SENATE FILE 496
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1145)

(As Amended and Passed by the Senate March 22, 2023)
ALL New Language by the Senate

A BILL FOR

An Act relating to children and students, including establishing a parent's or guardian's right to make decisions affecting the parent's or guardian's child, prohibiting instruction related to gender identity and sexual orientation in school districts, charter schools, and innovation zone schools in kindergarten through grade six, and modifying provisions related to student health screenings, school district library programs, the educational program provided to students enrolled in school districts, accredited nonpublic schools, and charter schools, other duties of school districts and the governing boards of charter schools and innovation zone schools, competent private instruction, and special education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 256.11, unnumbered paragraph 1, Code 2023, is amended to read as follows:

The state board shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that ~~a~~ an age-appropriate, multicultural, and gender-fair approach is used by schools and school districts. The educational program shall be taught from ~~a~~ an age-appropriate, multicultural, and gender-fair approach. Global perspectives shall be incorporated into all levels of the educational program. The rules adopted by the state board pursuant to section 256.17, Code Supplement 1987, to establish new standards shall satisfy the requirements of this section to adopt rules to implement the educational program contained in this section. The educational program shall be as follows:

Sec. 2. Section 256.11, subsections 2, 3, 4, and 9, Code 2023, are amended to read as follows:

2. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and, subject to section 279.80, age-appropriate and research-based human growth and development. A kindergarten teacher shall be licensed to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program; provided, however, that section 279.80 shall not apply to a nonpublic school.

3. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, ~~age-appropriate and research-based human growth and development,~~ physical education, traffic

safety, music, ~~and~~ visual art, and, subject to section 279.80, age-appropriate and research-based human growth and development. Computer science instruction incorporating the standards established under section 256.7, subsection 26, paragraph "a", subparagraph (4), shall be offered in at least one grade level commencing with the school year beginning July 1, 2023. The health curriculum shall include the characteristics of communicable diseases ~~including acquired immune deficiency syndrome~~. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the elementary program.

4. The following shall be taught in grades seven and eight: English-language arts; social studies; mathematics; science; health; age-appropriate and research-based human growth and development; career exploration and development; physical education; music; and visual art. Computer science instruction incorporating the standards established under section 256.7, subsection 26, paragraph "a", subparagraph (4), shall be offered in at least one grade level commencing with the school year beginning July 1, 2023. Career exploration and development shall be designed so that students are appropriately prepared to create an individual career and academic plan pursuant to section 279.61, incorporate foundational career and technical education concepts aligned with the six career and technical education service areas as defined in subsection 5, paragraph "h", and incorporate relevant twenty-first century skills. The health curriculum shall include age-appropriate and research-based information regarding the characteristics of sexually transmitted diseases~~,~~ ~~including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome~~. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the program in grades seven and eight. However, this subsection shall not apply to the teaching of career exploration and development in nonpublic

schools. ~~For purposes of this section, "age-appropriate", "HPV", and "research-based" mean the same as defined in section 279.50.~~

9. a.(1) Beginning July 1, 2006, each school district shall have a qualified teacher librarian who shall be licensed by the board of educational examiners under ~~chapter 272~~ chapter 256. Each school district shall establish a kindergarten through grade twelve library program that is consistent with the educational standards established in this section, contains only age-appropriate materials, and supports the student achievement goals of the total school curriculum.

(2) If, after investigation, the department of education determines that a school district or an employee of a school district has violated the provisions of subparagraph (1) related to library programs containing only age-appropriate materials, beginning January 1, 2024, the school district or employee of the school district, as applicable, shall be subject to the following:

(a) For the first violation of subparagraph (1), the department of education shall issue a written warning to the board of directors of the school district or the employee, as applicable.

(b) (i) For a second or subsequent violation of subparagraph (1), if the department of education finds that a school district knowingly violated subparagraph (1), the superintendent of the school district shall be subject to a hearing conducted by the board of educational examiners pursuant to section 272,2, subsection 14, which may result in disciplinary action.

(ii) For a second or subsequent violation of subparagraph (1), if the department of education finds that an employee of the school district who holds a license, certificate, authorization, or statement of recognition issued by the board of educational examiners knowingly violated subparagraph (1), the employee shall be subject to a hearing conducted by the

board of educational examiners pursuant to section 272.2, subsection 14, which may result in disciplinary action.

b. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve media program.

c. A school district that entered into a contract with an individual for employment as a media specialist or librarian prior to June 1, 2006, shall be considered to be in compliance with this subsection until June 30, 2011, if the individual is making annual progress toward meeting the requirements for a teacher librarian endorsement issued by the board of educational examiners under ~~chapter 272~~ chapter 256. A school district that entered into a contract with an individual for employment as a media specialist or librarian who holds at least a master's degree in library and information studies shall be considered to be in compliance with this subsection until the individual leaves the employ of the school district.

Sec. 3. Section 256.11, subsection 5, paragraph b, Code 2023, is amended to read as follows:

b. (1) Five units of the social studies including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting systems in the election process, and the method of acquiring and casting an absentee ballot. All students shall complete a minimum of one-half unit of United States government and one unit of United States history.

(2) The one-half unit of United States government shall include ~~the~~ all of the following:

(a) The voting procedure as described in this lettered paragraph and section 280.9A. ~~The government instruction shall also include a~~

(b) A study of the Constitution of the United States and the Bill of Rights contained in the Constitution and an assessment of a student's knowledge of the Constitution and the Bill of Rights.

(c) (i) An assessment of the student's knowledge of United States government and civics that includes the nature, purpose, structure, function, and history of the United States government, the rights and responsibilities of citizens of the United States, and important United States government and civic leaders. The most recent version of the civics test developed by the United States citizenship and immigration services shall be used as the assessment required by this subparagraph division. On or before June 30 of each year, each school district and accredited nonpublic school shall submit the results of the assessment required by this subparagraph division to the department.

(ii) The school district or accredited nonpublic school may modify the civics test developed by the United States citizenship and immigration services for a student who has an individualized education program.

(iii) A student shall answer at least seventy percent of the questions on the civics test developed by the United States citizenship and immigration services correctly as a condition of graduation. A student who fails to answer at least seventy percent of the questions on the civics test correctly may retake the civics test as many times as necessary.

Sec. 4. Section 256.11, subsection 5, paragraph j, subparagraph (1), Code 2023, is amended to read as follows:

(1) One unit of health education which shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; age-appropriate and research-based human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including age-appropriate and research-based information regarding sexually transmitted diseases~~, including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome~~.

Sec. 5. Section 256.11, Code 2023, is amended by adding the

following new subsection:

NEW SUBSECTION. 19. For purposes of this section:

a. (1) *"Age-appropriate"* means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. *"Age-appropriate"* does not include any material with descriptions or visual depictions of a sex act as defined in section 702.17.

(2) Notwithstanding subparagraph (1), for purposes of the human growth and development curriculum, *"age-appropriate"* means the same as defined in section 279.50.

b. *"Research-based"* means the same as defined in section 279.50.

Sec. 6. Section 256E.7, subsection 2, paragraph i, Code 2023, is amended to read as follows:

i. Be subject to and comply with section 279.76 relating to physical examinations, ~~and~~ health screenings, and formal examinations or surveys designed to assess a student's mental, emotional, or physical health in the same manner as a school district.

Sec. 7. Section 256E.7, subsection 2, Code 2023, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0j.* Be subject to and comply with the requirements of section 279.78 relating to notifications required to be provided to the parents and guardians of minor children and the rights of parents and guardians of minor children in the same manner as a school district.

NEW PARAGRAPH. *00j.* Be subject to and comply with the requirements of section 279.79 relating to student, employee, and contractor participation in surveys, analyses, activities, or evaluations in the same manner as a school district.

NEW PARAGRAPH. *000j.* Be subject to and comply with the requirements of section 279.80 relating to sexual orientation and gender identity instruction in kindergarten through grade

six in the same manner as a school district.

Sec. 8. Section 256F.4, subsection 2, paragraph k, Code 2023, is amended to read as follows:

k. Be subject to and comply with section 279.76 relating to physical examinations, ~~and~~ health screenings, and formal examinations or surveys designed to assess a student's mental, emotional, or physical health in the same manner as a school district.

Sec. 9. Section 256F.4, subsection 2, Code 2023, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *l.* Be subject to and comply with the requirements of section 279.78 relating to notifications required to be provided to the parents and guardians of minor children and the rights of parents and guardians of minor children in the same manner as a school district.

NEW PARAGRAPH. *m.* Be subject to and comply with the requirements of section 279.79 relating to student, employee, and contractor participation in surveys, analyses, activities, or evaluations in the same manner as a school district.

NEW PARAGRAPH. *n.* Be subject to and comply with the requirements of section 279.80 relating to sexual orientation and gender identity instruction in kindergarten through grade six in the same manner as a school district.

Sec. 10. Section 279.50, subsections 1 and 2, Code 2023, are amended to read as follows:

1. ~~Each~~ Subject to section 279.80, each school board shall provide instruction in kindergarten which gives attention to experiences relating to life skills and human growth and development as required in section 256.11. School districts shall use research provided in section 256.9, subsection 46, paragraph "*b*", to evaluate and upgrade their instructional materials and teaching strategies for human growth and development.

2. Each school board shall provide age-appropriate and research-based instruction in human growth and development

including instruction regarding human sexuality, self-esteem, stress management, interpersonal relationships, domestic abuse, ~~HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome~~ and the prevention and control of disease, including sexually transmitted diseases as required in section 256.11, in grades ~~one~~ seven through twelve.

Sec. 11. Section 279.50, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Subject to section 279.80, each school board shall provide age-appropriate and research-based instruction in human growth and development including instruction regarding self-esteem, stress management, interpersonal relationships, and domestic abuse in grades one through six.

Sec. 12. Section 279.50, subsection 9, paragraphs b and c, Code 2023, are amended by striking the paragraphs.

Sec. 13. Section 279.76, subsection 1, Code 2023, is amended to read as follows:

1. *a.* Each school district is prohibited from administering or conducting an invasive physical examination of a student, ~~or~~ a student health screening that is not required by state or federal law, or a formal examination or survey of a student that is designed to assess the student's mental, emotional, or physical health that is not required by state or federal law, without first acquiring the written consent of the student's parent or guardian. This section applies only to a minor child in the direct care of a parent or guardian, and does not apply to an emancipated minor or a minor who is not residing with the parent or guardian.

b. Each school district shall give written notice to a student's parent or guardian of an examination or survey of the student required by state or federal law that is designed to assess the student's mental, emotional, or physical health not less than seven days prior to the examination or survey. The notice shall include a copy of the examination or survey

or a link to an internet site where the parent or guardian may access the examination or survey.

c. This subsection shall not apply to a hearing or vision examination.

Sec. 14. NEW SECTION. **279.77 Transparency — publication of school district information.**

1. Each school district shall publish all of the following information related to the current school year on the school district's internet site:

a. A comprehensive list of all persons in direct contact with students enrolled in the school district and all persons who contract with or otherwise receive moneys from the board of directors of the school district for purposes of facilitating student activities or providing instruction to students.

b. A detailed explanation of the procedures or policies in effect for the parent or guardian of a student enrolled in the school district to request the removal of a book, article, outline, handout, video, or other educational material that is available to students in the classroom or in a library operated by the school district. Each school district shall prominently display the detailed explanation on the school district's internet site.

c. A detailed explanation of the procedures or policies in effect to request the review of decisions made by the board of directors of the school district, including the petition process established pursuant to section 279.8B.

2. The board of directors of each school district shall adopt a policy describing the procedures for the parent or guardian of a student enrolled in the school district to review the instructional materials used in the student's classroom. The policy shall include a process for the student's parent or guardian to request that the student not be provided with certain instructional materials. The policy shall be prominently displayed on the school district's internet site and the board of directors of the school district shall, at

least annually, provide a written or electronic copy of the policy to the parent or guardian of each student enrolled in the school district. For purposes of this section, "*instructional materials*" means either printed or electronic textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or local educational agency for use by students in the student's classes by the teacher of record. "*Instructional materials*" does not include lesson plans.

3. Each school district shall make available to the parent or guardian of each student enrolled in the school district a comprehensive list of all books available to students in libraries operated by the school district by providing a link on the school district's internet site to the electronic catalog of the books available in the libraries operated by the school district. However, for school years beginning prior to July 1, 2025, if the school district does not use an electronic catalog, the school district may request a waiver from this requirement from the department of education.

4. This section shall not be construed to require a school district to do any of the following:

a. Reproduce educational materials that were not created by a person employed by the board of directors.

b. Distribute any educational materials in a manner that would infringe on the intellectual property rights of any person.

Sec. 15. NEW SECTION. **279.78 Parental rights in education.**

1. As used in this section:

a. "*Gender identity*" means the same as defined in section 216.2.

b. "*Minor child*" means an individual under eighteen years of age.

2. *a.* Each school district shall immediately notify the parent or guardian of a minor child enrolled in the school

district if any employee of the school district reasonably believes that the minor child has expressed a gender identity that is different than the biological sex listed on the minor child's official birth certificate or certificate issued upon adoption if the certificate was issued at or near the time of the minor child's birth.

b. Notwithstanding paragraph "*a*", if a school district determines based on actual threats to the health, safety, or welfare of a minor child enrolled in the school district that notifying the parent or guardian of the minor child pursuant to paragraph "*a*" may result in serious harm to the minor child, the school district shall not notify the parent or guardian and shall instead immediately report the school district's safety concerns to the department of health and human services so that the department may determine whether the minor child is a child in need of assistance under chapter 232.

3. The parent or guardian of a minor child enrolled in a school district may access and review all school records related to the minor child, including teacher evaluations of the minor child and associated notes, evaluation information, and documents created by the minor child, unless the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, or chapter 232, subchapter III, part 2, prohibits the record from being disclosed.

4. A school district must receive the prior written consent of the parent or guardian of a minor child enrolled in the school district before recognizing the minor child's request to change the minor child's name or pronoun to a name or pronoun that is different from the name or pronoun assigned to the minor child in the school district's registration forms or records.

5. If, after investigation, the department of education determines that a school district or an employee of a school district has violated this section, the school district or employee of the school district, as applicable, shall be

subject to the following:

a. For the first violation of this section, the department of education shall issue a written warning to the board of directors of the school district or the employee, as applicable.

b. (1) For a second or subsequent violation of this section, if the department of education finds that a school district knowingly violated this section, the superintendent of the school district shall be subject to a hearing conducted by the board of educational examiners pursuant to section 272.2, subsection 14, which may result in disciplinary action.

(2) For a second or subsequent violation of this section, if the department of education finds that an employee of the school district who holds a license, certificate, authorization, or statement of recognition issued by the board of educational examiners knowingly violated this section, the employee shall be subject to a hearing conducted by the board of educational examiners pursuant to section 272.2, subsection 14, which may result in disciplinary action.

6. The state board of education shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 16. NEW SECTION. **279.79 Protection of student rights.**

1. The board of directors of a school district must receive the prior written consent of a student's parent or guardian before requiring a student to take part in any survey, analysis, activity, or evaluation that reveals information concerning any of the following about the student or the student's family, whether the information is personally identifiable or not:

a. The political affiliations or beliefs of the student or the student's parent or guardian.

b. Mental or psychological problems of the student or the student's family.

c. Sexual behavior, orientation, or attitudes.

d. Illegal, antisocial, self-incriminating, or demeaning

behavior.

e. Critical appraisals of other individuals with whom the student has close familial relationships.

f. Legally recognized privileged or analogous relationships, such as those of attorneys, physicians, or ministers.

g. Religious practices, affiliations, or beliefs of the student or the student's parent or guardian.

h. Income, except when required by law to determine eligibility for participation in a program or for receiving financial assistance under such a program.

2. An employee of a school district, or a contractor engaged by a school district, shall not answer any question pertaining to any particular student enrolled in the school district in any survey related to the social or emotional abilities, competencies, or characteristics of the student, unless the board of directors of the school district satisfies all of the following requirements:

a. The board of directors of the school district provides to the parent or guardian of each student enrolled in the school district detailed information related to the survey, including the person who created the survey, the person who sponsors the survey, how information generated by the survey is used, and how information generated by the survey is stored.

b. The board of directors of the school district receives the written consent from a student's parent or guardian authorizing the employee or contractor to answer questions in the survey pertaining to the student.

3. Subsection 2 shall not be construed to prohibit an employee of a school district, or a contractor engaged by a school district, from answering questions pertaining to any particular student enrolled in the school district as part of the process of developing or implementing an individualized education program for such student.

Sec. 17. NEW SECTION. **279.80 Sexual orientation and gender identity — prohibited instruction.**

1. As used in this section:

a. "Gender identity" means the same as defined in section 216.2.

b. "Sexual orientation" means the same as defined in section 216.2.

2. A school district shall not provide any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender identity or sexual orientation to students in kindergarten through grade six.

Sec. 18. Section 299A.9, subsection 1, Code 2023, is amended to read as follows:

1. A child of compulsory attendance age who is identified as requiring special education under chapter 256B is eligible for placement under competent private instruction ~~with prior approval of the placement by the director of special education of the area education agency of the child's district of residence~~.

Sec. 19. Section 299A.9, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The parent, guardian, or legal custodian of a child who is identified as requiring special education may request dual enrollment pursuant to section 299A.8. The appropriate special education services for the child shall be determined pursuant to chapter 256B and rules adopted pursuant to chapter 256B.

Sec. 20. NEW SECTION. **601.1 Parents and guardians — rights.**

1. For purposes of this section:

a. "Emergent care situation" means a sudden or unforeseen occurrence or onset of a medical or behavioral condition that could result in serious injury or harm to a minor child in the event immediate medical attention is not provided.

b. "Medical care" means any care, treatment, service, or procedure to prevent, diagnose, alleviate, treat, or cure a minor child's physical or mental condition.

c. *"Minor child"* means an unmarried and unemancipated person under the age of eighteen years.

2. Subject to section 147.164, if enacted by 2023 Iowa Acts, Senate File 538, a parent or guardian bears the ultimate responsibility, and has the fundamental, constitutionally protected right, to make decisions affecting the parent's or guardian's minor child, including decisions related to the minor child's medical care, moral upbringing, religious upbringing, residence, education, and extracurricular activities. Any and all restrictions of this right shall be subject to strict scrutiny.

3. This section shall not be construed to prohibit any of the following:

a. A minor child from receiving medical attention in an emergent care situation.

b. A person from cooperating in a child abuse assessment commenced in accordance with section 232.71B.

c. A court, law enforcement officer, or an employee of a governmental entity that is responsible for child welfare from acting in the court's, law enforcement officer's, or employee's official capacity and scope of authority.

d. A court from issuing an order that is otherwise permitted by law.

4. This section shall not be construed to authorize a parent or guardian to engage in conduct that is unlawful or to abuse or neglect a minor child in violation of the laws of this state.

5. The rights guaranteed to parents and guardians by this section are not a comprehensive list of the rights reserved to parents or guardians of a minor child. The enumeration of the rights contained in this section shall not be construed to limit the rights reserved to parents or guardians of a minor child.

Sec. 21. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.