



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3071

by Rep. Charles Meier

SYNOPSIS AS INTRODUCED:

405 ILCS 5/4-211 new

Amends the Mental Health and Developmental Disabilities Code. Provides that a person admitted to a developmental disability facility shall have access to sex education, related resources, and treatment planning that supports his or her right to be safe from sexual exploitation and abuse, including access reviews of whether the admitted person is capable of giving consent to sexual activity. Provides that Development of Individual Service Plans for clients receiving residential developmental disability and intellectual disability (DD/ID) services shall include an assessment of each client's need for sex education training on a case by case basis. Provides that the Department of Human Services shall approve course material in sex education. Provides that materials used in the State's public school special education programs shall be a primary source of appropriate teaching materials. Provides the criteria that must be included in the course materials and instruction in sex education. Provides that unless inconsistent with federal or State law or with court documentation that conferred guardianship, the guardian or guardians have final authority to approve or disapprove any proposed sex education plan. Provides that if the rest of the Development of Individual Service Plan planning team or the provider believe that the guardian's decision is not in the affected individual's best interests or is in any other way inappropriate, detrimental, or unfair to the affected individual, the provider has the prerogative to further pursue any point of contention, whether issues of fact or of law, through administrative or legal action.

LRB101 07315 RLC 52355 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by adding Section 4-211 as
6 follows:

7 (405 ILCS 5/4-211 new)

8 Sec. 4-211. Sex education for persons admitted to a
9 developmental disability facility.

10 A person admitted to a developmental disability facility
11 shall have access to sex education, related resources, and
12 treatment planning that supports his or her right to be safe
13 from sexual exploitation and abuse, including access to reviews
14 of whether the admitted person is capable of giving consent to
15 sexual activity.

16 Development of Individual Service Plans for clients
17 receiving residential developmental disability and
18 intellectual disability (DD/ID) services shall include an
19 assessment of each client's need for sex education training on
20 a case by case basis. The team performing Development of
21 Individual Service Plan planning, including the recipient, the
22 recipient's guardian or guardians, and licensed healthcare
23 professionals, shall assess the need for, as well as the

1 appropriateness of, sex education for the affected individual.
2 If sex education is deemed appropriate, the team shall design,
3 and the provider shall execute, through the efforts of licensed
4 healthcare professionals and direct care staff, a sex education
5 plan tailored to the affected individual's unique needs,
6 ability to understand that education, and any other issues of
7 appropriateness.

8 The plan shall be documented in the affected individual's
9 Development of Individual Service Plan. If the team determines
10 that no sex education whatsoever is appropriate, it shall be
11 documented in the affected individual's Development of
12 Individual Service Plan.

13 Depending on the needs and cognitive and intellectual
14 abilities of the affected individual, the sex education plan
15 may include training concerning privacy, safety,
16 socialization, sex education, or no sex education training.

17 The Department shall approve course material in sex
18 education. Materials used in this State's public school special
19 education programs shall be a primary source of appropriate
20 teaching materials.

21 Course material and instruction in sex education shall:

22 (1) be appropriate to the developmental disability
23 level of the recipient, scientifically accurate, and
24 complete;

25 (2) present identity as part of mature adulthood;

26 (3) replicate evidence-based programs, such as those

1 used in this State's public school special education
2 programs;

3 (4) when appropriate for the recipient, place
4 substantial emphasis on the prevention of pregnancy and
5 sexually transmitted diseases and shall stress that
6 abstinence is the ensured method of avoiding unintended
7 pregnancy, sexually transmitted diseases, including
8 HIV/AIDS;

9 (5) when appropriate for the recipient, include a
10 discussion on the possible emotional and psychological
11 consequences of sexual intercourse and the consequences of
12 unwanted pregnancy;

13 (6) stress that sexually transmitted diseases are
14 serious possible health hazards of sexual intercourse;

15 (7) when appropriate for the recipient, explain the use
16 of condoms in preventing pregnancy, HIV/AIDS, and other
17 sexually transmitted diseases;

18 (8) teach recipients to avoid behavior that could be
19 interpreted as unwanted sexual advances, and how to reject
20 unwanted sexual advances; and

21 (9) signs of possible dangers from potential predators
22 within the residences of recipients and in the community.

23 The Department shall not withhold approval of materials
24 that otherwise meet the criteria specified in this Section on
25 the basis that they include or refer to a religious or
26 faith-based perspective when used in a residential program that

1 is faith-based or sponsored by a religious organization.

2 Assessment to determine the recipient's need and ability to
3 comprehend sexual education shall be conducted by licensed
4 healthcare professionals. Primary teaching responsibilities
5 for the education must be conducted by licensed healthcare
6 professionals; unlicensed direct caregivers shall work with
7 licensed healthcare professionals to support the teaching
8 process. Licensed healthcare professionals shall evaluate the
9 effectiveness of such sexual education with input from direct
10 caregivers.

11 Unless inconsistent with federal or State law or with court
12 documentation that conferred guardianship, the guardian or
13 guardians have final authority to approve or disapprove any
14 proposed sex education plan. If the rest of the Development of
15 Individual Service Plan's planning team or the provider believe
16 that the guardian's decision is not in the affected
17 individual's best interests, or is in any other way
18 inappropriate, detrimental, or unfair to the affected
19 individual, the provider has the prerogative to further pursue
20 any point of contention, whether issues of fact or of law,
21 through administrative or legal action.