sexual
14 activity for marriage;
- 15 (4) Provide factually and medically accurate information;
- 16 (5) Teach students how to form pro-social habits that
17 enable them to develop healthy relationships, create
18 strong marriages, and form safe and stable future
19 families;
- 20 (6) Encourage students to communicate with a parent,
21 guardian, or other trusted adult about sex or other
22 risk behaviors;



- 1 (7) Assist students in learning and practicing refusal
- 2 skills that will help them resist sexual activity;
- 3 (8) Address the benefits of raising children within the
- 4 context of a marital relationship and the unique
- 5 challenges that unmarried teenage parents encounter in
- 6 relation to educational, psychological, physical,
- 7 social, legal, and financial factors;
- 8 (9) Discuss the interrelationship between teen sexual
- 9 activity and exposure to other risk behaviors such as
- 10 smoking, underage drinking, drug use, criminal
- 11 activity, dating violence, and sexual aggression;
- 12 (10) Educate students on the age of consent, puberty,
- 13 pregnancy, childbirth, sexually transmitted diseases,
- 14 and the financial and emotional responsibilities of
- 15 raising a child; and.
- 16 (11) Teach students to identify and form healthy
- 17 relationships, and to identify and avoid unhealthy
- 18 relationships.
- 19 (b) Instruction of a sexuality health education program
- 20 curriculum shall not:
- 21 (1) Promote, encourage, urge, advocate, or condone, either
- 22 implicitly or explicitly, any gateway sexual activity



- 1 or health message that encourages students to
2 experiment with non-coital sexual activity;
- 3 (2) Provide or distribute materials on school grounds that
4 condone, encourage, or promote student sexual activity
5 among unmarried students;
- 6 (3) Display or conduct demonstrations with devices
7 specifically manufactured for sexual stimulation; or
- 8 (4) Distribute contraception or condoms on school
9 property; provided that medically accurate information
10 about contraception and condoms may be provided only
11 if the information:
- 12 (A) Is presented in a manner consistent with the
13 preceding provisions of this part; and
- 14 (B) Clearly informs students that contraception or
15 condoms may reduce the risk of sexually
16 transmitted diseases or pregnancy and abstinence
17 removes all risk.

18 §302A-E Opt-out; parent or guardian option. (a) Not less
19 than thirty days prior to commencing instruction of a sexuality
20 health education program curriculum, each principal shall notify
21 the parents or legal guardians of each student whom the



1 sexuality health education program anticipates will be present
2 for instruction that:

3 (1) The school is using a sexuality health education
4 program curriculum that meets the requirements of
5 state law; and

6 (2) The parent or legal guardian shall have the right to
7 examine the grade level instructional materials and
8 confer with the student's instructor, school
9 counselor, or principal regarding any portion of the
10 sexuality health education program curriculum.

11 (b) A parent or guardian who wishes to excuse a student
12 from any or all portions of a sexuality health education program
13 shall submit a request in writing to the student's principal. A
14 student who is excused from any or all portions of a sexuality
15 health education program shall not be penalized for grading
16 purposes if the student satisfactorily performs alternative
17 health lessons as determined by the student's principal.

18 §302A-F Parent or legal guardian complaints. (a) A
19 parent or legal guardian of a student enrolled in a sexuality
20 health education program may file a complaint with the student's
21 principal if the parent or legal guardian believes that a

1 teacher, instructor, or representative of an organization has
2 not complied with the requirements of this part.

3 (b) The principal shall investigate the complaint and
4 report findings, along with any recommendations for disciplinary
5 action, to the complex area superintendent for further action.

6 (c) The complex area superintendent shall file, in a
7 timely manner, a report with the superintendent of education
8 regarding any action or inaction taken.

9 (d) The superintendent of education shall transmit copies
10 of all documents submitted pursuant to this section, with
11 personally identifiable information redacted, to the legislature
12 no later than twenty days prior to the convening of each regular
13 session.

14 **§302A-G Cause of action; defense.** (a) The parent or
15 legal guardian of any student who receives instruction by an
16 instructor or organization that promotes gateway sexual activity
17 or demonstrates sexual activity, as prohibited under this part,
18 shall have a cause of action against that instructor or
19 organization for actual damages plus reasonable attorney's fees
20 and costs; provided that this section shall not apply to:

21 (1) Employees of the State acting in their official
22 capacity; and



1 (2) The State, including any department, agency, or
2 school.

3 (b) If the parent or legal guardian is the prevailing
4 party to the action, the court may impose a civil fine in an
5 amount not to exceed \$500.

6 (c) This section shall not apply to instruction by any
7 teacher, instructor, or organization, who, with respect to a
8 course or class otherwise offered in accordance with the
9 requirements of this part, verbally answers in good faith any
10 question, or series of questions, germane and material to the
11 course, asked of the instructor and initiated by a student or
12 students enrolled in the course."

13 SECTION 2. Section 321-11.1, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Sexuality health education programs funded by the
16 State shall provide medically accurate and factual information
17 that is age appropriate and includes education on abstinence,
18 contraception, and methods of disease prevention to prevent
19 unintended pregnancy and sexually transmitted disease, including
20 human immunodeficiency virus. No sexuality health education
21 program shall include the term "anus", "anal opening", or



1 similar term within the definition of the term "genital",
2 "genitalia", "intimate part", "sexual organ", or similar term."

3 SECTION 3. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

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

10

INTRODUCED BY: RLM

JAN 16 2014



H.B. NO. 1778

Report Title:

Sexuality Health Education Program; Department of Education

Description:

Establishes procedures for establishing the sexuality health education program in public schools. Prohibits sexuality health education programs funded by the State from including the term "anus", "anal opening", or similar term from the definition of genitalia.

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