

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 438

(SENATE AUTHORS: MAYE QUADE, Cwodzinski, Kunesh, Morrison and Mann)
DATE 01/19/2023 D-PG Introduction and first reading OFFICIAL STATUS Referred to Education Policy

1.1 A bill for an act
1.2 relating to education; requiring affirmative consent instruction; appropriating
1.3 money; proposing coding for new law in Minnesota Statutes, chapter 121A.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 121A.231] PROGRAM TO PREVENT SEXUAL ASSAULT.

1.6 Subdivision 1. Consent program. (a) The commissioner of education, in consultation
1.7 with the commissioner of health, must assist districts and charter schools in developing and
1.8 implementing a consent program to prevent and reduce the incidence of sexual assault. Each
1.9 district must develop and implement a program in grades 9 through 12 that includes at a
1.10 minimum the following:

1.11 (1) age-appropriate instruction on consent in grades 8 through 12, consistent with
1.12 paragraph (c);

1.13 (2) planning materials and guidelines;

1.14 (3) in-service training for appropriate district staff and school board members;

1.15 (4) collaboration with local community health services, agencies, and organizations
1.16 having a consent program; and

1.17 (5) participation by state and local student organizations.

1.18 (b) If a district fails to develop and implement a consent program, the department must
1.19 assist the service cooperative in the region serving that district or charter school to develop
1.20 or implement the program.

2.1 (c) "Consent" as used in this section means affirmative, conscious, and voluntary
 2.2 agreement to engage in sexual activity. It is the responsibility of each person involved in
 2.3 sexual activity to ensure that any other person involved consents to engage in the sexual
 2.4 activity. Lack of protest or resistance does not mean consent. Consent must be ongoing
 2.5 throughout a sexual activity and may be revoked at any time. The existence of a relationship
 2.6 between the persons involved, or the fact of past sexual activity between them, must not by
 2.7 itself be an indicator of consent.

2.8 Subd. 2. **Funding sources.** Districts and charter schools may accept funds for consent
 2.9 programs developed and implemented under this section from public and private sources
 2.10 including public health funds and foundations, department professional development funds,
 2.11 federal block grants, or other federal or state grants.

2.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.13 Sec. 2. **APPROPRIATION.**

2.14 Subdivision 1. **Department of Education.** The sums indicated in this section are
 2.15 appropriated from the general fund to the commissioner of education for the fiscal years
 2.16 designated.

2.17 Subd. 2. **Affirmative consent.** To assist districts and charter schools in implementing
 2.18 a consent program in accordance with Minnesota Statutes, section 121A.231:

2.19 § 2024

2.20 § 2025