

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2024 REGULAR SESSION

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Amend printed copy of **SB 232/GA**

On page 34, delete lines 1 through 3 in their entirety, and insert the following in lieu thereof:

"➔Section 14. KRS 158.191 is amended to read as follows:

- (1) As used in this section:
 - (a) "External health care provider" means a provider of health or mental health services that is not employed by or contracted with the school district to provide services to the district's students;
 - (b) "Health services" has the same meaning as in KRS 156.502;
 - (c) "Mental health services" means services provided by a school-based mental health services provider as defined in KRS 158.4416 but shall not include academic or career counseling; and
 - (d) "Parent" means a person who has legal custody or control of the student such as a mother, father, or guardian.
- (2) Upon a student's enrollment and at the beginning of each school year, the district shall provide a notification to the student's parents listing each of the health services and mental health services related to human sexuality, contraception, or family planning available at the student's school and of the parents' right to withhold consent or decline any of those specific services. A parent's consent to a health service or mental health service under this

Amendment No. <u>HFA 1</u>	Rep. <u>Rep. Josh Calloway</u>
Committee Amendment _____	Signed: _____
Floor Amendment _____	LRC Drafter: _____
Adopted: _____	Date: _____
Rejected: _____	Doc. ID: <u>XXXX</u>

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subsection shall not waive the parent's right to access the student's educational or health records held by the district or the notifications required under subsection (3) of this section.

(3) Except as provided in subsection (5) of this section, as part of a school district's effort to provide a safe and supportive learning environment for students **and to facilitate and support parental rights and involvement in the student's life**, a school shall notify a student's parents **within two (2) business days of the following occurring**~~if~~:

(a) The school changes the health services or mental health services related to human sexuality, contraception, or family planning that it provides, and shall obtain parental consent prior to providing health services or mental health services to the student;~~;~~

~~or~~

(b) **School personnel become aware of any of the following:**

1. The student experiences any significant physical injury while under the supervision of a school employee;

2. The student experiences repeated instances of bullying or harassment or is identified as the victim in a violation of the local code of acceptable behavior and discipline;

3. The student experiences a significant or ongoing reduction in academic performance;

4. The student requests or receives health services or mental health services related to sexual conduct or behavior, sexual orientation, or sexual identity;

5. The student asserts that the student's gender is different from his or her biological sex; or

6. A school employee is engaged in a romantic or sexual relationship with the student or is engaging in repeated personal communications with the student that violate the professional code of ethics developed pursuant to KRS

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161.028; or

(c) School personnel make a referral:

1. For the student to receive a school's health services or mental health services; or
2. To an external health care provider, for which parental consent shall be obtained prior to the referral being made.

(4) School districts and district personnel shall respect the **fundamental** rights of parents to make decisions regarding the upbringing and control of the student, **and shall adopt**~~through~~ procedures encouraging students to discuss mental or physical health or life issues with their parents **and**~~for through~~ facilitating the discussion with their parents.

(5) (a) The Kentucky Board of Education or the Kentucky Department of Education shall not require or recommend that a local school district keep any student information confidential from a student's parents. A district or school shall not:

1. Adopt policies or procedures **that keep**~~with the intent of keeping~~ any student information confidential from parents; **or**

2. Refuse to disclose any student information requested by the student's parent; except as provided in paragraph (d) of this subsection.

(b) The Kentucky Board of Education or the Kentucky Department of Education shall not require or recommend policies or procedures for the use of pronouns that do not conform to a student's biological sex as indicated on the student's original, unedited birth certificate issued at the time of birth pursuant to KRS 156.070(2)(g)2.

(c) A local school district shall not require school personnel or students to use pronouns for **any individual**~~students~~ that do not conform to that particular **individual's**~~student's~~ biological sex as referenced in paragraph (b) of this subsection.

(d) Nothing in this subsection shall prohibit a school district or district personnel from

withholding information from a parent if a reasonably prudent person would believe, based on previous conduct and history, that the disclosure would result in the child becoming a dependent child or an abused or neglected child as defined in KRS 600.020. The fact that district personnel withhold information from a parent under this subsection shall not in itself constitute evidence of failure to report dependency, neglect, or abuse to the Cabinet for Health and Family Services under KRS 620.030.

- (6) Prior to a well-being questionnaire or assessment, or a health screening form being given to a child for research purposes, a school district shall provide the student's parent with access to review the material and shall obtain parental consent. Parental consent shall not be a general consent to these assessments or forms but shall be required for each assessment or form. A parent's refusal to consent shall not be an indicator of having a belief regarding the topic of the assessment or form.
- (7) Nothing in this section shall:
- (a) Prohibit a school district or the district's personnel from seeking or providing emergency medical ~~for mental health~~ services for a student **or emergency mental health services necessary to prevent the death of or imminent physical harm to the student or any other person** as outlined in the district's policies. **This shall include mental health services provided generally to the entire student population to assist grieving students or to respond to a disaster**; or
- (b) Remove the duty to report pursuant to KRS 620.030 if district personnel has reasonable cause to believe the child is a dependent child or an abused or neglected child due to the risk of physical or emotional injury identified in KRS 600.020(1)(a)2. or as otherwise provided in that statute.

➔Section 15. KRS 158.1415 is amended to read as follows:

- (1) If a school council or, if none exists, the principal adopts a curriculum for human sexuality

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or sexually transmitted diseases, instruction shall include but not be limited to the following content:

- (a) Abstinence from sexual activity is the desirable goal for all school-age children;
 - (b) Abstinence from sexual activity is the only certain way to avoid unintended pregnancy, sexually transmitted diseases, and other associated health problems;
 - (c) The best way to avoid sexually transmitted diseases and other associated health problems is to establish a permanent mutually faithful monogamous relationship;
 - (d) A policy to respect parental rights~~[by ensuring]~~ that ***prohibits***:
 1. Children in grade five (5) and below ***from receiving***~~[do not receive]~~ any instruction through curriculum or programs on human sexuality or sexually transmitted diseases;~~[or]~~
 2. Any child, regardless of grade level, enrolled in the district ***from receiving***~~[does not receive]~~ any instruction or presentation that has a goal or purpose of students studying or exploring gender identity, gender expression, or sexual orientation; and
 3. ***Any child, regardless of grade level, enrolled in the district from receiving any instruction or presentation on any specific topic where the child's parent has provided written notice to the school asserting that the specific topic conflicts with the family's religious or moral beliefs; and***
 - (e) A policy to notify a parent in advance and obtain the parent's written consent before the parent's child in grade six (6) or above receives any instruction through curriculum or programs on human sexuality or sexually transmitted diseases authorized in this section.
- (2) Any course, curriculum, or program offered by a public school on the subject of human sexuality provided by school personnel or by third parties authorized by the school shall:

- (a) Provide an alternative course, curriculum, or program without any penalty to the student's grade or standing for students whose parents have not provided written consent as required in subsection (1)(e) of this section;
 - (b) Be subject to an inspection by parents of participating students that allows parents to review the following materials:
 - 1. Curriculum;
 - 2. Instructional materials;
 - 3. Lesson plans;
 - 4. Assessments or tests;
 - 5. Surveys or questionnaires;
 - 6. Assignments; and
 - 7. Instructional activities;
 - (c) Be developmentally appropriate; and
 - (d) Be limited to a curriculum that has been subject to the reasonable review and response by stakeholders in conformity with this subsection and KRS 160.345(2).
- (3) A public school offering any course, curriculum, or program on the subject of human sexuality shall provide written notification to the parents of a student at least two (2) weeks prior to the student's planned participation in the course, curriculum, or program. The written notification shall:
- (a) Inform the parents of the provisions of subsection (2) of this section;
 - (b) Provide the date the course, curriculum, or program is scheduled to begin;
 - (c) Detail the process for a parent to review the materials outlined in subsection (2) of this section;
 - (d) Explain the process for a parent to provide written consent for the student's participation in the course, curriculum, or program; and

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- (e) Provide the contact information for the teacher or instructor of the course, curriculum, or program and a school administrator designated with oversight.
- (4) Nothing in this section shall prohibit school personnel from:
 - (a) Discussing human sexuality, including the sexuality of any historic person, group, or public figure, where the discussion provides necessary context in relation to a topic of instruction from a curriculum approved pursuant to KRS 160.345; or
 - (b) Responding to a question from a student during class regarding human sexuality as it relates to a topic of instruction from a curriculum approved pursuant to KRS 160.345.

➔ SECTION 16. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) (a) A parent may bring suit for any violation of Section 14 or 15 of this Act and may raise those sections as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the state government, any private person, or any other party.
- (b) A parent who successfully asserts a claim or defense under Section 14 or 15 of this Act may recover declaratory relief, injunctive relief, compensatory damages, reasonable attorneys' fees and costs, and any other appropriate relief.
- (c) A district or school shall indemnify its employees for any liability incurred by the employee and for any judgment entered against the employee for claims arising under Section 14 or 15 of this Act unless the employee was convicted of a criminal violation for the conduct from which the claim arises.
- (2) A district or school employee who is found to have knowingly and intentionally violated Section 14 or 15 of this Act shall be disciplined by the appropriate state licensing board and shall have any state-issued license or certification suspended for a period of two (2) years.

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➔SECTION 17. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

A teacher or other employee of a district shall not be subject to any disciplinary action or adverse employment action for any of the following:

- (1) Informing a student's parent of any information regarding that student that the individual reasonably believes the parent should know; or**
- (2) Declining to address an individual using a pronoun or title that is inconsistent with the individual's biological sex.**

➔Section 18. KRS 158.193 is amended to read as follows:

- (1) For the purposes of this section, "on duty" means those times when a school district employee is:
 - (a) Required by the district to be on campus or at another designated location and required to perform the scope of the employee's duties; or
 - (b) Otherwise acting as a designated representative of the school district.
- (2) A school district shall not punish or prohibit an employee from, or punish an employee for, engaging in private religious expression otherwise protected by the First Amendment to the United States Constitution absent a showing that the employee has engaged in actual coercion.
- (3) While a school district employee is on duty, the employee may, at a minimum:
 - (a) Engage in religious expression and discussions and share religious materials with other employees at the same time and in the same manner that employees are permitted to engage in nonreligious expression and discussions outside the scope of duties;
 - (b) Engage in private religious expression at a time when it is otherwise permissible for an employee to engage in private expressive conduct or act outside the scope of

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- duties;
- (c) Meet with other district employees for prayer or religious study during times that the employee is allowed to act outside the scope of duties, including but not limited to employee breaks, time before school, and during lunch;
 - (d) Work as a sponsor of a student religious club or organization and assist students in planning meetings, activities, and events to the same extent that employee sponsors of nonreligious clubs or organizations are permitted to do so;
 - (e) Wear religious clothing, symbols, or jewelry, provided that such items otherwise comply with any dress code implemented by the school district;
 - (f) Decorate their desk and other personal spaces with personal items that reflect their religious beliefs to the same extent that other employees are permitted to decorate their desk and other personal spaces with personal items;~~and~~
 - (g) During noninstructional time, engage in religious expression and share religious materials to the same extent that other employees may engage in private expression permitted under the First Amendment to the United States Constitution; and
 - (h) Participate in voluntary, student-initiated, student-led prayer, including but not limited to before a sporting event, when invited to do so by the students.**
- (4) Nothing in this section shall be construed to authorize the state or any other governmental organization to:
- (a) Require any person to participate in prayer or any other religious activity; or
 - (b) Violate the constitutional rights of any person.
- (5) This section shall not be construed to limit a school district's authority to:
- (a) Maintain order and discipline on school property in a content-neutral and viewpoint-neutral manner;
 - (b) Protect the safety of students, employees, and visitors; and

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- (c) Adopt and enforce policies and procedures regarding student speech at school that respect the rights of students.

➔Section 19. Whereas, due to the need to ensure continued financial savings for school districts in relation to construction costs and approval delays, and the need to protect the rights of families, an emergency is declared to exist, and this Act takes effect July 1, 2024."