As Introduced

133rd General Assembly
Regular Session
2019-2020

H. B. No. 90

Representative Antani
Cosponsors: Representatives Riedel, Becker

A BILL

To amend sections 3314.03, 3326.11, and 3328.24 and to enact sections 3301.0730, 3708.01, 3708.02, 3708.03, 3708.05, 3708.07, 3708.09, 3708.11, 3708.13, 3708.15, 3708.17, and 3708.19 of the Revised Code to require the development of an instructional program and educational and informational materials and the dissemination of those materials to protect the humanity of the unborn child and to make an appropriation.

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

Section 1. That sections 3314.03, 3326.11, and 3328.24 be amended and sections 3301.0730, 3708.01, 3708.02, 3708.03, 3708.05, 3708.07, 3708.09, 3708.11, 3708.13, 3708.15, 3708.17, and 3708.19 of the Revised Code be enacted to read as follows:

Sec. 3301.0730. (A) Subject to the appropriation of funds for the purpose of this section, the state board of education, in collaboration with the department of health, shall develop an instructional program regarding the humanity of the unborn child. The program shall be consistent with the materials
developed by the department of health under section 3708.09 of the Revised Code. In developing the program, neither the state board of education nor the department of health may consult any organization that provides abortions.

(B) The board of education of each city, local, and exempted village school district and the governing authority of each chartered nonpublic school may choose to implement the instructional program developed by the state board under division (A) of this section. If a board or governing authority chooses to implement the instructional program, it may determine the content of the program's instruction, provided the program does all of the following:

(1) Provides accurate, scientifically verifiable information concerning the probable anatomical and physiological characteristics of the unborn child at each of the following gestational intervals:

(a) One to two weeks;
(b) Three weeks;
(c) Four weeks;
(d) Five weeks;
(e) Six to seven weeks;
(f) Eight weeks;
(g) Nine weeks;
(h) Ten weeks;
(i) Eleven to fourteen weeks;
(j) Fifteen to eighteen weeks;
(k) Nineteen to twenty-one weeks;

(l) Twenty-two weeks;

(m) Twenty-three to twenty-five weeks;

(n) Twenty-six weeks;

(o) Twenty-seven to thirty weeks;

(p) Thirty-one to thirty-four weeks;

(q) Thirty-five to thirty-seven weeks;

(r) Thirty-eight to forty weeks.

(2) Includes information on accessing prenatal health care;

(3) Includes no component of human sexuality education that does not comply with the provisions of section 3313.6011 of the Revised Code.

(C) At no time shall the instructional program developed under division (A) of this section or any employee of a school district or chartered nonpublic school that is implementing the program under division (B) of this section refer a student to a medical facility or any provider for the performance of an abortion.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction. The department of education shall make available on its web site a copy of every approved, executed contract filed with the superintendent under this section.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:
(1) That the school shall be established as either of the following:

   (a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

   (b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(4) Performance standards, including but not limited to all applicable report card measures set forth in section 3302.03 or 3314.017 of the Revised Code, by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

   (b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in seventy-two consecutive hours of the learning opportunities offered to the
student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:

(a) A detailed description of each facility used for instructional purposes;

(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;

(c) The annual mortgage principal and interest payments that are paid by the school;

(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code.

(11) That the school will comply with the following requirements:
(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.


(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.
(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the requirements prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, and beginning with the 2017-2018 school year, with the updated plan that permits students enrolled in seventh and eighth grade to meet curriculum requirements based on subject area competency adopted by the state board of education under divisions (J)(1) and (2) of section 3313.603 of the Revised Code. Beginning with the 2018-2019 school year, the school shall comply with the framework for granting units of high school credit to students who demonstrate subject area competency through work-based learning experiences, internships, or cooperative education developed by the department under division (J)(3) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four
months after the end of each school year a report of its
activities and progress in meeting the goals and standards of
divisions (A)(3) and (4) of this section and its financial
status to the sponsor and the parents of all students enrolled
in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district.

(i) If the school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district.

(j) If the school operates a preschool program that is licensed by the department of education under sections 3301.52 to 3301.59 of the Revised Code, the school shall comply with sections 3301.50 to 3301.59 of the Revised Code and the minimum standards for preschool programs prescribed in rules adopted by the state board under section 3301.53 of the Revised Code.

(k) The school will comply with sections 3313.6021 and 3313.6023 of the Revised Code as if it were a school district unless it is either of the following:

(i) An internet- or computer-based community school;

(ii) A community school in which a majority of the enrolled students are children with disabilities as described in division (A)(4)(b) of section 3314.35 of the Revised Code.

(12) Arrangements for providing health and other benefits
(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to
adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at
the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action.

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (H)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(26) Whether the school's governing authority is planning to seek designation for the school as a STEM school equivalent under section 3326.032 of the Revised Code;

(27) That the school's attendance and participation policies will be available for public inspection;
(28) That the school's attendance and participation records shall be made available to the department of education, auditor of state, and school's sponsor to the extent permitted under and in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of the Revised Code;

(29) If a school operates using the blended learning model, as defined in section 3301.079 of the Revised Code, all of the following information:

(a) An indication of what blended learning model or models will be used;

(b) A description of how student instructional needs will be determined and documented;

(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;

(d) The school's attendance requirements, including how the school will document participation in learning opportunities;

(e) A statement describing how student progress will be monitored;

(f) A statement describing how private student data will be protected;

(g) A description of the professional development activities that will be offered to teachers.

(30) A provision requiring that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear
interest at a fair market rate;

(31) A provision requiring that, if the governing
authority contracts with an attorney, accountant, or entity
specializing in audits, the attorney, accountant, or entity
shall be independent from the operator with which the school has
contracted.

(32) A provision requiring the governing authority to
adopt an enrollment and attendance policy that requires a
student's parent to notify the community school in which the
student is enrolled when there is a change in the location of
the parent's or student's primary residence.

(33) A provision requiring the governing authority to
adopt a student residence and address verification policy for
students enrolling in or attending the school.

(B) The community school shall also submit to the sponsor
a comprehensive plan for the school. The plan shall specify the
following:

(1) The process by which the governing authority of the
school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public
school or educational service center building, alternative
arrangements for current public school students who choose not
to attend the converted school and for teachers who choose not
to teach in the school or building after conversion;

(4) The instructional program and educational philosophy
of the school;

(5) Internal financial controls.
When submitting the plan under this division, the school shall also submit copies of all policies and procedures regarding internal financial controls adopted by the governing authority of the school.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for monitoring, oversight, and technical assistance of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A
school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code.


Sec. 3328.24. A college-preparatory boarding school established under this chapter and its board of trustees shall comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3301.0729, 3301.0730, 3301.948, 3313.536, 3313.6013, 3313.6021, 3313.6411, 3313.7112, 3313.721, 3313.72, 3313.9, 3319.39, 3319.391, and 3319.46 and Chapter 3365. of the Revised Code as if the school were a school district and the school's board of trustees were a district board of education.
Sec. 3708.01. As used in this chapter:

(A) "Educational setting" includes a public or private school for any grades kindergarten through twelve, a post-secondary educational institution, and any other setting that offers any type of educational program.

(B) "Facility" means a building located in the state that is open to the public, has a public restroom, and is one of the following:

(1) An educational setting;

(2) A health care facility or location as defined in section 2305.234 of the Revised Code;

(3) A retail food establishment licensed under section 3717.21 of the Revised Code.

(C) "Unborn child" has the same meaning as in section 2919.16 of the Revised Code.

Sec. 3708.02. For the purpose of providing information about the humanity of an unborn child and achieving an abortion-free society, the department of health shall carry out the duties described in this chapter to the extent sufficient funds are appropriated by the general assembly.

Sec. 3708.03. (A) The department of health shall develop and maintain a pregnancy and child services database containing a list of agencies that offer services available to assist women through pregnancy and childbirth and while their children are dependent.

(B) The database shall contain a comprehensive list of public and private agencies, including adoption agencies.
(C) The database shall include the following information for each agency:

(1) Agency name;

(2) Address;

(3) Telephone number;

(4) Electronic mail address;

(5) A description of the services offered by the agency.

(D) The database shall be accessible to the public on the department's web site, indexed geographically, and updated annually.

Sec. 3708.05. (A) The department of health shall include the following statement with the pregnancy and child services database on the department's web site: "There are many public and private agencies willing and able to help you carry your child to term and assist you and your child after your child is born, whether you choose to keep your child or place your child for adoption. If you are pregnant, the State of Ohio strongly urges you to contact an agency listed on the Department of Health's pregnancy and child services database."

(B) The statement shall include an electronic link to the pregnancy and child services database.

(C) The department shall create a version of the statement that is in a format a facility may download and use for display as specified under section 3708.07 of the Revised Code.

Sec. 3708.07. Not later than six months after the effective date of this section, each facility located in this state shall display in its public restrooms the statement
created and made available for download under division (C) of section 3708.05 of the Revised Code.

Sec. 3708.09. (A) The department of health shall develop and make available materials that provide accurate, scientifically verifiable information concerning the probable anatomical and physiological characteristics of an unborn child at the gestational intervals described in division (B)(1) of section 3301.0730 of the Revised Code.

(B) The department shall develop educational and informational materials about pregnancy and abortion. The materials shall include the most readily available, accurate, scientifically verifiable, up-to-date information and shall clearly and consistently state that abortion kills a living human being. The department shall distribute the materials to the public through public service announcements, print and broadcast media, and otherwise.

Sec. 3708.11. The department of health shall submit an annual report describing its efforts to meet the requirements of this chapter to the chairpersons and vice-chairpersons of the standing committees of the house of representatives and the senate that are primarily responsible for considering public health issues.

Sec. 3708.13. (A) The department of health shall provide outreach, training, consultation, and alternatives-to-abortion referral services to organizations, communities, and educational settings within the state.

(B) The department shall provide technical assistance to community-based organizations to help them plan and implement abortion prevention and alternatives-to-abortion referral.
programs and education programs regarding the humanity of an unborn child.

Sec. 3708.15. The department of health shall distribute educational and informational materials addressing maternal behavior during pregnancy that is helpful to an unborn child. The materials shall provide information about the following:

(A) The avoidance of tobacco, alcohol, and other drugs during pregnancy;

(B) The importance of proper nutrition and prenatal vitamins;

(C) The resources available for prenatal medical and wellness care.

Sec. 3708.17. The department of health shall recommend to the department of education accurate, scientifically verifiable information regarding an unborn child for the state's academic standards for science, family and consumer sciences, and health classes.

Sec. 3708.19. The department of health, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this chapter.

Section 2. That existing sections 3314.03, 3326.11, and 3328.24 of the Revised Code are hereby repealed.

Section 3. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2020 and those in the second column are for fiscal year 2021. The appropriations made in this act are in
addition to any other appropriations made for the FY 2020-FY 2021 biennium.

DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF 440526 Human Fetal Development Education $500,000 $500,000

TOTAL GRF General Revenue Fund $500,000 $500,000

TOTAL ALL BUDGET FUND GROUPS $500,000 $500,000

HUMAN FETAL DEVELOPMENT EDUCATION

The foregoing appropriation item 440526, Human Fetal Development Education, shall be used in fiscal year 2020 to develop an instructional program regarding the humanity of an unborn child, a pregnancy and child services database, educational materials concerning gestation, pregnancy, and abortion, as well as educational materials addressing maternal behaviors during pregnancy that are helpful to an unborn child in accordance with sections 3301.0730, 3708.03, 3708.09, and 3708.15 of the Revised Code.

The foregoing appropriation 440526, Human Fetal Development Education, shall be used in fiscal year 2021 to distribute funding to organizations providing instruction in accordance with section 3313.6011 of the Revised Code.

Section 4. Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in the main operating appropriations act of the
133rd General Assembly.

The appropriations made in this act are subject to all provisions of the main operating appropriations act of the 133rd General Assembly that are generally applicable to such appropriations.

Section 5. Section 3328.24 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 410 and Sub. S.B. 3 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.