

HOUSE BILL 3621

By Gotto

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 6, relative to family life instruction.

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

SECTION 1. Tennessee Code Annotated, Section 49-6-1005, is amended by deleting the section in its entirety.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, Part 13, is amended by the part 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 not participating in any activity that puts an individual at risk for pregnancy or a sexually transmitted disease;

(2)

(A) "Abstinence-based" or "abstinence-centered" means an approach that promotes sexual risk avoidance, or primary prevention, and teaches vital life skills that empower youth to identify healthy and unhealthy relationships, accurately understand sexually transmitted diseases and contraception, set goals, make healthy life decisions, and build character;

(B) Abstinence-centered education is a holistic approach that addresses the physical, social, emotional, psychological, economic and educational consequences of non-marital sexual activity;

(3) "Abstinence-centered curriculum" means that the majority of the content of a curriculum promotes sexual risk avoidance as the primary goal.

Supplemental topics in the curriculum, such as healthy relationships and substance abuse, reinforce the goal of primary prevention;

(4) “Age-appropriate” means designed to teach concepts, information and skills based on the social, cognitive, emotional and experience level of most students at a particular age level;

(5) “Evidence-based approach” means an approach:

(A) That has a clear theoretical base that integrates research findings with practical implementation expertise that is relevant to the field;

(B) That matches the needs and desired outcomes for the intended audience; and

(C) That if implemented well, demonstrates improved outcomes for the intended audience;

(6) “Family life education” means an abstinence-centered sex education program that builds a foundation of knowledge and skills relating to character development, human development, decision-making, abstinence, contraception and disease prevention;

(7) “Gateway sexual activity” means sexual contact encouraging an individual to engage in a non-abstinent behavior. A person promotes a gateway sexual activity by encouraging, advocating, urging or condoning gateway sexual activities;

(8) “Medically accurate” means information that is grounded in evidence-based, peer-reviewed science and research;

(9)

(A) “Puberty” means a developmental stage during which the pituitary gland triggers the production of testosterone in boys and the production of estrogen and progesterone in girls;

(B) Puberty typically begins between the ages of nine (9) and twelve (12) in girls, and between the ages of eleven (11) and fourteen (14) in boys;

(C) Puberty is indicated by bodily changes that include, but are not limited to, hair growth around the genitals, menstruation in girls and sperm production in boys;

(10) "Risk avoidance" means an approach that primarily encourages the 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;

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

(12) "Sexual intercourse" means that a penis is inserted into a vagina, mouth or anus; and

(13) "Sexually transmitted disease" (STD) means a disease that is caused by bacteria, virus or parasite that is transmitted from one person to another during sexual contact. A sexually transmitted disease is also referred to as a sexually transmitted infection (STI).

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 eleven (11) through eighteen (18), then every LEA within the county shall locally devise, adopt, and implement a program of family life education in conformance with the curriculum guidelines established for such programs by this section.

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

(3) Each LEA shall prescribe policies and procedures for the implementation, evaluation, and periodic review of the family life 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 family life curriculum suitable for implementation by an LEA that fails to develop, adopt, and implement a local curriculum of family life under subsection (a).

(c)

(1) Prior to adopting an family life 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 family life.

49-6-1303.

(a) Nothing in this part shall prohibit an LEA from utilizing the services of a qualified health care professional or social worker to assist in teaching family life.

(b) An LEA shall not utilize the services of any individual or organization to assist in teaching family life if that individual or organization endorses student non-abstinence as an appropriate or acceptable behavior, or if that individual or organization promotes gateway sexual activity.

49-6-1304.

(a) The ideal family life education program provides age-appropriate sex education beginning in kindergarten and continuing through the twelfth grade. At each developmental stage, a family life education program should teach age-appropriate, medically accurate information that builds upon the knowledge and skills that were taught in the previous stage.

(b) A family life 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 how sexual activity affects the whole person including the physical, social,

emotional, psychological, economic and educational consequences of non-marital sexual;

(3) Teach the positive results of avoiding 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 sex or other risk behaviors;

(7) Assist students in learning and practicing refusal skills that will help them resist sexual activity;

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

(9) Discuss the interrelationship between teen 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, 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.

(c) Instruction of the family life curriculum shall not:

(1) Promote, implicitly or explicitly, any gateway sexual activity or health message that encourages students to experiment with non-coital sexual activity;

(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 specifically manufactured for sexual stimulation; or

(4) Distribute contraception on school property; provided, however, medically-accurate information about contraception and condoms may be provided so long it is presented in a manner consistent with the preceding provisions of this part and clearly informs students that while such methods may reduce the risk of acquiring sexually transmitted diseases or becoming pregnant, only abstinence removes all risk.

49-6-1305

(a) Not less than thirty (30) days prior to commencing instruction of the family life 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 a family life curriculum that meets the requirements of state law; and

(2) The parent or legal guardian shall have the right to examine the grade level instructional materials and confer with the student's

instructor, school counselor or principal, as designated by the LEA, regarding any or all portions of family life.

(b) Prior to commencing instruction of the family life 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 family life 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 family life shall submit a request in writing to the student's principal. A student who is excused from any or all portions of family life shall not be penalized for grading purposes if the student satisfactorily performs alternative health lessons.

49-6-1306.

(a) Notwithstanding any other law to the contrary, a parent or legal guardian of a student enrolled in family life 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) If a student receives instruction by an instructor or organization promotes gateway sexual activity or demonstrates sexual activity, as prohibited under this part, then the parent or legal guardian 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, verbally 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.

49-6-1307.

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 or sexual activity 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 the sexual reproductive system through coursework in biology, physiology, anatomy, health, or physical education.

SECTION 3. This act shall take effect July 1, 2012, the public welfare requiring it.