

HOUSE BILL 1352

By Dunn

AN ACT to amend Tennessee Code Annotated, Title 37;
Title 49 and Title 68, relative to sex education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-3-502(a), is amended by deleting the language "family life" and by substituting instead the language "integrated sex ."

SECTION 2. Tennessee Code Annotated, Section 49-1-205, is amended by deleting the language "family life education" from subsection (a) and subdivision (b)(1), and by substituting instead the language "integrated sex education."

SECTION 3. Tennessee Code Annotated, Section 49-1-205, is amended by deleting the language "family life" from subdivisions (b)(2) and (b)(4), and by substituting instead the language "integrated sex education."

SECTION 4. Tennessee Code Annotated, Section 49-1-220(a), is amended by deleting the language "family life" and by substituting instead the language "integrated sex education."

SECTION 5. Tennessee Code Annotated, Section 49-1-1002(b)(1), is amended by deleting the language "family life" and by substituting instead the language "integrated sex education."

SECTION 6. Tennessee Code Annotated, Section 49-6-1005, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Title 49, Chapter 6, is amended by deleting part 13 in its entirety and by substituting instead the following:

49-6-1301.

As used in this part, unless the context otherwise requires:

(1) "Abstinence" means to avoid sexual activity, including, but not limited to sexual intercourse;

(2) "Abstinence-centered" means an approach which may cover numerous related topics, but whose description and focus in those topics is to encourage students to choose sexual abstinence prior to marriage;

(3) "Age-appropriate" means that a topic is suitable for a given age group based on the general developmental and social maturity of the age group. The mere existence of the cognitive ability to understand a topic or the atypical development of a small segment of a given age group of students does not alone make a topic age appropriate;

(4) "Gateway sexual activity" means a sexual activity that increases the likelihood of an individual engaging in or that makes it difficult for an individual to avoid progression toward sexual intercourse;

(5) "Integrated sex education" means a comprehensive, abstinence-centered educational program that equips students with factually and medically accurate information, presents students with the health, economic and societal benefits of refraining from non-marital sexual activity, and encourages students to engage in self-regulation, goal-setting, and future orientation;

(6) "Medically accurate" means information that is supported by current, peer-reviewed research published by medical, psychological, scientific, government, or public health agencies or organizations;

(7) "Promote gateway sexual activity" means to encourage, advocate, urge, or condone gateway sexual activities;

(8) "Risk avoidance" means an approach that primarily encourages prevention of participation in risk behaviors such as smoking, underage drinking, drug use, and criminal activity, as opposed to merely reducing the consequences of those risk behaviors such as pregnancy, sexually transmitted diseases and infections, dating violence and sexual aggression;

(9) "Sexual activity" means sexual penetration or sexual contact, or both;

(10) "Sexual contact" means any intentional touching of an erogenous zone of another, including, but not limited to, the thigh, genitals, buttock, pubic region, or, if the person is a female, breast, for the purpose of sexually arousing or gratifying either person; and

(11) "Sexual penetration", means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening of another person's body, but emission of semen is not required. Sexual penetration does not include any lawfully performed medical procedure.

49-6-1302.

(a)

(1) Beginning with the 1991-1992 school year, if the most recent, annual data maintained by the department of health, state center for health statistics, indicate that pregnancy rates in any county exceeded nineteen and five tenths (19.5) pregnancies per one thousand (1,000) females aged fifteen (15) through seventeen (17), then every LEA within the county shall locally devise, adopt, and implement a program of

integrated sex education in conformance with the curriculum guidelines established for such programs by the department of education.

(2) Each LEA that offers a program, course or instruction in sex education shall locally develop and adopt an integrated sex education curriculum in compliance with the requirements of this part, or shall adopt the integrated sex education curriculum developed by the department.

(3) Each LEA shall prescribe policies and procedures for the implementation, evaluation, and periodic review of the integrated sex education curriculum.

(4) Notwithstanding any other law to the contrary, failure of an LEA to comply with this subsection (a) shall subject the LEA to the withholding of state funds by the commissioner.

(b) The department shall develop a complete integrated sex education curriculum suitable for implementation by an LEA that fails to develop, adopt, and implement a local curriculum of integrated sex education under subsection (a).

(c)

(1) Prior to adopting an integrated sex education curriculum developed by the LEA or the department, each LEA shall conduct at least one (1) public hearing, at which time the program shall be explained to members of the public and the public shall have the opportunity to speak and express their opinions and concerns. The LEA shall schedule a public hearing not less than once each September.

(2) Each LEA shall undertake appropriate measures, whether in a public hearing or in parent conferences, to ensure and maintain the

highest level of community and parental support for integrated sex education.

(d) Nothing in this part shall prohibit an LEA from utilizing the services of a qualified health care professional or social workers to assist in teaching integrated sex education; provided, however, an LEA may not utilize the services of any individual or organization to assist in teaching integrated sex education if that individual or organization endorses student sexual activity as an appropriate or acceptable behavior.

49-6-1303.

(a) An integrated sex education curriculum shall, to the extent that the topic and the manner of communication is age-appropriate:

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

(2) Encourage sexual health by helping students understand the holistic nature of sexual activity and how sexual activity affects a person as a whole;

(3) Teach the positive results of abstaining from sexual activity, the skills needed to make healthy decisions, the advantages of and skills for student success in pursuing educational and life goals, the components of healthy relationships, and the social science research supporting the benefits of reserving the expression of human sexual activity for marriage;

(4) Provide factually and medically-accurate information;

(5) Teach students how to form pro-social habits that enable students to develop healthy relationships, create strong marriages, and form safe and stable future families;

(6) Encourage students to communicate with a parent, guardian, or other trusted adult about the advantages of abstaining from sex or other risk behaviors;

(7) Assist students in learning and practicing sexual refusal skills;

(8) Address the benefits of raising children within the context of a marital relationship and the unique challenges that teen parents encounter in relation to educational, psychological, physical, social, legal, and financial factors;

(9) Discuss the interrelationship between premature sexual activity and exposure to other risk behaviors such as smoking, underage drinking, drug use, criminal activity, dating violence, and sexual aggression;

(10) Educate students on the age of consent, puberty, teenage pregnancy, childbirth, sexually transmitted diseases, and the financial and emotional responsibility of raising a child; and

(11) Teach students how to identify and form healthy relationships, and how to identify and avoid unhealthy relationships.

(b) Instruction of the integrated sex education curriculum shall not:

(1) Promote, implicitly or explicitly, any gateway sexual activity or health message that encourages students to consider sexual activity that remains within the technical definition of abstinence;

(2) Provide or distribute materials on school grounds that condone, encourage or promote student sexual activity among unmarried students;

(3) Display or conduct demonstrations with devices manufactured specifically for sexual stimulation; or

(4) Distribute contraception on school property; provided, however, medically-accurate information about contraception and condoms may be provided so long as it clearly informs students that while such methods may reduce the risk of acquiring sexually transmitted diseases or becoming pregnant, only abstinence removes all risk.

49-6-1304.

(a) Not less than thirty (30) days prior to commencing instruction of the integrated sex education curriculum, each LEA shall notify parents or legal guardians of students whom the LEA anticipates will be present for instruction in sex education that:

(1) The LEA is using an integrated sex education curriculum that meets the requirements of state law; and

(2) The parent or legal guardian may examine the grade level instructional materials or confer with the student's instructor, school counselor or principal regarding any or all portions of integrated sex education.

(b) Prior to commencing instruction of the integrated sex education curriculum, each school shall require that a parent or legal guardian acknowledge, in writing, that the parent or legal guardian received the notice under subsection (a) and consents to their child's presence for instruction.

(c) A parent or guardian who wishes to excuse a student from any portion of integrated sex education shall submit a request, in writing, to the student's instructor, school counselor, or principal. A parent or guardian who wishes to excuse a student from all portions of integrated sex education shall submit a request in writing to the student's principal. A student who is excused from any or all portions of integrated sex education shall not be penalized for grading purposes if the student satisfactorily performs alternative health or social studies lessons specifically assigned by the local board in a timely manner.

49-6-1305.

(a) Notwithstanding any other law to the contrary, a parent or legal guardian of a student enrolled in integrated sex education may file a complaint with the director of schools if the parent or legal guardian believes that a teacher, instructor, or representative of an organization has not complied with the requirements of this part. The director shall investigate the complaint and report such director's findings, along with any recommendations for disciplinary action, to the local board for further action. The local board shall file, in a timely manner, a report with the commissioner regarding any action or inaction taken. On an annual basis, the commissioner shall transmit those filings to the chairs of the education committees of the senate and house of representatives.

(b)

(1) A parent or legal guardian of a student present for any type of instruction by an instructor or organization that promotes gateway sexual activity or demonstrates sexual activity, as prohibited under this part, shall have a cause of action against that instructor or organization for actual damages plus reasonable attorney's fees and court costs; provided,

however, this subdivision (b)(1) shall not apply to instruction by teachers employed by the LEA.

(2) If the parent or legal guardian is the prevailing party to the action, the court may impose a civil fine in an amount not to exceed five hundred dollars (\$500).

(3) An action brought under this subsection (b) shall be commenced within one (1) year after the alleged violation occurred.

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

49-6-1306.

Notwithstanding any other law to the contrary, and regardless of the title or designated name of a particular class or course, any instruction in sex education shall comply with the requirements of this part; provided, however, nothing in this part shall be construed so as to prohibit the scientific study of sexual intercourse or reproduction through coursework in biology, physiology, anatomy, health, or physical education.

SECTION 8. Tennessee Code Annotated, Section 68-1-1202(2)(A), is amended by deleting the language "family life" and by substituting instead the language "integrated sex";

SECTION 9. This act shall take effect July 1, 2011, the public welfare requiring it.