

Representative Brian S. King proposes the following substitute bill:

REPRODUCTIVE HEALTH EDUCATION AND SERVICES

AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to reproductive health education and repeals reproductive health services provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ establishes requirements for human health education;
 - ▶ requires the State Instructional Materials Commission to consult with parents and others when evaluating human health curriculum;
 - ▶ enacts human sexuality instruction notice provisions;
 - ▶ repeals certain criminal provisions regarding contraceptive and abortion services;
- and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53A-1-402.6**, as last amended by Laws of Utah 2015, Chapter 415

29 **53A-13-101**, as last amended by Laws of Utah 2016, Chapter 144

30 **53A-13-101.2**, as last amended by Laws of Utah 2015, Chapter 91

31 **76-7-324**, as last amended by Laws of Utah 2004, Chapter 271

32 REPEALS:

33 **76-7-321**, as last amended by Laws of Utah 1995, Chapter 20

34 **76-7-322**, as last amended by Laws of Utah 1988, Chapter 50

35 **76-7-323**, as last amended by Laws of Utah 1988, Chapter 50

36 **76-7-325**, as enacted by Laws of Utah 1983, Chapter 94



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **53A-1-402.6** is amended to read:

40 **53A-1-402.6. Core standards for Utah public schools.**

41 (1) (a) In establishing minimum standards related to curriculum and instruction
42 requirements under Section **53A-1-402**, the State Board of Education shall, in consultation
43 with local school boards, school superintendents, teachers, employers, and parents implement
44 core standards for Utah public schools that will enable students to, among other objectives:

- 45 (i) communicate effectively, both verbally and through written communication;
- 46 (ii) apply mathematics; and
- 47 (iii) access, analyze, and apply information.

48 (b) Except as provided in this title, the State Board of Education may recommend but
49 may not require a local school board or charter school governing board to use:

- 50 (i) a particular curriculum or instructional material; or
- 51 (ii) a model curriculum or instructional material.

52 (2) The board shall, in establishing the core standards for Utah public schools:

53 (a) identify the basic knowledge, skills, and competencies each student is expected to
54 acquire or master as the student advances through the public education system; and

55 (b) align the core standards for Utah public schools and tests administered under the
56 Utah Performance Assessment System for Students (U-PASS) with each other.

57 (3) The basic knowledge, skills, and competencies identified pursuant to Subsection
58 (2)(a) shall increase in depth and complexity from year to year and focus on consistent and
59 continual progress within and between grade levels and courses in the basic academic areas of:

60 (a) English, including explicit phonics, spelling, grammar, reading, writing,
61 vocabulary, speech, and listening; and

62 (b) mathematics, including basic computational skills.

63 (4) Before adopting core standards for Utah public schools, the State Board of
64 Education shall:

65 (a) publicize draft core standards for Utah public schools on the State Board of
66 Education's website and the Utah Public Notice website created under Section 63F-1-701;

67 (b) invite public comment on the draft core standards for Utah public schools for a
68 period of not less than 90 days; and

69 (c) conduct three public hearings that are held in different regions of the state on the
70 draft core standards for Utah public schools.

71 (5) Local school boards shall design their school programs, that are supported by
72 generally accepted scientific standards of evidence, to focus on the core standards for Utah
73 public schools with the expectation that each program will enhance or help achieve mastery of
74 the core standards for Utah public schools.

75 (6) [~~Except as provided in Section 53A-13-101, each~~] Each school may select
76 instructional materials and methods of teaching, that are supported by generally accepted
77 scientific standards of evidence, that it considers most appropriate to meet the core standards
78 for Utah public schools.

79 (7) The state may exit any agreement, contract, memorandum of understanding, or
80 consortium that cedes control of the core standards for Utah public schools to any other entity,
81 including a federal agency or consortium, for any reason, including:

82 (a) the cost of developing or implementing the core standards for Utah public schools;

83 (b) the proposed core standards for Utah public schools are inconsistent with
84 community values; or

85 (c) the agreement, contract, memorandum of understanding, or consortium:

86 (i) was entered into in violation of Part 9, Implementing Federal or National Education
87 Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;

- 88 (ii) conflicts with Utah law;
- 89 (iii) requires Utah student data to be included in a national or multi-state database;
- 90 (iv) requires records of teacher performance to be included in a national or multi-state
- 91 database; or
- 92 (v) imposes curriculum, assessment, or data tracking requirements on home school or
- 93 private school students.

94 (8) The State Board of Education shall annually report to the Education Interim
95 Committee on the development and implementation of the core standards for Utah public
96 schools, including the time line established for the review of the core standards for Utah public
97 schools by a standards review committee and the recommendations of a standards review
98 committee established under Section [53A-1-402.8](#).

99 Section 2. Section **53A-13-101** is amended to read:

100 **53A-13-101. Instruction in health -- Parental consent requirements -- Conduct**
101 **and speech of school employees and volunteers -- Political and religious doctrine**
102 **prohibited.**

103 (1) As used in this section:

104 (a) "Age appropriate" means topics, messages, and teaching methods suitable to a
105 particular age or age group based on developing cognitive, emotional, and behavioral capacity
106 typical for the age or age group.

107 (b) "Board" means the State Board of Education.

108 (c) "Evidence-based information" means information that is evaluated using rigorous
109 research design, including:

110 (i) measuring knowledge, attitude, and behavior;

111 (ii) having an adequate sample size;

112 (iii) using sound research methods and processes;

113 (iv) replicating in different locations and finding similar evaluation results; and

114 (v) publishing results in a peer-reviewed journal.

115 (d) (i) "Human health" or "human health education" means evidence-based information
116 about:

117 (A) human reproduction, reproductive anatomy, and reproductive physiology;

118 (B) all methods to prevent unintended pregnancy and sexually transmitted diseases and

119 infections, including HIV and AIDS; and

120 (C) the link between human papillomavirus and cancer and other types of cancer
 121 involving the human reproductive systems, including prostate, testicular, ovarian, and uterine
 122 cancer.

123 (ii) "Human health" includes information about the correct and consistent use of sexual
 124 abstinence, contraception, condoms, and other birth control barrier methods.

125 (e) "Positive youth development" means an approach that:

126 (i) is inclusive of all youth, collaborative, and strength-based; and

127 (ii) emphasizes the many positive attributes of young people and focuses on developing
 128 inherent strengths and assets to promote health.

129 (f) "Sexual abstinence" means not engaging in oral, vaginal, or anal intercourse or
 130 genital skin-to-skin contact.

131 ~~[(1)(a)]~~ (2) The ~~[State Board of Education]~~ board shall establish curriculum
 132 requirements under Section 53A-1-402[;] that include health instruction in:

133 ~~[(i)]~~ (a) community and personal health;

134 ~~[(ii)]~~ (b) physiology;

135 ~~[(iii)]~~ (c) personal hygiene; ~~[and]~~

136 ~~[(iv)]~~ (d) prevention of communicable disease[;]; and

137 (e) subject to Subsection (3), human health.

138 ~~[(b) (i) That instruction shall stress:]~~

139 ~~[(A) the importance of abstinence from all sexual activity before marriage and fidelity~~
 140 ~~after marriage as methods for preventing certain communicable diseases; and]~~

141 ~~[(B) personal skills that encourage individual choice of abstinence and fidelity.]~~

142 ~~[(ii) (A) At no time may instruction be provided, including responses to spontaneous~~
 143 ~~questions raised by students, regarding any means or methods that facilitate or encourage the~~
 144 ~~violation of any state or federal criminal law by a minor or an adult.]~~

145 ~~[(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a~~
 146 ~~spontaneous question as long as the response is consistent with the provisions of this section.]~~

147 (3) (a) The human health education curriculum established under Subsection (2)(e)
 148 shall:

149 (i) (A) encourage and facilitate parental or guardian involvement and family

150 communication; and
151 (B) be made available to assist parental, guardian, and family discussion about human
152 health education;
153 (ii) include instruction to help students develop skills for making responsible and
154 healthy decisions about human sexuality, personal power, boundary setting, developing safe
155 and healthy relationships, and resisting peer pressure, including:
156 (A) not making unwanted verbal, physical, and sexual advances; and
157 (B) not making assumptions about a person's supposed sexual intentions based on that
158 person's appearance;
159 (iii) teach human sexuality as a normal and healthy aspect of human development;
160 (iv) include information about the physical, social, and emotional changes of
161 adolescence and subsequent stages of human maturation, including how pregnancy happens;
162 (v) include evidence-based information shown to be effective in changing behaviors
163 that contribute to pregnancy at a young age and sexually transmitted diseases and infections,
164 including:
165 (A) sexual abstinence and delaying sexual initiation;
166 (B) reducing the frequency of sexual intercourse;
167 (C) reducing the number of sexual partners; and
168 (D) increasing the use of condoms and other contraceptives;
169 (vi) include discussions and information on how to recognize and respond safely and
170 effectively in situations where sexual or physical violence may be occurring or where there
171 may be a risk for these behaviors to occur;
172 (vii) include discussions of how alcohol and drug use impair responsible and healthy
173 decision making;
174 (viii) be comprehensive, age appropriate, rely on evidence-based information, be
175 inclusive of a positive youth development framework, and be medically accurate; and
176 (ix) provide instruction about the health benefits and potential side effects of using
177 contraceptives and barrier methods to prevent pregnancy, including instruction regarding
178 emergency contraception and the availability of contraceptive methods.
179 ~~[(c)]~~ (b) (i) The board shall recommend instructional materials for use in the ~~[curricula]~~
180 curriculum required under Subsection ~~[(1)(a)]~~ (2) after considering evaluations of instructional

181 materials by the State Instructional Materials Commission.

182 (ii) The State Instructional Materials Commission shall consult with parents, teachers,
 183 school nurses, and community members in evaluating instructional materials for a human
 184 health education curriculum that complies with this section.

185 ~~[(ii)]~~ (iii) A local school board or charter school governing board may choose to adopt:

186 (A) the instructional materials recommended under Subsection ~~[(1)(c)]~~ (3)(b)(i); or

187 (B) other instructional materials as provided in ~~[state]~~ board rule.

188 ~~[(iii)]~~ (iv) The ~~[state]~~ board rule made under Subsection ~~[(1)(c)(ii)]~~ (3)(b)(iii)(B) shall
 189 include, at a minimum:

190 (A) that the materials adopted by a local school board or charter school governing
 191 board under Subsection ~~[(1)(c)(ii)]~~ (3)(b)(iii)(B) shall be based upon recommendations of the
 192 school district's ~~[Curriculum Materials Review Committee]~~ or charter school's curriculum
 193 review committee that comply with state law and ~~[state]~~ board rules ~~[emphasizing abstinence~~
 194 ~~before marriage and fidelity after marriage, and prohibiting instruction in:]~~

195 ~~[(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

196 ~~[(II) the advocacy of homosexuality;]~~

197 ~~[(III) the advocacy or encouragement of the use of contraceptive methods or devices;~~

198 ~~or]~~

199 ~~[(IV) the advocacy of sexual activity outside of marriage;]~~

200 (B) that the adoption of instructional materials shall take place in an open and regular
 201 meeting of the local school board or charter school governing board for which prior notice is
 202 given to parents and guardians of students attending schools in the district and an opportunity
 203 for them to express their views and opinions on the materials at the meeting;

204 (C) provision for an appeal and review process of the local school board's or charter
 205 school governing board's decision; and

206 (D) provision for a report to the board by the local school board ~~[to the State Board of~~
 207 ~~Education]~~ or charter school governing board of the action taken and the materials adopted by
 208 the local school board or charter school governing board under Subsections ~~[(1)(c)(ii)]~~
 209 ~~(3)(b)(iii)(B) and [(1)(c)(iii)]~~ (3)(b)(iv).

210 ~~[(2)]~~ (4) (a) Instruction in the courses described in Subsection ~~[(1)]~~ (2):

211 (i) shall be consistent and systematic in grades ~~[eight]~~ 8 through 12~~[-];~~ and

212 (ii) may not be taught in kindergarten through grade 3.

213 (b) At the request of the board, the Department of Health shall cooperate with the
214 board in [~~developing programs to provide instruction in those areas~~] establishing curriculum
215 requirements as described in Subsection (2).

216 [~~(3)(a)~~] (5) The board shall adopt rules that:

217 [~~(i)~~] (a) provide that the parental consent requirements of [~~Sections 76-7-322 and~~
218 ~~76-7-323~~] Section 53A-13-101.2 are complied with; and

219 [~~(i)~~] (b) require a student's parent or legal guardian to be notified in advance and have
220 an opportunity to review the information for which parental consent is required under [~~Sections~~
221 ~~76-7-322 and 76-7-323~~] Section 53A-13-101.2.

222 [~~(b)~~] The board shall also provide procedures for disciplinary action for violation of
223 Section 76-7-322 or 76-7-323.]

224 [~~(4)(a)~~] In keeping with the requirements of Section ~~53A-13-109~~, and because school
225 employees and volunteers serve as examples to their students, school employees or volunteers
226 acting in their official capacities may not support or encourage criminal conduct by students,
227 teachers, or volunteers.]

228 [~~(b)~~] To ensure the effective performance of school personnel, the limitations described
229 in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official
230 capacities if:]

231 [~~(i)~~] they knew or should have known that their action could result in a material and
232 substantial interference or disruption in the normal activities of the school; and]

233 [~~(ii)~~] that action does result in a material and substantial interference or disruption in the
234 normal activities of the school.]

235 [~~(c)~~] Neither the State Board of Education nor local school districts may allow training
236 of school employees or volunteers that supports or encourages criminal conduct.]

237 [~~(d)~~] (6) The [~~State Board of Education~~] board shall adopt rules implementing this
238 section.

239 [~~(e)~~] Nothing in this section limits the ability or authority of the State Board of
240 Education and local school boards to enact and enforce rules or take actions that are otherwise
241 lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing
242 unfitness for duty.]

243 ~~[(5)]~~ (7) Except as provided in Section [53A-13-101.1](#), political, atheistic, sectarian,
244 religious, or denominational doctrine may not be taught in the public schools.

245 ~~[(6)]~~ (8) (a) ~~[Local]~~ A local school [boards] board or charter school governing board
246 and ~~[their]~~ that board's employees shall cooperate and share responsibility in carrying out the
247 purposes of this chapter.

248 (b) Each school district and charter school shall provide appropriate inservice training
249 for its teachers, counselors, and school administrators to enable them to understand, protect,
250 and properly instruct students in the information, values, and character traits referred to in this
251 section and Sections [53A-13-101.1](#), [53A-13-101.2](#), [53A-13-101.3](#), [53A-13-109](#), [53A-13-301](#),
252 and [53A-13-302](#) and distribute appropriate written materials on the information, values,
253 character traits, and conduct to each individual receiving the inservice training.

254 (c) The written materials shall also be made available to classified employees, students,
255 and parents and guardians of students.

256 (d) In order to assist school districts in providing the inservice training required under
257 Subsection ~~[(6)]~~ (8)(b), the ~~[State Board of Education]~~ board shall, as appropriate, contract
258 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
259 ~~[(6)]~~ (8)(b) to develop and disseminate model teacher inservice programs ~~[which]~~ that districts
260 may use to train the individuals referred to in Subsection ~~[(6)]~~ (8)(b) to effectively teach the
261 values and qualities of character referenced in ~~[that subsection]~~ Subsection (8)(b).

262 ~~[(e) In accordance with the provisions of Subsection (4)(c), inservice training may not~~
263 ~~support or encourage criminal conduct.]~~

264 ~~[(7)]~~ (9) If any one or more provision, subsection, sentence, clause, phrase, or word of
265 this section, or the application thereof to any person or circumstance, is found to be
266 unconstitutional, the balance of this section shall be given effect without the invalid provision,
267 subsection, sentence, clause, phrase, or word.

268 Section 3. Section **53A-13-101.2** is amended to read:

269 **53A-13-101.2. Waivers of participation -- Required parental consent for human**
270 **sexuality instruction.**

271 (1) As used in this section:

272 (a) (i) "Human sexuality instruction" means any course material, unit, class, lesson,
273 activity, or presentation that, as the focus of the discussion, provides instruction or information

274 to a student about:

275 (A) sexual abstinence;

276 (B) human sexuality;

277 (C) human reproduction;

278 (D) reproductive anatomy;

279 (E) physiology;

280 (F) pregnancy;

281 (G) marriage;

282 (H) childbirth;

283 (I) parenthood;

284 (J) contraception;

285 (K) HIV/AIDS; or

286 (L) sexually transmitted diseases.

287 (ii) "Human sexuality instruction" does not include child sexual abuse prevention

288 instruction described in Section [53A-13-112](#).

289 (b) "Parent" means a parent or legal guardian.

290 (c) "School" means a public school.

291 (2) If a parent of a student, or a secondary student, determines that the student's
292 participation in a portion of the curriculum or in an activity would require the student to affirm
293 or deny a religious belief or right of conscience, or engage or refrain from engaging in a
294 practice forbidden or required in the exercise of a religious right or right of conscience, the
295 parent or the secondary student may request:

296 (a) a waiver of the requirement to participate; or

297 (b) a reasonable alternative that requires reasonably equivalent performance by the
298 student of the secular objectives of the curriculum or activity in question.

299 (3) The school shall promptly notify a student's parent if the secondary student makes a
300 request under Subsection (2).

301 (4) If a request is made under Subsection (2), the school shall:

302 (a) waive the participation requirement;

303 (b) provide a reasonable alternative to the requirement; or

304 (c) notify the requesting party that participation is required.

305 (5) The school shall ensure that the provisions of Subsection 53A-13-101.3(3) are met
306 in connection with any required participation under Subsection (4)(c).

307 (6) (a) A school shall obtain prior written consent from a student's parent before the
308 school may provide human sexuality instruction to the student.

309 (b) A notice to obtain prior written consent shall:

310 (i) be printed in 14-point font;

311 (ii) include the following statement in the same or substantially similar format:

312 "In accordance with state law, this notice is to obtain the written consent of a parent or
313 legal guardian for a student to receive human sexuality instruction. Your student will not
314 receive human sexuality instruction at school without your written consent.

315 Human sexuality instruction encourages and facilitates parental or guardian
316 involvement and family communication and is made available to assist parental, guardian, and
317 family discussion about human health education. This instruction helps students develop skills
318 for making responsible and healthy decisions about human sexuality, personal power, boundary
319 setting, developing safe and healthy relationships, and resisting peer pressure, including not
320 making unwanted verbal, physical, and sexual advances, and not making assumptions about a
321 person's supposed sexual intentions based on that person's appearance.

322 Human sexuality instruction teaches human sexuality as a normal and healthy aspect of
323 human development and includes information about the physical, social, and emotional
324 changes of adolescence and subsequent stages of human maturation, including how pregnancy
325 happens. The instruction uses evidence-based information shown to be effective in changing
326 behaviors that contribute to pregnancy at a young age and sexually transmitted diseases and
327 infections, including sexual abstinence and delaying sexual initiation, reducing the frequency
328 of sexual intercourse, reducing the number of sexual partners, and increasing the use of
329 condoms and other contraceptives.

330 Your student's class discussions and information will focus on how to recognize and
331 respond safely and effectively in situations where sexual or physical violence may be occurring
332 or where there may be a risk for these behaviors to occur and discussions of how alcohol and
333 drug use impair responsible and healthy decision making. Classroom discussions will provide
334 instruction about the health benefits and potential side effects of using contraceptives and
335 barrier methods to prevent pregnancy, including instruction regarding emergency contraception

336 and the availability of contraceptive methods.

337 Human sexuality instruction is meant to be comprehensive, age appropriate, reliant on
338 evidence-based information, inclusive of a positive youth development framework, and to
339 provide medically accurate information.";

340 (iii) include information on, if the parent does not provide consent, whether the school
341 will waive the requirement or provide a reasonable alternative as described in this section;

342 (iv) include any other information necessary to assist a parent in making an informed
343 decision about a student's participation in human sexuality instruction; and

344 (v) provide for the date and signature of the parent.

345 (7) If a student's parent chooses not to have the student participate in human sexuality
346 instruction, a school shall:

347 (a) waive the requirement for the student to participate in the human sexuality
348 instruction; or

349 (b) provide the student with a reasonable alternative to the human sexuality instruction
350 requirement.

351 (8) In cooperation with the student's teacher or school, a parent shall take responsibility
352 for the parent's student's human sexuality instruction if a school:

353 (a) waives the student's human sexuality instruction requirement in Subsection (7)(a);
354 or

355 (b) provides the student with a reasonable alternative to the human sexuality
356 instruction requirement described in Subsection (7)(b).

357 (9) A student's academic or citizenship performance may not be penalized if:

358 (a) the secondary student or the student's parent chooses to exercise a religious right or
359 right of conscience in accordance with the provisions of this section; or

360 (b) the student's parent chooses not to have the student participate in human sexuality
361 instruction as described in Subsection (7).

362 Section 4. Section **76-7-324** is amended to read:

363 **76-7-324. Violation of restrictions on public funds for contraceptive or abortion**
364 **services as misdemeanor.**

365 Any agent of a state agency or political subdivision, acting alone or in concert with
366 others, who violates Section [~~76-7-322, 76-7-323, or~~ 76-7-331 is guilty of a class B

367 misdemeanor.

368 Section 5. **Repealer.**

369 This bill repeals:

370 Section **76-7-321, Contraceptive and abortion services -- Funds -- Minor --**

371 **Definitions.**

372 Section **76-7-322, Public funds for provision of contraceptive or abortion services**
373 **restricted.**

374 Section **76-7-323, Public funds for support entities providing contraceptive or**
375 **abortion services restricted.**

376 Section **76-7-325, Notice to parent or guardian of minor requesting contraceptive**
377 **-- Definition of contraceptives -- Penalty for violation.**