AMENDMENT TO HOUSE BILL 5188

AMENDMENT NO. ______. Amend House Bill 5188 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 27-9.1a and 27-9.1b as follows:

(105 ILCS 5/27-9.1a)
Sec. 27-9.1a. Comprehensive personal health and safety and comprehensive sexual health education.
(a) In this Section:
"Adapt" means to modify an evidence-based or evidence-informed program model for use with a particular demographic, ethnic, linguistic, or cultural group.
"Age and developmentally appropriate" means suitable to particular ages or age groups of children and adolescents, based on the developing cognitive, emotional, and behavioral capacity typical for the age or age group.
"Characteristics of effective programs" includes development, content, and implementation of such programs that (i) have been shown to be effective in terms of increasing knowledge, clarifying values and attitudes, increasing skills, and impacting behavior, (ii) are widely recognized by leading medical and public health agencies to be effective in changing sexual behaviors that lead to sexually transmitted infections, including HIV, unintended pregnancy, interpersonal violence, and sexual violence among young people, and (iii) are taught by professionals who provide a safe learning space, free from shame, stigma, and ideology and are trained in trauma-informed teaching methodologies.

"Complete" means information that aligns with the National Sex Education Standards, including information on consent and healthy relationships, anatomy and physiology, puberty and adolescent sexual development, gender identity and expression, sexual orientation and identity, sexual health, and interpersonal violence.

"Comprehensive personal health and safety education" means age and developmentally appropriate education that aligns with the National Sex Education Standards, including information on consent and healthy relationships, anatomy and physiology, puberty and adolescent sexual development, gender identity and expression, sexual orientation and identity, sexual health, and interpersonal violence.

"Comprehensive sexual health education" means age and
developmentally appropriate education that aligns with the National Sex Education Standards, including information on consent and healthy relationships, anatomy and physiology, puberty and adolescent sexual development, gender identity and expression, sexual orientation and identity, sexual health, and interpersonal violence.

"Consent" means an affirmative, knowing, conscious, ongoing, and voluntary agreement to engage in interpersonal, physical, or sexual activity, which can be revoked at any point, including during the course of interpersonal, physical, or sexual activity.

"Culturally appropriate" means affirming culturally diverse individuals, families, and communities in an inclusive, respectful, and effective manner, including materials and instruction that are inclusive of race, ethnicity, language, cultural background, immigration status, religion, disability, gender, gender identity, gender expression, sexual orientation, and sexual behavior.

"Evidence-based program" means a program for which systematic, empirical research or evaluation has provided evidence of effectiveness.

"Evidence-informed program" means a program that uses the best available research and practice knowledge to guide program design and implementation.

"Gender stereotype" means a generalized view or preconception about what attributes, characteristics, or roles
are or ought to be taught, possessed by, or performed by people based on their gender identity.

"Healthy relationships" means relationships between individuals that consist of mutual respect, trust, honesty, support, fairness, equity, separate identities, physical and emotional safety, and good communication.

"Identity" means people's understanding of how they identify their sexual orientation, gender, gender identity, or gender expression without stereotypes, shame, or stigma.

"Inclusive" means inclusion of marginalized communities that include, but are not limited to, people of color, immigrants, people of diverse sexual orientations, gender identities, and gender expressions, people who are intersex, people with disabilities, people who have experienced interpersonal or sexual violence, and others.

"Interpersonal violence" means violent behavior used to establish power and control over another person.

"Medically accurate" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and published in peer-reviewed journals, if applicable, or comprising information recognized as accurate and objective.

"Pre-exposure Prophylaxis (PrEP)" means medications approved by the federal Food and Drug Administration (FDA) and recommended by the United States Public Health Service or the federal Centers for Disease Control and Prevention for HIV
pre-exposure prophylaxis and related pre-exposure prophylaxis services, including, but not limited to, HIV and sexually transmitted infection screening, treatment for sexually transmitted infections, medical monitoring, laboratory services, and sexual health counseling, to reduce the likelihood of HIV infection for individuals who are not living with HIV but are vulnerable to HIV exposure.

"Post-exposure Prophylaxis (PeP)" means the medications that are recommended by the federal Centers for Disease Control and Prevention and other public health authorities to help prevent HIV infection after potential occupational or non-occupational HIV exposure.

"Sexual violence" means discrimination, bullying, harassment, including sexual harassment, sexual abuse, sexual assault, intimate partner violence, incest, rape, and human trafficking.

"Trauma informed" means to address vital information about sexuality and well-being that takes into consideration how adverse life experiences may potentially influence a person's well-being and decision making.

(b) All classes that teach comprehensive personal health and safety and comprehensive sexual health education shall satisfy the following criteria:

(1) Course material and instruction shall be age and developmentally appropriate, medically accurate, complete, culturally appropriate, inclusive, and trauma
(2) Course material and instruction shall replicate evidence-based or evidence-informed programs or substantially incorporate elements of evidence-based programs or evidence-informed programs or characteristics of effective programs.

(3) Course material and instruction shall be inclusive and sensitive to the needs of students based on their status as pregnant or parenting, living with STIs, including HIV, sexually active, asexual, or intersex or based on their gender, gender identity, gender expression, sexual orientation, sexual behavior, or disability.

(4) Course material and instruction shall be accessible to students with disabilities, which may include the use of a modified curriculum, materials, instruction in alternative formats, assistive technology, and auxiliary aids.

(5) Course material and instruction shall help students develop self-advocacy skills for effective communication with parents or guardians, health and social service professionals, other trusted adults, and peers about sexual health and relationships.

(6) Course material and instruction shall provide information to help students develop skills for developing healthy relationships and preventing and dealing with interpersonal violence and sexual violence.
(7) Course material and instruction shall provide information to help students safely use the Internet, including social media, dating or relationship websites or applications, and texting.

(8) Course material and instruction shall provide information about local resources where students can obtain additional information and confidential services related to parenting, bullying, interpersonal violence, sexual violence, suicide prevention, sexual and reproductive health, mental health, substance abuse, sexual orientation, gender identity, gender expression, and other related issues.

(9) Course material and instruction shall include information about State laws related to minor confidentiality and minor consent, including exceptions, consent education, mandated reporting of child abuse and neglect, the safe relinquishment of a newborn child, minors' access to confidential health care and related services, school policies addressing the prevention of and response to interpersonal and sexual violence, school breastfeeding accommodations, and school policies addressing the prevention of and response to sexual harassment.

(10) Course material and instruction may not reflect or promote bias against any person on the basis of the person's race, ethnicity, language, cultural background,
citizenship, religion, HIV status, family structure, disability, gender, gender identity, gender expression, sexual orientation, or sexual behavior.

(11) Course material and instruction may not employ gender stereotypes.

(12) Course material and instruction shall be inclusive of and may not be insensitive or unresponsive to the needs of survivors of interpersonal violence and sexual violence.

(13) Course material and instruction may not proselytize any religious doctrine.

(14) Course material and instruction may not deliberately withhold health-promoting or life-saving information about culturally appropriate health care and services, including reproductive health services, hormone therapy, and FDA-approved treatments and options, including, but not limited to, Pre-exposure Prophylaxis (PrEP) and Post-exposure Prophylaxis (PeP).

(15) Course material and instruction may not be inconsistent with the ethical imperatives of medicine and public health.

(c) A school may utilize guest lecturers or resource persons to provide instruction or presentations in accordance with Section 10-22.34b. Comprehensive personal health and safety and comprehensive sexual health education instruction and materials provided by guest lecturers or resource persons
may not conflict with the provisions of this Section.

(d) No student shall be required to take or participate in any class or course in comprehensive personal health and safety and comprehensive sexual health education. A student's parent or guardian may opt the student out of comprehensive personal health and safety and comprehensive sexual health education by submitting the request in writing. Refusal to take or participate in such a course or program may not be a reason for disciplinary action, academic penalty, suspension, or expulsion or any other sanction of a student. A school district may not require active parental consent for comprehensive personal health and safety and comprehensive sexual health education.

(e) An opportunity shall be afforded to individuals, including parents or guardians, to review the scope and sequence of instructional materials to be used in a class or course under this Section, either electronically or in person. A school district shall annually post, on its Internet website if one exists, which curriculum is used to provide comprehensive personal health and safety and comprehensive sexual health education and the name and contact information, including an email address, of school personnel who can respond to inquiries about instruction and materials.

(f) On or before August 1, 2022, the State Board of Education, in consultation with youth, parents, sexual health and violence prevention experts, health care providers,
advocates, and education practitioners, including, but not limited to, administrators, regional superintendents of schools, teachers, and school support personnel, shall develop and adopt rigorous learning standards in the area of comprehensive personal health and safety education for pupils in kindergarten through the 5th grade and comprehensive sexual health education for pupils in the 6th through 12th grades, including, but not limited to, all of the National Sex Education Standards, including information on consent and healthy relationships, anatomy and physiology, puberty and adolescent sexual development, gender identity and expression, sexual orientation and identity, sexual health, and interpersonal violence, as authored by the Future of Sex Education Initiative. As the National Sex Education Standards are updated, the State Board of Education shall update these learning standards.

(g) By no later than August 1, 2022, the State Board of Education shall make available resource materials developed in consultation with stakeholders, with the cooperation and input of experts that provide and entities that promote age and developmentally appropriate, medically accurate, complete, culturally appropriate, inclusive, and trauma-informed comprehensive personal health and safety and comprehensive sexual health education policy. Materials may include, without limitation, model comprehensive personal health and safety and comprehensive sexual health education resources and programs.
The State Board of Education shall make these resource materials available on its Internet website, in a clearly identified and easily accessible place.

(h) Schools may choose and adapt the age and developmentally appropriate, medically accurate, complete, culturally appropriate, inclusive, and trauma-informed comprehensive personal health and safety and comprehensive sexual health education curriculum that meets the specific needs of their community. All instruction and materials, including materials provided or presented by outside consultants, community groups, or organizations, may not conflict with the provisions of this Section.

(i) The State Board of Education shall, through existing reporting mechanisms if available, direct each school district to identify the following:

(1) if instruction on comprehensive personal health and safety and comprehensive sexual health education is provided;

(2) whether the instruction was provided by a teacher in the school, a consultant, or a community group or organization and specify the name of the outside consultant, community group, or organization;

(3) the number of students receiving instruction;

(4) the number of students excused from instruction; and

(5) the duration of instruction.
The State Board of Education shall report the results of this inquiry to the General Assembly annually, for a period of 5 years beginning one year after the effective date of this amendatory Act of the 102nd General Assembly.

(j) Beginning no later than July 1, 2023, a school district shall provide:

(1) age and developmentally appropriate, medically accurate, complete, culturally appropriate, inclusive, and trauma-informed comprehensive personal health and safety education in kindergarten through the 5th grade in all public schools; and

(2) age and developmentally appropriate, medically accurate, complete, culturally appropriate, inclusive, and trauma-informed comprehensive sexual health education in the 6th through 12th grades in all public schools.

(Source: P.A. 102-522, eff. 8-20-21.)

(105 ILCS 5/27-9.1b)

Sec. 27-9.1b. Consent education.

(a) In this Section:

"Age and developmentally appropriate" has the meaning ascribed to that term in Section 27-9.1a.

"Consent" has the meaning ascribed to that term in Section 27-9.1a.

(b) A school district may provide age and developmentally appropriate consent education in kindergarten through the 12th
grade. Beginning no later than July 1, 2023, however, a school district shall provide age and developmentally appropriate consent education in kindergarten through the 12th grade.

(1) In kindergarten through the 5th grade, instruction and materials shall include age and developmentally appropriate instruction on consent and how to give and receive consent, including a discussion that includes, but is not limited to, all of the following:

(A) Setting appropriate physical boundaries with others.

(B) Respecting the physical boundaries of others.

(C) The right to refuse to engage in behaviors or activities that are uncomfortable or unsafe.

(D) Dealing with unwanted physical contact.

(E) Helping a peer deal with unwanted physical contact.

(2) In the 6th through 12th grades, instruction and materials shall include age and developmentally appropriate instruction on consent and how to give and receive consent, including a discussion that includes, but is not limited to, all of the following:

(A) That consent is a freely given agreement to sexual activity.

(B) That consent to one particular sexual activity does not constitute consent to other types of sexual activities.
(C) That a person's lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent.

(D) That a person's manner of dress does not constitute consent.

(E) That a person's consent to past sexual activity does not constitute consent to future sexual activity.

(F) That a person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person.

(G) That a person can withdraw consent at any time.

(H) That a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to certain circumstances that include, but are not limited to:

   (i) the person is incapacitated due to the use or influence of alcohol or drugs;
   (ii) the person is asleep or unconscious;
   (iii) the person is a minor; or
   (iv) the person is incapacitated due to a mental disability.

(I) The legal age of consent in this State.

(Source: P.A. 102-522, eff. 8-20-21.)
Section 99. Effective date. This Act takes effect upon becoming law.".