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SENATE . . . . . No. 2541

Senate, September 23, 2021 -- Text of the Senate Bill relative to healthy youth (being the text of Senate, No. 2534, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to healthy youth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 69 of the General Laws is hereby amended by inserting after section 1E the following section:-

Section 1E ½. Each city, town, regional school district, vocational school district and charter school shall file a biennial report on even years with the department regarding sexual health education in the city, town, district or charter school by a date and in a format to be determined by the board of elementary and secondary education. The report shall include, but not be limited to, for each city, town, regional school district, vocational school district and charter school, by grade level: (i) the name and a description of any sexual health education curricula offered; (ii) the approximate number of hours spent on sexual health education; (iii) the number of students enrolled in sexual health education; and (iv) the number of students who withdrew from sexual health education pursuant to section 32A of chapter 71.

The commissioner shall make the data collected pursuant to this section available to the public on the department's website and transmit the data to the department of public health within 30 days of the date established for the filing of biennial reports under this section.

SECTION 2. Chapter 71 of the General Laws is hereby amended by striking out section 32A, as so appearing, and inserting in place thereof the following 2 sections:-

Section 32A. A city, town, regional school district, vocational school district or charter school implementing or maintaining a curriculum that primarily involves human sexual education or human sexuality issues shall adopt a written policy ensuring that parents and guardians are notified of: (i) the comprehensive sexual health education provided by the school; (ii) the right of a parent or guardian to withdraw a student from all or part of the instruction; and (iii) the process for a parent or guardian to notify the school of a student's withdrawal. The policy shall also include a process for a parent or guardian to inspect the program's instruction materials prior to the start of the course if the parent or guardian requests to review the materials.

To the extent possible, such notification shall be provided in English and in other commonly spoken languages spoken by parents and guardians of students in the district or charter school. Annually, not later than September 1, the policy shall be distributed to the parents and guardians of students in a grade that includes a comprehensive sexual health education curriculum during the upcoming academic year. The policy shall be distributed in the same manner as any student handbook that is distributed to students. If student handbooks are not distributed in a certain grade, the policy shall be distributed in the same manner as other notices provided to parents and guardians at the start of the school year.

Each district and charter school shall send a copy of its policy, including, if applicable, the name of the comprehensive sexual health education curriculum being used, to the department of elementary and secondary education upon adoption of the policy and upon any amendment of the policy.

If a parent or guardian withdraws a student from all or part of the comprehensive sexual health education curriculum, the student shall not be subject to disciplinary action, academic penalty or any other sanction. An alternative educational activity shall be made available to any student who has been withdrawn from the sexual health education instruction.

Section 32B. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Age-appropriate", topics, messages and teaching methods that are suitable to particular ages or age groups of children and adolescents and based on developing cognitive, emotional, social and behavioral capacity typical for that age or age group.

"Department", the department of elementary and secondary education.

"Medically accurate", supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate and objective by leading medical, psychological, psychiatric and public health organizations and agencies and, if relevant, published in peer-reviewed journals.

(b) For the purposes of this section, a curriculum's discussions of the terms "consent," "gender expression," "gender identity" and "sexual orientation" shall be construed consistently

with the terms as used or defined in the annual report of the commission on lesbian, gay, bisexual, transgender, queer and questioning youth established under section 67 of chapter 3.

(c) A city, town, regional school district, vocational school district or charter school that offers sexual health education shall provide a medically accurate, age-appropriate, comprehensive sexual health education. Sexual health education shall be appropriate for students regardless of gender, race, disability status, sexual orientation or gender identity and shall include, but not be limited to, age-appropriate teaching of: (i) physical, social and emotional changes of human development; (ii) human anatomy, reproduction and sexual development; (iii) the benefits of abstinence and delaying sexual activity, the prevention of sexually transmitted infections, including, but not limited to, human immunodeficiency virus and acquired immune deficiency syndrome, and unintended pregnancy, including, but not limited to, the effective use of contraceptives and barrier methods; (iv) ways to effectively discuss safe sexual activity; (v) relationship and communication skills to form healthy, respectful relationships free of violence, coercion and intimidation and to make healthy decisions about relationships and sexuality, including, but not limited to, affirmative, conscious and voluntary consent to engage in physical or sexual activity; (vi) skills to recognize and prevent dating violence; and (vii) age-appropriate information about: (1) gender identity and sexual orientation for all students, including affirmative education that people have different sexual orientations, gender identities and gender expressions; and (2) resources and support services for all students, including, but not limited to, lesbian, gay, bisexual, transgender, intersex, agender, queer and questioning students. Sexual health education shall incorporate opportunities for students to analyze societal and media messages.

(d) Any city, town, regional school district, vocational school district or charter school that utilizes curricula consistent with the Massachusetts Comprehensive Health Curriculum Framework shall be in compliance with this section.

(e) The department shall promulgate rules to implement, administer and ensure compliance with this section.

(f) The department may determine minimum education and training qualifications for sexual health education instructors.

(g) Pursuant to section 1E of chapter 69, the board of elementary and secondary education shall review and update the Massachusetts Comprehensive Health Curriculum Framework, including provisions relative to sexual health education consistent with this section, not less than once every 10 years.

SECTION 3. The board of elementary and secondary education shall begin to review and update the Massachusetts Comprehensive Health Curriculum Framework pursuant to subsection (g) of section 32B of chapter 71 of the General Laws upon the effective date of this act.

SECTION 4. This act shall take effect for the academic year immediately following its passage.