

SUBJECT: Services and information related to women's health and sex education

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 5 ayes — Swinford, Van Arsdale, B. Cook, Farrar, Veasey

0 nays

4 absent — Paxton, Christian, Flynn, Parker

WITNESSES: For — Yvonne Gutierrez, Janet Realini, MD, MPH; Fran Hagerty, Women's Health & Family Planning Association of Texas; Kimberly Carter, and eight other individuals; (*Registered, but did not testify*: Portia Bosse, Texas State Teachers Association; Randall Ellis, Legacy Community Health Service; Shannon Noble, NARAL ProChoice Texas; Heather Paffe, Texas Association of Planned Parenthood Affiliates; Katie Coburn Parker, Texas Association of Community Health Centers; Joanne Richards, The Lilith Fund; Michelle Romero, Texas Medical Association; Katie Tastrom, National Association of Social Workers-Texas; Shane M. Trauvick, The ACLU of Texas; Katie Vitale, National Organization for Women-NOW; Jo-Hannah Whitsett, Texas Freedom Network; Krista Del Gallo, and six other individuals)

Against — MerryLynn Gerstenschlager, Texas Eagle Forum Education Liaison; Stan Stanart; Harris County Republican Party, Cherry Tree Republicans; Kyleen, Wright, Texans for Life; (*Registered, but did not testify*: Jonathan Saenz, Free Market Foundation)

On — Susan Tortolero, University of Texas Houston-Health Science Center; (*Registered, but did not testify*: Kimberly Davis, Health and Human Services Commission)

BACKGROUND: **Outreach for family planning services.** Medicaid, the state-federal health insurance program for children, low-income families, the elderly, and disabled individuals, is administered in Texas by the Health and Human Services Commission (HHSC).

The 79th Legislature in 2005 enacted SB 747 by Carona, which established the Women's Health Program, a five-year Medicaid demonstration project to offer women's health services to women age 18

and older with a family incomes at or below 185 percent of the federal poverty level (\$34,900 for a family of four), in efforts to reduce the number of unintended pregnancies and lower the rates of sexually transmitted diseases.

The services offered in the demonstration project include:

- physical examinations;
- health screenings for conditions including diabetes, cervical cancer, breast cancer, sexually transmitted diseases, hypertension, cholesterol, and tuberculosis; and
- contraceptive counseling and contraceptives, except for emergency contraception.

To participate, a woman or a member of her family must be eligible for Medicaid, cash assistance through Temporary Assistance for Needy Families (TANF), food stamps, the Women, Infants and Children (WIC) program, or another program with comparable income limitations.

Under the program, a recipient receives information about sources of funding for treatment and referral to appropriate providers that do not perform or promote elective abortions. It is against federal and state law to use public funds for abortion-related care or services. Additionally, the Women's Health Program is restricted from providing emergency contraception, also known as the "morning-after pill." The program may provide referrals only to appropriate providers that do not perform or promote elective abortions.

Public school sex education and a parent's right to know. Education Code, sec. 28.004 requires school districts to notify parents of the basic content of sex education classes. Course materials and instruction are required to promote abstinence as the preferred choice, and emphasis must be placed on the fact that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, HIV/AIDS, and emotional trauma that can be associated with adolescent sexual activity. Schools that elect comprehensive sex education instruction are required to teach contraception and condom use in terms of human-use-reality rates instead of theoretical laboratory rates. Parents have the right to remove their student from any part of sex education class instruction.

DIGEST:

Outreach for family planning services. HB 1842 would require HHSC to conduct a comprehensive marketing and outreach campaign, to the extent funds were available, to promote the initiatives of the Women's Health Program. The campaign would include print and broadcast media, a web site, and a toll-free phone number.

In providing adequate and sufficient funding for the Women's Health Program, neither HHSC, the Legislative Budget Board (LBB), nor the governor could take any action to decrease the level of existing programs and services established on or before September 1, 2007.

Public school sex education and a parent's right to know. The bill also would amend Education Code, sec. 28.004, concerning public school sex education, to require that courses teach contraception and condom use in terms of typical use rates and perfect use rates, with an emphasis on the reasons those rates differ, if included in the curriculum content.

Before providing sex education instruction to students, a school district would be required to include a summary of the basic content to be covered in sex education class, with a statement informing the parents that the course was required by state law to present abstinence from sexual activity as the preferred choice of behavior for unmarried persons of school age and devote more attention to abstinence from sexual activity than any other behavior. The parental statement also would have to include whether the instruction was considered abstinence-only or comprehensive instruction, including an explanation of the difference between the types of instruction.

If the instruction included contraception and condom use, the statement would have to specify that state law required the curriculum to be taught in terms of typical use rates and perfect use rates, with an emphasis on the reason those rates differ. Parents would have opportunities to review the curriculum materials and assist in curriculum development.

If a parent decided to remove the student from any part of the course instruction, the removal would have to be done without any disciplinary action or penalty to the student.

The bill would define:

- “abstinence-only instruction” to mean instruction that did not include information about preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS through any means other than total abstinence from sexual activity;
- “perfect use rate” to mean the rate of failure for a method of contraception when that method is used by a person for each act of sexual intercourse and is used by the persons for each act according to the instructions for the method — i.e., the rate defined as the lowest expected success rate by the U.S. Food and Drug Administration (FDA); and
- “typical use rate” to mean rate of failure for a method of contraception when that method is not used by a person for each act of sexual intercourse or when that method is not used by a person for each act according to the instructions for that method — i.e., the rate defined as the typical rate by the FDA.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

Outreach for family planning services. HB 1842 would allow for the delivery of critical health services on a wider scale. Services such as health screening, well-woman services, and family planning would improve the overall health of low-income women, prevent unwanted pregnancies, and help make pregnancies healthier for low income women. These services also would serve to prevent the spread of sexually transmitted diseases and severity of certain diseases, such as breast and cervical cancers.

Establishing a comprehensive marketing and promotion program would ensure that the health services provided through the Women’s Health Program reached more women. At current levels, while the program is projected to save the state \$278 million over five years, it would serve only 12 percent of the eligible population. A modest additional investment would leverage tremendous federal support — currently a nine-to-one match — and save the state tens of millions of dollars. Nineteen other states have similar family planning programs — including California, Florida, and New York — and have experienced significant savings in state revenue.

Making family planning services available to women would reduce the number of unwanted pregnancies, which in turn would lead to fewer abortions and substantial savings to taxpayers. In 2005, the state reported that Medicaid paid for 213,879 births — 56 percent of all state births — at

a cost of more than \$1 billion, or \$8,500 each birth. In contrast, a year of family planning care for a woman, including a pap smear and 12 months of contraception, costs only \$170. Increasing awareness of the Women's Health Program would benefit the state by leading to more healthy pregnancies, better prepared parenthood, fewer abortions, and long-term savings to taxpayers.

The bill would provide additional funding to offer a comprehensive education and outreach program about the Women's Health Program without negatively affecting current funding levels for other service programs.

Public school sex education and a parent's right to know. HB 1842 would not require schools to teach comprehensive sex education. Rather, it would require schools to fully inform parents about the specific content of instruction and afford parents the opportunity to shape the course curriculum. Ensuring accurate and effective information on sex education and involving and informing parents regarding the curriculum content likely would encourage families to discuss sex education at home. With Texas leading the nation with the second highest teen birth rate among states, it increasingly makes sense for parents to be fully apprised of all aspects of their child's sex education instruction.

OPPONENTS
SAY:

Public school sex education and a parent's right to know. Under the bill, the definition of abstinence-only instruction could cast this method of instruction in a negative light. Instead, the definition should parallel the definition of abstinence education adopted in Title V, sec. 510(b)(2) of the federal Social Security Act, which describes an abstinence educational or motivational program as one that:

- has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;
- teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;
- teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;
- teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;
- teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

- teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;
- teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances;
- and
- teaches the importance of attaining self-sufficiency before engaging in sexual activity.

The Social Security Act's definition is more appropriate and would not provide an inaccurate description to parents.

Changing the context of how contraception and condom use should be taught in comprehensive sex education instruction could lead to the abandonment of the abstinence-only model. Addressing why "typical use" and "perfect use" differ necessitates detailed discussions on how to put on a condom properly and other application use discussions. Modifications that allow for more liberal discussion on these issues would not serve the promotion of abstinence or help schools that wished to teach the abstinence-only model.

OTHER
OPPONENTS
SAY:

The bill would not go far enough. Abstinence-only instruction has failed Texas adolescents. Schools should be required to teach a comprehensive sex education course to provide students with a well-rounded discussion on contraception and condom use and the emotional consequences of sexual activity. Many parents are not engaged in their student's lives, which leaves sex education sources as the sole source of information for many kids on this issue.

The current opt-out system should be modified to allow students and parents to opt-in to sex education classes. Students cannot be relied upon to serve as the primary communication source between schools and parents. Students may be neglectful in delivering notices to parents or sharing necessary information about school events.

NOTES:

In the House-passed version of HB 1 by Chisum, the general appropriations bill for fiscal 2008-09, Rider 73 under Art. 2, Department of State Health Services, would allow the department, to the extent that funds were available and federal approval granted, to use a portion of funds appropriated under strategy B.1.3 — \$50 million for family planning services — for comprehensive outreach and education about the Women's Health Program and family planning services.

In the fiscal note, the LBB bases estimates for a comprehensive outreach and education program on CHIP outreach and marketing costs. The program would cost approximately \$2.1 million annually in all funds beginning in fiscal 2009, which would include \$1.1 million in general revenue. The total cost to general revenue-related funds in fiscal 2008-09 is estimated at \$1.7 million.

The companion bill, SB 837 by Watson, is pending in the Senate Health and Human Services Committee.