

A BILL FOR AN ACT

RELATING TO SEXUALITY HEALTH EDUCATION.

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

1 SECTION 1. Within the past three years, several states,
2 including Hawaii, have enacted laws that require school
3 districts that teach sexuality health education to include age
4 appropriate, medically accurate health education. The
5 legislature finds that while sexuality health education in
6 schools is intended to assist students in their growth and
7 development, great care must be taken to uphold religious
8 liberty for individuals of conscience, whether they be teachers,
9 parents, or legal guardians of those students.

10 The increasing incidence of teaching so-called "alternative
11 lifestyles" in schools, particularly homosexual lifestyles,
12 necessarily implicates the First Amendment right to free
13 exercise of religion under the Constitutions of the United
14 States and the State of Hawaii. Many religious traditions do
15 not condone homosexuality or homosexual relationships and
16 therefore, teachers must be given the right to "opt out" of
17 having to teach sexuality health education material that
18 promotes or otherwise addresses homosexuality or homosexual



1 relationships, if doing so would violate the teacher's sincerely
2 held religious beliefs. Likewise, parents and legal guardians
3 must also be given the right to "opt out" of having their child
4 receive any sexuality health education that promotes or
5 otherwise addresses homosexuality or homosexual relationships,
6 if doing so would violate the parent's or legal guardian's
7 sincerely held religious beliefs.

8 Therefore, the purpose of this Act is to clarify that:

9 (1) A teacher shall not be required to teach sexuality
10 health education material that promotes or otherwise
11 addresses homosexuality or homosexual relationships,
12 if doing so would violate the teacher's sincerely held
13 religious beliefs. No teacher who fails or refuses to
14 teach such material under this Act shall be subject to
15 any fine, penalty, injunction, administrative
16 proceeding, or other civil or criminal liability for
17 the failure or refusal. The school may, in its
18 discretion, arrange for another teacher to teach the
19 material in question;

20 (2) A parent or legal guardian shall not be required to
21 ensure the attendance of the parent's or legal
22 guardian's child at sexuality health education classes



1 if the material promotes or otherwise addresses
2 homosexuality or homosexual relationships, if doing so
3 would violate the parent's or legal guardian's
4 sincerely held religious beliefs. No parent or legal
5 guardian who fails or refuses to ensure the attendance
6 of the parent's or legal guardian's child under this
7 Act shall be subject to any fine, penalty, injunction,
8 administrative proceeding, or other civil or criminal
9 liability for the failure or refusal; and

10 (3) A student shall be excused from sexuality health
11 education classes or any portion thereof pursuant to
12 this Act, only upon the written request of the
13 student's parent or legal guardian. A student shall
14 not be subject to any disciplinary action, academic
15 penalty, or other sanction if the student's parent or
16 legal guardian requests that the student not receive
17 instruction under this Act.

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

20 "[~~§~~321-11.1~~§~~] **Medically accurate sexuality health**
21 **education.** (a) Sexuality health education programs funded by
22 the State shall provide medically accurate and factual



1 information that is age appropriate and includes education on
2 abstinence, contraception, and methods of disease prevention to
3 prevent unintended pregnancy and sexually transmitted disease,
4 including human immunodeficiency virus.

5 (b) For the purposes of this section:

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

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

14 "Medically accurate" means verified or supported by
15 research conducted in compliance with accepted scientific
16 methods and recognized as accurate and objective by professional
17 organizations and agencies with expertise in the relevant field,
18 such as the federal Centers for Disease Control and Prevention,
19 the American Public Health Association, the American Academy of
20 Pediatrics, and the American College of Obstetricians and
21 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 (c) A teacher shall not be required to teach sexuality
6 health education material that promotes or otherwise addresses
7 homosexuality or homosexual relationships, if doing so would
8 violate the teacher's sincerely held religious beliefs. No
9 teacher who fails or refuses to teach such material under this
10 section shall be subject to any fine, penalty, injunction,
11 administrative proceeding, or other civil or criminal liability
12 for the failure or refusal. The school may, in its discretion,
13 arrange for another teacher to teach the material in question.

14 (d) A parent or legal guardian shall not be required to
15 ensure the attendance of the parent's or legal guardian's child
16 at sexuality health education classes if the material promotes
17 or otherwise addresses homosexuality or homosexual
18 relationships, if doing so would violate the parent's or legal
19 guardian's sincerely held religious beliefs. No parent or legal
20 guardian who fails or refuses to ensure the attendance of the
21 parent's or legal guardian's child under this section shall be
22 subject to any fine, penalty, injunction, administrative



1 proceeding, or other civil or criminal liability for the failure
2 or refusal.

3 (e) A student shall be excused from sexuality health
4 education classes or any portion thereof pursuant to this
5 section, only upon the written request of the student's parent
6 or legal guardian. A student shall not be subject to any
7 disciplinary action, academic penalty, or other sanction if the
8 student's parent or legal guardian requests that the student not
9 receive instruction under this section.

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

13 INTRODUCED BY:

[Handwritten signatures: Ag Ward, R. McDonald, R. K. Z. L., and Beth Finkbeiner]

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H.B. NO. 11

Report Title:

Sexuality Health Education; Religious Exemption

Description:

Allows teachers to "opt out" of teaching sexuality health education material and allows parents and legal guardians to have their child excused from sexuality health education classes, if the material promotes or otherwise addresses homosexuality or homosexual relationships and would violate the teacher's or parent's or legal guardian's sincerely held religious beliefs.

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