

CHAPTER 132

(SB 150)

AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED 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 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, a school shall notify a student's parents 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 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 rights of parents to make decisions regarding the upbringing and control of the student through procedures encouraging students to discuss mental or physical health or life issues with their parents or 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 adopt policies or procedures with the intent of keeping any student information confidential from parents.*

(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 students that do not conform to that particular 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 or mental health services for a student as outlined in the district's policies; 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 2. 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 or sexually transmitted diseases, instruction shall include but not be limited to the following content:
- (a)~~{(1)}~~ Abstinence from sexual activity is the desirable goal for all school-age children;
- (b)~~{(2)}~~ Abstinence from sexual activity is the only certain way to avoid unintended pregnancy, sexually transmitted diseases, and other associated health problems;~~{and}~~
- (c)~~{(3)}~~ 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:*
1. *Children in grade five (5) and below 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 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*
- (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*
 - (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 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Biological sex" means the physical condition of being male or female, which is determined by a person's chromosomes, and is identified at birth by a person's anatomy; and*
 - (b) *"School" means a school under the control of a local board of education or a charter school board of directors.*
- (2) *The General Assembly finds that:*
 - (a) *School personnel have a duty to protect the dignity, health, welfare, and privacy rights of students in their care;*
 - (b) *Children and young adults have natural and normal concerns about privacy while in various states of undress, and most wish for members of the opposite biological sex not to be present in those circumstances;*
 - (c) *Allowing students to use restrooms, locker rooms, or shower rooms that are reserved for students of a different biological sex:*
 - 1. *Will create a significant potential for disruption of school activities and unsafe conditions; and*
 - 2. *Will create potential embarrassment, shame, and psychological injury to students;*
 - (d) *Parents have a reasonable expectation that schools will not allow minor children to be viewed in various states of undress by members of the opposite biological sex, nor allow minor children to view members of the opposite sex in various states of undress; and*
 - (e) *Schools have a duty to respect and protect the privacy rights of students, including the right not to be compelled to undress or be unclothed in the presence of members of the opposite biological sex.*
- (3) *Each local board of education or charter school board of directors shall, after allowing public comment on the issue at an open meeting, adopt policies necessary to protect the privacy rights outlined in subsection (2) of this section and enforce this subsection. Those policies shall, at a minimum, not allow students to use restrooms, locker rooms, or shower rooms that are reserved for students of a different biological sex.*
- (4) (a) *A student who asserts to school officials that his or her gender is different from his or her biological sex and whose parent or legal guardian provides written consent to school officials shall be provided*

with the best available accommodation, but that accommodation shall not include the use of school restrooms, locker rooms, or shower rooms designated for use by students of the opposite biological sex while students of the opposite biological sex are present or could be present.

- (b) *Acceptable accommodations may include but are not limited to access to single-stall restrooms or controlled use of faculty bathrooms, locker rooms, or shower rooms.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Minor" means any person under the age of eighteen (18) years; and*
- (b) *"Sex" means the biological indication of male and female as evidenced by sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth.*

(2) *Except as provided in subsection (3) of this section, a health care provider shall not, for the purpose of attempting to alter the appearance of, or to validate a minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex, knowingly:*

- (a) *Prescribe or administer any drug to delay or stop normal puberty;*
- (b) *Prescribe or administer testosterone, estrogen, or progesterone, in amounts greater than would normally be produced endogenously in a healthy person of the same age and sex;*
- (c) *Perform any sterilizing surgery, including castration, hysterectomy, oophorectomy, orchiectomy, penectomy, and vasectomy;*
- (d) *Perform any surgery that artificially constructs tissue having the appearance of genitalia differing from the minor's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or*
- (e) *Remove any healthy or non-diseased body part or tissue.*

(3) *The prohibitions of subsection (2) this section shall not limit or restrict the provision of services to:*

- (a) *A minor born with a medically verifiable disorder of sex development, including external biological sex characteristics that are irresolvably ambiguous;*
- (b) *A minor diagnosed with a disorder of sexual development, if a health care provider has determined, through genetic or biochemical testing, that the minor does not have a sex chromosome structure, sex steroid hormone production, or sex steroid hormone action, that is normal for a biological male or biological female; or*
- (c) *A minor needing treatment for an infection, injury, disease, or disorder that has been caused or exacerbated by any action or procedure prohibited by subsection (2) of this section.*

(4) *If a licensing or certifying agency for health care providers finds, in accordance with each agency's disciplinary and hearing process, that a health care provider who is licensed or certified by the agency has violated subsection (2) of this section, the agency shall revoke the health care provider's licensure or certification.*

(5) *Any civil action to recover damages for injury suffered as a result of a violation of subsection (2) of this section may be commenced before the later of:*

- (a) *The date on which the person reaches the age of thirty (30) years; or*
- (b) *Within three (3) years from the time the person discovered or reasonably should have discovered that the injury or damages were caused by the violation.*

(6) *If a health care provider has initiated a course of treatment, for a minor, that includes the prescription or administration of any drug or hormone prohibited by subsection (2) of this section and if the health care provider determines and documents in the minor's medical record that immediately terminating the minor's use of the drug or hormone would cause harm to the minor, the health care provider may institute a period during which the minor's use of the drug or hormone is systematically reduced.*

➔Section 5. Whereas situations currently exist in which the privacy rights of students are violated, an emergency is declared to exist, and Sections 1 to 3 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.