

HOUSE BILL NO. 471

INTRODUCED BY J. HINKLE, R. GREGG, M. REGIER, S. FITZPATRICK, B. LER, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL LAWS RELATED TO HUMAN SEXUALITY AND IDENTITY INSTRUCTION TO INCREASE THE TRANSPARENCY OF CURRICULUM AND STRENGTHEN THE RIGHTS OF PARENTS TO CONTROL THEIR CHILD'S INSTRUCTION BY REQUIRING PARENT OR GUARDIAN PERMISSION FOR A CHILD TO RECEIVE IDENTITY INSTRUCTION; REVISING REQUIREMENTS FOR SCHOOLS TO PROVIDE NOTICE TO PARENTS AND GUARDIANS PRIOR TO THE PROVISION OF HUMAN SEXUALITY INSTRUCTION; PROVIDING AND REVISING DEFINITIONS; CLARIFYING AVAILABLE REMEDIES AND REQUIRING TRUSTEES TO REPORT VIOLATIONS TO THE BOARD OF PUBLIC EDUCATION; AMENDING SECTION 20-7-120, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 20-7-120, MCA, is amended to read:

"20-7-120. ~~Excused absences from curriculum requirements~~ Human sexuality instruction -- notice to parents -- excused absences -- prohibited activities -- remedies. (1) (a) A parent, guardian, or other person who is responsible for the care of a child may refuse to allow the child to attend or withdraw the child from a course of instruction, a class period, an assembly, an organized school function, or instruction provided by the district through its staff or guests invited at the request of the district regarding human sexuality instruction. The withdrawal or refusal to attend is an excused absence pursuant to 20-5-103.

(b) A school may not allow a child to attend identity instruction unless the child's parent or guardian agrees in writing to allow the child to attend. Pursuant to 20-5-103, a child is excused from participating in identity instruction unless the child fails to attend after the parent or guardian has agreed in writing to allow the child's attendance. A school may allow a parent or guardian the opportunity to provide the agreement under this subsection (1)(b) at the beginning of a school year or semester as part of the annual notification under subsection (3) but shall allow a parent or guardian to cancel the agreement at any time.

1           (2)     Any school implementing or maintaining a curriculum, providing materials, or holding an event  
 2 ~~or assembly at which the district that~~ provides human sexuality instruction, ~~whether introduced by school~~  
 3 ~~educators, administrators, or officials or by guests invited at the request of the school, or identity instruction~~  
 4 shall adopt a policy ensuring parental or guardian notification ~~no less than 48 hours no fewer than 2 school~~  
 5 ~~days or more than 10 school days~~ prior to holding an event or assembly or first introducing materials for  
 6 instructional use.

7           (3)     A school district shall annually notify the parent or guardian of each student scheduled to be  
 8 enrolled in a course that includes units or lessons on human sexuality instruction or identity instruction in the  
 9 district or school in advance of the instruction of:

10           (a)     the basic content of the district's or school's human sexuality instruction or identity instruction  
 11 intended to be taught to the student and the availability of all curriculum materials related to human sexuality  
 12 instruction or identity instruction in the course pursuant to subsection (5); and

13           (b)     the parent's or guardian's right to withdraw the student from the district's or school's human  
 14 sexuality instruction; and

15           (c)     the requirement that the parent or guardian provide written permission to allow the child to  
 16 attend identity instruction.

17           (4)     In addition to the notice required in subsection (3), a school district shall adopt a policy to  
 18 ensure an annual notice is available, including an electronic link to materials or summaries of materials,  
 19 consistent with copyright laws, for:

20           (a)     the district's health enhancement curriculum, including lesson plans or other materials used for  
 21 human sexuality instruction or identity instruction; and

22           (b)     a calendar of events or assemblies at which human sexuality instruction or identity instruction  
 23 will be provided.

24           (4)(5) (a) A school district shall make all curriculum materials used in the district's or school's human  
 25 sexuality instruction and identity instruction available for public inspection prior to the use of the materials in  
 26 actual instruction.

27           (b)     A school district shall prepare a summary of the district's health enhancement curriculum and  
 28 shall review and prepare any updates to the summary each year. The summary is public information and is

1 subject to the public's right to access information pursuant to 2-6-1003.

2 (5)(6) A school district or its personnel or agents may not permit a person, entity, or any affiliate or  
3 agent of the person or entity to offer, sponsor, or furnish in any manner any course materials or instruction  
4 relating to human sexuality or sexually transmitted diseases to its students or personnel if the person, entity, or  
5 any affiliate or agent of the person or entity is a provider of abortion services.

6 (7) (a) Remedies for the violation of this section include but are not limited to those under 20-4-  
7 110.

8 (b) If, after investigating a violation under this section, the trustees of a district find that an  
9 individual has knowingly or repeatedly violated this section, the trustees shall report the findings to the board of  
10 public education pursuant to 20-4-110.

11 (c) Nothing in this subsection (7) precludes an individual from filing a suit asserting a violation of  
12 this section or any other claim otherwise allowed by law, and nothing in this subsection (7) requires exhaustion  
13 of the other remedies prior to filing a suit.

14 (6)(8) (a) For the purposes of this section, the following terms apply:

15 (i) "human-Human sexuality instruction" means teaching or otherwise providing information about  
16 human sexuality, including intimate relationships, human instruction that has the goal or purpose of studying,  
17 exploring, or informing students about any of the following human sexuality topics: intimate relationships, sexual  
18 anatomy, sexual reproduction, sexually transmitted infections, sexual acts, sexual orientation, gender identity,  
19 abstinence, contraception, or reproductive rights and responsibilities.

20 (ii) "Identity instruction" means instruction that has the goal or purpose of studying, exploring, or  
21 informing students about gender identity, gender expression, or sexual orientation.

22 (iii) "Instruction" means the conduct of organized learning activities, including the provision of  
23 materials, for students in a public school, whether conducted by a teacher or other school staff or guests invited  
24 at the request of the school or district and regardless of the duration, venue, or method of delivery.

25 (b) Neither "human sexuality instruction" nor "identity instruction" includes or applies to a teacher's  
26 brief response to an unexpected student-initiated inquiry related to the topics under each term if the response is  
27 only to the extent necessary to resolve the inquiry or to maintain civility and decorum in the classroom."

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