

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 545 Reproductive Health and Disease Education

SPONSOR(S): Education & Employment Committee, Secondary Education & Career Development Subcommittee, Chaney and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Secondary Education & Career Development Subcommittee	13 Y, 4 N, As CS	Bauman	Sanchez
2) Education & Employment Committee	18 Y, 2 N, As CS	Bauman	Hassell

SUMMARY ANALYSIS

The bill requires school districts to notify parents of public school students of their right to exempt their child from the teaching of reproductive health or any disease, including HIV/AIDS, through the submission of a written request. The bill requires a school district to notify parents of this right by posting information about how to request the exemption on the homepage of the school district's website. The district homepage must also include a link for a student's parent to access and view the instructional materials used in reproductive health and disease curriculum.

The bill requires district school boards to annually approve all instructional materials used to teach reproductive health or any disease, including HIV/AIDS, in an open, noticed public meeting. School districts are required to provide a process for the public review of and comment on the adoption of such instructional materials.

The bill does not have a fiscal impact.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

K-12 Student and Parent Rights

Parents of public school students are required by law to receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child succeed in school.¹ In the Florida Education Code, K-12 students and their parents are afforded numerous statutory rights pertaining to student education, including the right to opt out of reproductive health and disease education.²

Florida law requires district school boards to provide comprehensive health education that among other issues addresses community health, personal health, and the prevention and control of disease. Comprehensive health education also includes "family life" under which Florida law requires education to include an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy.³

School districts may provide instruction in acquired immune deficiency syndrome (AIDS) as an area of health education but it is not required.⁴ If provided, the instruction must be grade-appropriate and reflect current theory and knowledge.⁵ If a school provides instruction in AIDS, sexually transmitted diseases (STDs), and human sexuality, the instruction must: teach abstinence as the expected standard for school-age children; emphasize that abstinence is a certain way to avoid pregnancy and STDs; and teach that each student has the power to control personal behavior. Instruction and materials related to these areas must be grade-appropriate.⁶

A public school student whose parent makes a written request to the school principal must be exempted from reproductive health and disease instruction, including instruction relating to HIV/AIDS.⁷ A student exempted from the teaching of reproductive health or any disease, including HIV/AIDS and its symptoms, development, and treatment, may not be penalized for that exemption.⁸

Generally, health education must meet standards adopted by the State Board of Education (SBE).⁹ The specific curriculum regarding reproductive health and the prevention and control of disease is determined at the school district level to reflect the values and concerns of the students and community.¹⁰

Instructional Materials

¹ Section 1002.20, F.S.

² Section 1002.20(3)(d), F.S.

³ Section 1003.42(2)(n), F.S.

⁴ Section 1003.46(1), F.S.

⁵ *Id.*

⁶ Section 1003.46(2), F.S.

⁷ *Id.*

⁸ Section 1003.42(3), F.S.

⁹ See CPALMS, *Browse and Search Standards*, <https://www.cpalms.org/Public/search/Standard> (last visited April 13, 2021) (Select "Subject" and filter by "Health Education").

¹⁰ See Section 1003.42, F.S.; Florida Department of Health, *HIV/STD Prevention, Teen Pregnancy Prevention & Sexual Health Education: Statutes, Rules, Policies & Guidelines*, <http://www.fldoe.org/schools/healthy-schools/sexual-edu/policies.stml> (last visited April 9, 2021).

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.¹¹ School districts may purchase instructional materials from a list of state-reviewed and adopted instructional materials¹² or establish their own review and adoption program.¹³ Prior to the purchase of instructional materials through either method, the district school board must establish a process for public comment on and review of the recommended instructional materials.¹⁴ District school boards receive state funding for instructional materials through the instructional materials allocation.¹⁵

Florida law defines “instructional materials” as items with intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course.¹⁶ These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.¹⁷

Each district school board is responsible for the content of all instructional materials and any other materials used in the classroom, made available in a school library, or included on a reading list.¹⁸ Each district school board must maintain on its website a current list of instructional materials, purchased by the district, separated by grade level.¹⁹ Florida law establishes that the parent of a public school student has the right to receive effective communication from the school principal about the manner in which instructional materials are used to implement curricular objectives.²⁰

District school boards are required to adopt a policy for objections made by a parent or resident of the county to the use of a specific instructional material.²¹ The policy must clearly describe the process by which the objector has the opportunity to provide specific evidence²² and provide for resolution.²³

Effect of Proposed Changes

The bill requires school districts to notify parents of public school students of their right to exempt their child from the teaching of reproductive health or any disease, including HIV/AIDS, through the submission of a written request. The bill requires a school district to notify parents of this right by posting information about how to request the exemption on the homepage of the school district's website. The district homepage must also include a link for a student's parent to access and review the instructional materials used in reproductive health and disease curriculum.

The bill also requires district school boards to annually approve all instructional materials used to teach reproductive health or any disease, including HIV/AIDS, in an open, noticed public meeting. School districts are required to provide a process for the public review of and comment on the adoption of such instructional materials.

¹¹ See Section 1006.40(2) and (4), F.S.

¹² See Florida Department of Education, *Instructional Materials*, <http://www.fldoe.org/academics/standards/instructional-materials/> (last visited April 13, 2021).

¹³ See ss. 1006.283 and 1006.40, F.S.

¹⁴ See ss. 1006.40(4)(b) and 1006.283(2)(b), F.S.

¹⁵ See Section 1006.40, F.S. See also Florida Department of Education, *2020-21 Funding for Florida School Districts*, at 20, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf> (last visited April 13, 2021).

¹⁶ See ss. 1006.28(1) and 1006.29(2), F.S.

¹⁷ *Id.*

¹⁸ Section 1006.28(2)(a)1., F.S.

¹⁹ *Id.*

²⁰ Section 1002.20(19)(b), F.S.

²¹ Section 1006.28(2)(a)2., F.S.

²² The parent or resident may present evidence to show that the material does not meet the criteria or requirements of the instructional material selection or adoption process. The parent or resident may also present evidence that the instructional material contains pornographic or prohibited content, as described by s. 847.012, F.S., is not suited to student needs and comprehension of the materials presented, or is inappropriate for the grade level and age group. Section 1006.28(2)(a)2.a.-b., F.S.

²³ *Id.*

B. SECTION DIRECTORY:

- Section 1.** Amends Section 1002.20, requiring each school district to publish a notice on the district's website concerning a parent's right to exempt a student from reproductive health and disease education.

- Section 2.** Amends Section 1003.42, requiring district school boards to annually approve instructional materials relating to reproductive health and disease education in an open, noticed public meeting; requiring each school district to publish a notice on the district's website concerning a parent's right to exempt a student from reproductive health and disease education.

- Section 3.** Amends Section 1006.40, specifying that reproductive health and disease education instructional materials are to be made available for public review and comment under a specific process.

- Section 4.** Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.

- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.

- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 15, 2021, the Education & Employment Committee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from committee substitute adopted by the Secondary Education & Career Development Committee as follows:

- Removes the requirement for written parental consent for a student to participate in instruction on reproductive health and any disease, including HIV/AIDS.
- Requires school districts to notify parents of their right to and the process to exempt their child from reproductive health and disease instruction. School districts must publish information about this right and how to request the exemption on the homepage of the district's website.
- Requires school districts to provide a link on the district's homepage for parents to access all instructional materials used to teach reproductive health and disease instruction.
- Requires school districts to annually approve instructional materials used to teach reproductive health and disease, including HIV/AIDS, in an open, noticed public meeting. School districts must provide a process for the review of and public comment on the adoption of instructional materials used to teach reproductive health or any disease, including HIV/AIDS.

The analysis is drafted to the committee substitute as adopted by the Education & Employment Committee.