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10200HB5188sam001

LRB102 24778 JDS 42474 a

1 AMENDMENT TO HOUSE BILL 5188

2 AMENDMENT NO. _____. Amend House Bill 5188 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing
5 Sections 27-9.1a and 27-9.1b as follows:

6 (105 ILCS 5/27-9.1a)

7 Sec. 27-9.1a. Comprehensive personal health and safety and
8 comprehensive sexual health education.

9 (a) In this Section:

10 "Adapt" means to modify an evidence-based or
11 evidence-informed program model for use with a particular
12 demographic, ethnic, linguistic, or cultural group.

13 "Age and developmentally appropriate" means suitable to
14 particular ages or age groups of children and adolescents,
15 based on the developing cognitive, emotional, and behavioral
16 capacity typical for the age or age group.

1 "Characteristics of effective programs" includes
2 development, content, and implementation of such programs that
3 (i) have been shown to be effective in terms of increasing
4 knowledge, clarifying values and attitudes, increasing skills,
5 and impacting behavior, (ii) are widely recognized by leading
6 medical and public health agencies to be effective in changing
7 sexual behaviors that lead to sexually transmitted infections,
8 including HIV, unintended pregnancy, interpersonal violence,
9 and sexual violence among young people, and (iii) are taught
10 by professionals who provide a safe learning space, free from
11 shame, stigma, and ideology and are trained in trauma-informed
12 teaching methodologies.

13 "Complete" means information that aligns with the National
14 Sex Education Standards, including information on consent and
15 healthy relationships, anatomy and physiology, puberty and
16 adolescent sexual development, gender identity and expression,
17 sexual orientation and identity, sexual health, and
18 interpersonal violence.

19 "Comprehensive personal health and safety education" means
20 age and developmentally appropriate education that aligns with
21 the National Sex Education Standards, including information on
22 consent and healthy relationships, anatomy and physiology,
23 puberty and adolescent sexual development, gender identity and
24 expression, sexual orientation and identity, sexual health,
25 and interpersonal violence.

26 "Comprehensive sexual health education" means age and

1 developmentally appropriate education that aligns with the
2 National Sex Education Standards, including information on
3 consent and healthy relationships, anatomy and physiology,
4 puberty and adolescent sexual development, gender identity and
5 expression, sexual orientation and identity, sexual health,
6 and interpersonal violence.

7 "Consent" means an affirmative, knowing, conscious,
8 ongoing, and voluntary agreement to engage in interpersonal,
9 physical, or sexual activity, which can be revoked at any
10 point, including during the course of interpersonal, physical,
11 or sexual activity.

12 "Culturally appropriate" means affirming culturally
13 diverse individuals, families, and communities in an
14 inclusive, respectful, and effective manner, including
15 materials and instruction that are inclusive of race,
16 ethnicity, language, cultural background, immigration status,
17 religion, disability, gender, gender identity, gender
18 expression, sexual orientation, and sexual behavior.

19 "Evidence-based program" means a program for which
20 systematic, empirical research or evaluation has provided
21 evidence of effectiveness.

22 "Evidence-informed program" means a program that uses the
23 best available research and practice knowledge to guide
24 program design and implementation.

25 "Gender stereotype" means a generalized view or
26 preconception about what attributes, characteristics, or roles

1 are or ought to be taught, possessed by, or performed by people
2 based on their gender identity.

3 "Healthy relationships" means relationships between
4 individuals that consist of mutual respect, trust, honesty,
5 support, fairness, equity, separate identities, physical and
6 emotional safety, and good communication.

7 "Identity" means people's understanding of how they
8 identify their sexual orientation, gender, gender identity, or
9 gender expression without stereotypes, shame, or stigma.

10 "Inclusive" means inclusion of marginalized communities
11 that include, but are not limited to, people of color,
12 immigrants, people of diverse sexual orientations, gender
13 identities, and gender expressions, people who are intersex,
14 people with disabilities, people who have experienced
15 interpersonal or sexual violence, and others.

16 "Interpersonal violence" means violent behavior used to
17 establish power and control over another person.

18 "Medically accurate" means verified or supported by the
19 weight of research conducted in compliance with accepted
20 scientific methods and published in peer-reviewed journals, if
21 applicable, or comprising information recognized as accurate
22 and objective.

23 "Pre-exposure Prophylaxis (PrEP)" means medications
24 approved by the federal Food and Drug Administration (FDA) and
25 recommended by the United States Public Health Service or the
26 federal Centers for Disease Control and Prevention for HIV

1 pre-exposure prophylaxis and related pre-exposure prophylaxis
2 services, including, but not limited to, HIV and sexually
3 transmitted infection screening, treatment for sexually
4 transmitted infections, medical monitoring, laboratory
5 services, and sexual health counseling, to reduce the
6 likelihood of HIV infection for individuals who are not living
7 with HIV but are vulnerable to HIV exposure.

8 "Post-exposure Prophylaxis (PeP)" means the medications
9 that are recommended by the federal Centers for Disease
10 Control and Prevention and other public health authorities to
11 help prevent HIV infection after potential occupational or
12 non-occupational HIV exposure.

13 "Sexual violence" means discrimination, bullying,
14 harassment, including sexual harassment, sexual abuse, sexual
15 assault, intimate partner violence, incest, rape, and human
16 trafficking.

17 "Trauma informed" means to address vital information about
18 sexuality and well-being that takes into consideration how
19 adverse life experiences may potentially influence a person's
20 well-being and decision making.

21 (b) All classes that teach comprehensive personal health
22 and safety and comprehensive sexual health education shall
23 satisfy the following criteria:

24 (1) Course material and instruction shall be age and
25 developmentally appropriate, medically accurate,
26 complete, culturally appropriate, inclusive, and trauma

1 informed.

2 (2) Course material and instruction shall replicate
3 evidence-based or evidence-informed programs or
4 substantially incorporate elements of evidence-based
5 programs or evidence-informed programs or characteristics
6 of effective programs.

7 (3) Course material and instruction shall be inclusive
8 and sensitive to the needs of students based on their
9 status as pregnant or parenting, living with STIs,
10 including HIV, sexually active, asexual, or intersex or
11 based on their gender, gender identity, gender expression,
12 sexual orientation, sexual behavior, or disability.

13 (4) Course material and instruction shall be
14 accessible to students with disabilities, which may
15 include the use of a modified curriculum, materials,
16 instruction in alternative formats, assistive technology,
17 and auxiliary aids.

18 (5) Course material and instruction shall help
19 students develop self-advocacy skills for effective
20 communication with parents or guardians, health and social
21 service professionals, other trusted adults, and peers
22 about sexual health and relationships.

23 (6) Course material and instruction shall provide
24 information to help students develop skills for developing
25 healthy relationships and preventing and dealing with
26 interpersonal violence and sexual violence.

1 (7) Course material and instruction shall provide
2 information to help students safely use the Internet,
3 including social media, dating or relationship websites or
4 applications, and texting.

5 (8) Course material and instruction shall provide
6 information about local resources where students can
7 obtain additional information and confidential services
8 related to parenting, bullying, interpersonal violence,
9 sexual violence, suicide prevention, sexual and
10 reproductive health, mental health, substance abuse,
11 sexual orientation, gender identity, gender expression,
12 and other related issues.

13 (9) Course material and instruction shall include
14 information about State laws related to minor
15 confidentiality and minor consent, including exceptions,
16 consent education, mandated reporting of child abuse and
17 neglect, the safe relinquishment of a newborn child,
18 minors' access to confidential health care and related
19 services, school policies addressing the prevention of and
20 response to interpersonal and sexual violence, school
21 breastfeeding accommodations, and school policies
22 addressing the prevention of and response to sexual
23 harassment.

24 (10) Course material and instruction may not reflect
25 or promote bias against any person on the basis of the
26 person's race, ethnicity, language, cultural background,

1 citizenship, religion, HIV status, family structure,
2 disability, gender, gender identity, gender expression,
3 sexual orientation, or sexual behavior.

4 (11) Course material and instruction may not employ
5 gender stereotypes.

6 (12) Course material and instruction shall be
7 inclusive of and may not be insensitive or unresponsive to
8 the needs of survivors of interpersonal violence and
9 sexual violence.

10 (13) Course material and instruction may not
11 proselytize any religious doctrine.

12 (14) Course material and instruction may not
13 deliberately withhold health-promoting or life-saving
14 information about culturally appropriate health care and
15 services, including reproductive health services, hormone
16 therapy, and FDA-approved treatments and options,
17 including, but not limited to, Pre-exposure Prophylaxis
18 (PrEP) and Post-exposure Prophylaxis (PeP).

19 (15) Course material and instruction may not be
20 inconsistent with the ethical imperatives of medicine and
21 public health.

22 (c) A school may utilize guest lecturers or resource
23 persons to provide instruction or presentations in accordance
24 with Section 10-22.34b. Comprehensive personal health and
25 safety and comprehensive sexual health education instruction
26 and materials provided by guest lecturers or resource persons

1 may not conflict with the provisions of this Section.

2 (d) No student shall be required to take or participate in
3 any class or course in comprehensive personal health and
4 safety and comprehensive sexual health education. A student's
5 parent or guardian may opt the student out of comprehensive
6 personal health and safety and comprehensive sexual health
7 education by submitting the request in writing. Refusal to
8 take or participate in such a course or program may not be a
9 reason for disciplinary action, academic penalty, suspension,
10 or expulsion or any other sanction of a student. A school
11 district may not require active parental consent for
12 comprehensive personal health and safety and comprehensive
13 sexual health education.

14 (e) An opportunity shall be afforded to individuals,
15 including parents or guardians, to review the scope and
16 sequence of instructional materials to be used in a class or
17 course under this Section, either electronically or in person.
18 A school district shall annually post, on its Internet website
19 if one exists, which curriculum is used to provide
20 comprehensive personal health and safety and comprehensive
21 sexual health education and the name and contact information,
22 including an email address, of school personnel who can
23 respond to inquiries about instruction and materials.

24 (f) On or before August 1, 2022, the State Board of
25 Education, in consultation with youth, parents, sexual health
26 and violence prevention experts, health care providers,

1 advocates, and education practitioners, including, but not
2 limited to, administrators, regional superintendents of
3 schools, teachers, and school support personnel, shall develop
4 and adopt rigorous learning standards in the area of
5 comprehensive personal health and safety education for pupils
6 in kindergarten through the 5th grade and comprehensive sexual
7 health education for pupils in the 6th through 12th grades,
8 including, but not limited to, all of the National Sex
9 Education Standards, including information on consent and
10 healthy relationships, anatomy and physiology, puberty and
11 adolescent sexual development, gender identity and expression,
12 sexual orientation and identity, sexual health, and
13 interpersonal violence, as authored by the Future of Sex
14 Education Initiative. As the National Sex Education Standards
15 are updated, the State Board of Education shall update these
16 learning standards.

17 (g) By no later than August 1, 2022, the State Board of
18 Education shall make available resource materials developed in
19 consultation with stakeholders, with the cooperation and input
20 of experts that provide and entities that promote age and
21 developmentally appropriate, medically accurate, complete,
22 culturally appropriate, inclusive, and trauma-informed
23 comprehensive personal health and safety and comprehensive
24 sexual health education policy. Materials may include, without
25 limitation, model comprehensive personal health and safety and
26 comprehensive sexual health education resources and programs.

1 The State Board of Education shall make these resource
2 materials available on its Internet website, in a clearly
3 identified and easily accessible place.

4 (h) Schools may choose and adapt the age and
5 developmentally appropriate, medically accurate, complete,
6 culturally appropriate, inclusive, and trauma-informed
7 comprehensive personal health and safety and comprehensive
8 sexual health education curriculum that meets the specific
9 needs of their community. All instruction and materials,
10 including materials provided or presented by outside
11 consultants, community groups, or organizations, may not
12 conflict with the provisions of this Section.

13 (i) The State Board of Education shall, through existing
14 reporting mechanisms if available, direct each school district
15 to identify the following:

16 (1) if instruction on comprehensive personal health
17 and safety and comprehensive sexual health education is
18 provided;

19 (2) whether the instruction was provided by a teacher
20 in the school, a consultant, or a community group or
21 organization and specify the name of the outside
22 consultant, community group, or organization;

23 (3) the number of students receiving instruction;

24 (4) the number of students excused from instruction;

25 and

26 (5) the duration of instruction.

1 The State Board of Education shall report the results of
2 this inquiry to the General Assembly annually, for a period of
3 5 years beginning one year after the effective date of this
4 amendatory Act of the 102nd General Assembly.

5 (j) Beginning no later than July 1, 2023, a school
6 district shall provide:

7 (1) age and developmentally appropriate, medically
8 accurate, complete, culturally appropriate, inclusive, and
9 trauma-informed comprehensive personal health and safety
10 education in kindergarten through the 5th grade in all
11 public schools; and

12 (2) age and developmentally appropriate, medically
13 accurate, complete, culturally appropriate, inclusive, and
14 trauma-informed comprehensive sexual health education in
15 the 6th through 12th grades in all public schools.

16 (Source: P.A. 102-522, eff. 8-20-21.)

17 (105 ILCS 5/27-9.1b)

18 Sec. 27-9.1b. Consent education.

19 (a) In this Section:

20 "Age and developmentally appropriate" has the meaning
21 ascribed to that term in Section 27-9.1a.

22 "Consent" has the meaning ascribed to that term in Section
23 27-9.1a.

24 (b) A school district may provide age and developmentally
25 appropriate consent education in kindergarten through the 12th

1 grade. Beginning no later than July 1, 2023, however, a school
2 district shall provide age and developmentally appropriate
3 consent education in kindergarten through the 12th grade.

4 (1) In kindergarten through the 5th grade, instruction
5 and materials shall include age and developmentally
6 appropriate instruction on consent and how to give and
7 receive consent, including a discussion that includes, but
8 is not limited to, all of the following:

9 (A) Setting appropriate physical boundaries with
10 others.

11 (B) Respecting the physical boundaries of others.

12 (C) The right to refuse to engage in behaviors or
13 activities that are uncomfortable or unsafe.

14 (D) Dealing with unwanted physical contact.

15 (E) Helping a peer deal with unwanted physical
16 contact.

17 (2) In the 6th through 12th grades, instruction and
18 materials shall include age and developmentally
19 appropriate instruction on consent and how to give and
20 receive consent, including a discussion that includes, but
21 is not limited to, all of the following:

22 (A) That consent is a freely given agreement to
23 sexual activity.

24 (B) That consent to one particular sexual activity
25 does not constitute consent to other types of sexual
26 activities.

1 (C) That a person's lack of verbal or physical
2 resistance or submission resulting from the use or
3 threat of force does not constitute consent.

4 (D) That a person's manner of dress does not
5 constitute consent.

6 (E) That a person's consent to past sexual
7 activity does not constitute consent to future sexual
8 activity.

9 (F) That a person's consent to engage in sexual
10 activity with one person does not constitute consent
11 to engage in sexual activity with another person.

12 (G) That a person can withdraw consent at any
13 time.

14 (H) That a person cannot consent to sexual
15 activity if that person is unable to understand the
16 nature of the activity or give knowing consent due to
17 certain circumstances that include, but are not
18 limited to:

19 (i) the person is incapacitated due to the use
20 or influence of alcohol or drugs;

21 (ii) the person is asleep or unconscious;

22 (iii) the person is a minor; or

23 (iv) the person is incapacitated due to a
24 mental disability.

25 (I) The legal age of consent in this State.

26 (Source: P.A. 102-522, eff. 8-20-21.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".