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AMENDMENT TO: S.B. No. 2288 S.D. 2 H.D. 1

OFFERED BY: Representative Bob McDermott

DATE: April 8, 2014

SECTION 1. Senate Bill No. 2288 S.D. 2 H.D. 1, is amended by placing Sections 1 through 20 under the header "PART I".

SECTION 2. Section 1 of Senate Bill No. 2288 S.D. 2 H.D. 1, is amended by amending page 1, line 7 (which was line 6, before the aforementioned header was added) to read as follows:

The purpose of this part is to continue to amend or repeal

SECTION 3. Sections 21 through 22 of Senate Bill No. 2288 S.D. 2 H.D. 1, are amended by placing them under the header "PART II", and replacing their contents to read as follows:

PART II

SECTION 21. The legislature finds that the department of education is utilizing "Pono Choices", a medically questionable and age-inappropriate curriculum for children aged eleven to thirteen years old. The materials contradict definitions found in medical dictionaries, the statistics from the Centers for Disease Control and Prevention, and a clear warning from the Food and Drug Administration. The materials also encourage sexual behavior among children who are too young to legally consent to sexual intercourse. Ironically, while the curriculum introduces children to risky sexual behavior, it fails to fully inform those same children of those risks.

The legislature finds that the questionable program:

- (1) Includes the anus among the body parts defined as "genitals", in spite of a lack of support from medical dictionaries;
- (2) Describes penile-to-vaginal sexual intercourse with a condom as a "low risk" activity, in spite of gynecologist and physician warnings that condoms fail to protect against human papillomavirus and herpes;

- (3) Describes anal sex with a condom as a "low risk" activity, in spite of the fact that the Food and Drug Administration's website warns that anal sex, even with a condom, is "too dangerous to practice";
- (4) Informs eleven-to-thirteen year-old children that it is "their choice" to engage in sexual activity, in spite of sexual assault law, which criminalizes the penetration of a child under the age of fourteen, regardless of consent; and
- (5) Fails to teach about human reproduction, in spite of the fact that the perpetuation of the human race is the most important reason for sexual intercourse.

The legislature further finds that despite the cries of protest from parents and numerous members of the public, the department of education has failed to remedy this problem.

The purpose of this part is to improve sexuality health education in the State of Hawaii by:

- (1) Stating specific circumstances under which sexuality health education programs funded by the State may not be deemed "medically accurate" or "age appropriate"; and
- (2) Affirming the importance of teaching students about human reproduction.

SECTION 22. Section 321-11.1, Hawaii Revised Statutes, is amended to read as follows:

"[+]§321-11.1[+] Medically accurate sexuality health education. (a) Sexuality health education programs funded by the State shall provide medically accurate and factual information that is age appropriate and includes education on abstinence, contraception, human reproduction, and methods of disease prevention to prevent unintended pregnancy and sexually transmitted disease, including human immunodeficiency virus.

(b) For the purposes of this section:

"Age appropriate" means suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity typical for that age or age group[-], and does not include any statement or implication that it is acceptable to engage in sexual penetration before the age of consent established in section 707-730.

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

"Medically accurate" means verified or supported by research conducted in compliance with accepted scientific

methods and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists[-], and therefore does not include:

- (1) The term "anus", "anal opening", or similar term within any definition of the term "genitals", "genitalia", "sexual organ", or similar term;
- (2) Any statement or implication that penile-to-vaginal intercourse with a condom is a "low risk" activity; or
- (3) Any statement or implication that anal intercourse, even with a condom, is a "low risk" activity.

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

SECTION 4. Senate Bill No. 2288 S.D. 2 H.D. 1, is amended by inserting new Sections 23 through 25, under the header "Part III", to read as follows:

PART III

SECTION 23. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 25. This Act shall take effect on July 1, 2050; provided that the amendments made to section 36-27(a), Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 36-27, Hawaii Revised Statutes, is reenacted pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

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