

1 **REPRODUCTIVE HEALTH EDUCATION AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies provisions related to health courses taught in public schools.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ requires a local school board or charter school governing board to establish and
- 11 offer two reproductive health education programs as a part of the secondary school
- 12 health curriculum;
- 13 ▶ specifies requirements and prohibitions for the two reproductive health education
- 14 programs;
- 15 ▶ directs a student's parent or legal guardian to choose one of the reproductive health
- 16 education programs, or neither program, for the student; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **53A-13-101**, as last amended by Laws of Utah 2004, Chapter 196

25

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **53A-13-101** is amended to read:

28 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**
29 **and speech of school employees and volunteers -- Political and religious doctrine**
30 **prohibited.**

31 (1) [(a)] The State Board of Education shall establish curriculum requirements under
32 Section 53A-1-402, that include instruction in:

- 33 ~~(i)~~ (a) community and personal health;
- 34 ~~(ii)~~ (b) physiology;
- 35 ~~(iii)~~ (c) personal hygiene; and
- 36 ~~(iv)~~ (d) prevention of communicable disease.

37 ~~(b) (i) That instruction shall stress:~~

38 (2) (a) As part of the curriculum established under Subsection (1), a local school board
 39 or charter school governing board shall establish and offer the following two reproductive
 40 health education programs:

41 (i) an abstinence until marriage education program; and

42 (ii) an abstinence-based comprehensive reproductive health education program.

43 (b) Both an abstinence until marriage education program and an abstinence-based
 44 comprehensive reproductive health education program shall:

45 ~~(A)~~ (i) emphasize the importance of abstinence from all sexual activity before
 46 marriage and fidelity after marriage as methods for preventing certain communicable diseases;
 47 and

48 ~~(B)~~ (ii) provide instruction in personal skills that encourage individual choice of
 49 abstinence and fidelity.

50 (3) An abstinence until marriage education program may not include:

51 (a) instruction regarding:

52 (i) the intricacies of intercourse;

53 (ii) sexual stimulation; or

54 (iii) erotic behavior;

55 (b) the advocacy of homosexuality;

56 (c) the advocacy or encouragement of the use of contraceptive methods or devices; or

57 (d) the advocacy of sexual activity outside of marriage.

58 (4) (a) An abstinence-based comprehensive reproductive health education program
 59 shall:

60 (i) provide information about sexually transmitted diseases, including:

61 (A) how sexually transmitted diseases are and are not transmitted;

62 (B) the effectiveness and safety of all federal Food and Drug Administration approved
 63 methods of reducing the risk of contracting sexually transmitted diseases;

64 (C) information on local resources for testing and medical care for sexually transmitted
65 diseases;

66 (D) rates of infection among pre-teens and teens of each known sexually transmitted
67 disease; and

68 (E) the effects of contracting each sexually transmitted disease, including the Human
69 Papilloma Virus and the possible effects of sterility and cervical cancer;

70 (ii) provide information on the effectiveness and safety of all Food and Drug
71 Administration approved contraceptive methods in preventing pregnancy;

72 (iii) provide instruction to make students aware of sexual assault and sexual abuse and
73 how to reduce the risk of sexual assault and sexual abuse, including instruction:

74 (A) that focuses on healthy relationships;

75 (B) on what constitutes sexual assault and sexual abuse and the causes of those
76 behaviors;

77 (C) regarding resources and reporting procedures for a person who experiences sexual
78 assault or sexual abuse; and

79 (D) that examines common misconceptions and stereotypes about sexual assault and
80 sexual abuse;

81 (iv) teach functional knowledge and essential skills to promote the adoption of lifelong
82 healthy behaviors and the avoidance of risky behaviors such as alcohol and drug abuse,
83 intravenous drug abuse, and unprotected sexual activity;

84 (v) provide opportunities that allow for interaction between the parent or legal guardian
85 and the student;

86 (vi) use materials that are age appropriate for students; and

87 (vii) convey information that is objective and based upon scientific research that is peer
88 reviewed and accepted by professionals and credentialed experts in the field of sexual health
89 education.

90 (b) An abstinence-based comprehensive reproductive health education program may
91 not include:

92 (i) instruction regarding:

93 (A) the intricacies of intercourse;

94 (B) sexual stimulation; or

95 (C) erotic behavior;

96 (ii) the advocacy of homosexuality; or

97 (iii) the advocacy of sexual activity outside of marriage.

98 (5) A school district or charter school shall submit to the parent or legal guardian of
 99 each student a consent form explaining the two available programs described in Subsections
 100 (2) through (4) and that a parent or legal guardian shall choose to have the student enroll in:

101 (a) the abstinence before marriage education program;

102 (b) the abstinence-based reproductive health education program; or

103 (c) neither program.

104 ~~[(ii)(A)]~~ (6) (a) At no time may instruction be provided, including responses to
 105 spontaneous questions raised by students, regarding any means or methods that facilitate or
 106 encourage the violation of any state or federal criminal law by a minor or an adult.

107 ~~[(B)]~~ (b) Subsection ~~[(1)(b)(ii)(A)]~~ (6)(a) does not preclude an instructor from
 108 responding to a spontaneous question as long as the response is consistent with the provisions
 109 of this section.

110 ~~[(c)(i)]~~ (7) (a) The board shall recommend instructional materials for use in the
 111 curricula required under Subsection (1)(a) after considering evaluations of instructional
 112 materials by the State Instructional Materials Commission.

113 ~~[(ii)]~~ (b) A local school board or charter school governing board may choose to adopt:

114 ~~[(A)]~~ (i) the instructional materials recommended under Subsection ~~[(1)(c)(i)]~~ (7)(a); or

115 ~~[(B)]~~ (ii) other instructional materials as provided in state board rule.

116 ~~[(iii)]~~ (c) The state board rule made under Subsection ~~[(1)(c)(ii)(B)]~~ (7)(b) shall
 117 include, at a minimum:

118 ~~[(A)]~~ (i) that the materials adopted by a local school board or charter school governing
 119 board under Subsection ~~[(1)(c)(ii)(B)]~~ (7)(b) shall be based upon recommendations of the
 120 school district's or charter school's Curriculum Materials Review Committee that comply with
 121 ~~[state law]~~ this section and state board rules emphasizing abstinence before marriage ~~[and~~
 122 ~~fidelity after marriage, and prohibiting instruction in:]~~;

123 ~~[(1) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

124 ~~[(H) the advocacy of homosexuality;]~~

125 ~~[(HH) the advocacy or encouragement of the use of contraceptive methods or devices;~~

126 or]

127 [~~(IV)~~ the advocacy of sexual activity outside of marriage;]

128 [~~(B)~~] (ii) that the adoption of instructional materials shall take place in an open and
 129 regular meeting of the local school board or charter school governing board for which prior
 130 notice is given to parents and guardians of students attending schools in the district or charter
 131 school and an opportunity for them to express their views and opinions on the materials at the
 132 meeting;

133 [~~(C)~~] (iii) provision for an appeal and review process of the local school board's or
 134 charter school governing board's decision; and

135 [~~(D)~~] (iv) provision for a report by the local school board or charter school governing
 136 board to the State Board of Education of the action taken and the materials adopted by the local
 137 school board [~~under Subsections (1)(c)(ii)(B) and (1)(c)(iii)~~] or charter school governing board
 138 under Subsection (7)(b).

139 [~~(2)~~] (8) (a) Instruction in the courses described in Subsection (1) shall be consistent
 140 and systematic in grades eight through 12.

141 (b) At the request of the board, the Department of Health shall cooperate with the board
 142 in developing programs to provide instruction in those areas.

143 [~~(3)~~] (9) (a) The board shall adopt rules that:

144 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323
 145 are complied with; and

146 (ii) require a student's parent or legal guardian to be notified in advance and have an
 147 opportunity to review the information for which parental consent is required under Sections
 148 76-7-322 and 76-7-323.

149 (b) The board shall also provide procedures for disciplinary action for violation of
 150 Section 76-7-322 or 76-7-323.

151 [~~(4)~~] (10) (a) In keeping with the requirements of Section 53A-13-109, and because
 152 school employees and volunteers serve as examples to their students, school employees or
 153 volunteers acting in their official capacities may not support or encourage criminal conduct by
 154 students, teachers, or volunteers.

155 (b) To ensure the effective performance of school personnel, the limitations described
 156 in Subsection [~~(4)~~] (10)(a) also apply to school employees or volunteers acting outside of their

157 official capacities if:

158 (i) they knew or should have known that their action could result in a material and
159 substantial interference or disruption in the normal activities of the school; and

160 (ii) that action does result in a material and substantial interference or disruption in the
161 normal activities of the school.

162 (c) ~~Neither the~~ The State Office of Education ~~[nor local]~~, school districts, and charter
163 schools may not provide training of school employees or volunteers that supports or
164 encourages criminal conduct.

165 (d) The State Board of Education shall adopt rules implementing this section.

166 (e) Nothing in this section limits the ability or authority of the State Board of
167 Education ~~[and]~~, local school boards, and charter school governing boards to enact and enforce
168 rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers'
169 qualifications or behavior evidencing unfitness for duty.

170 ~~[(5)] (11)~~ Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,
171 religious, or denominational doctrine may not be taught in the public schools.

172 ~~[(6)] (12)~~ (a) Local school boards, charter school governing boards, and their
173 employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

174 (b) Each school district and charter school shall provide appropriate inservice training
175 for its teachers, counselors, and school administrators to enable them to understand, protect,
176 and properly instruct students in the values and character traits referred to in this section and
177 Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and
178 53A-13-302 and distribute appropriate written materials on the values, character traits, and
179 conduct to each individual receiving the inservice training.

180 (c) The written materials shall also be made available to classified employees, students,
181 and parents and guardians of students.

182 (d) In order to assist school districts in providing the inservice training required under
183 Subsection ~~[(6)] (12)~~(b), the State Board of Education shall as appropriate, contract with a
184 qualified individual or entity possessing expertise in the areas referred to in Subsection ~~[(6)]~~
185 (12)(b) to develop and disseminate model teacher inservice programs which districts may use
186 to train the individuals referred to in Subsection ~~[(6)] (12)~~(b) to effectively teach the values and
187 qualities of character referenced in that subsection.

188 (e) In accordance with the provisions of Subsection [~~(4)~~] (10)(c), inservice training
189 may not support or encourage criminal conduct.

190 [~~(7)~~] (13) If any one or more provision, subsection, sentence, clause, phrase, or word of
191 this section, or the application thereof to any person or circumstance, is found to be
192 unconstitutional, the balance of this section shall be given effect without the invalid provision,
193 subsection, sentence, clause, phrase, or word.