STATE OF NEW YORK

3798

2019-2020 Regular Sessions

IN SENATE

February 14, 2019

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the age-appropriate sex education grant program, to be referred to as the healthy teens act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative intent. The legislature finds and declares that New York state's teen pregnancy rate, 56.2 per 1000 female 15-19 year olds as compared to the Healthy People 2010 goal of 43 cases per 1000 female 15-19 year olds falls far too short of the public health expectation set by the Surgeon General. New York state had 40,000 teen pregnancies in 2006. In addition, according to the centers for disease control, 1 in 4 teenage girls has a sexually transmitted infection. This is true in New York state as well. Current research documents that individuals who receive early, comprehensive, age-appropriate, and scientifically accurate education in the health and other benefits of sexual abstinence, family planning, and birth control are more likely to delay sexual activity and engage later in such activity with a higher degree of responsibility and safety. Comprehensive sex education programs which complement parental involvement and instruction respect the diversity and values of our state and provide our youth at risk with the foundation to make responsibly informed choices. The earlier such programs are commenced on an age-appropriate curriculum basis, the more responsible will be the sexual activity decisions.

Statistics within New York state communities show an increase in rates of sexually transmitted diseases among adolescents over the past several years. Adolescents are the fastest growing population of new HIV/AIDS cases. These increases place greater demand on the state's health care delivery system and require that we take immediate action and embark on a dedicated mission to provide targeted at-risk adolescents with a more

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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concentrated sex education program with a significant parental component, designed to inform and instruct them on abstinence, protection and pregnancy prevention. Approximately 25 percent of new cases of sexually transmitted diseases each year occur among teenagers and two-thirds of such new cases occur among persons 15 to 24 years old. By age 24, at least one in three sexually active persons are estimated to have had a sexually transmitted disease. By way of example, the highest age-specific gonorrhea rates among women and the third highest rates among men are in the 15 to 19 year old group.

It is the intent of the legislature that the age-appropriate sex education grant program established in this act provide at-risk adolescents with the information, assistance, skills and support to enable them to make responsible decisions, including abstaining from sexual intercourse and for those who do become sexually active, the use of condoms or contraceptives effectively.

It is also the intent of the legislature to reduce the current teenage pregnancy rate to 36.2 among 15 to 17 year olds and 105.9 among 18 to 19 year olds by the year 2020 to meet the federal government initiative known as Healthy People 2020.

§ 2. This act shall be known and may be cited as the "healthy teens act".

§ 3. The public health law is amended by adding a new article 14-A to read as follows:

ARTICLE 14-A

AGE-APPROPRIATE SEX EDUCATION GRANT PROGRAM

Section 1450. Definitions.
1451. Establishment of age-appropriate sex education grant program; general components.
1452. Age-appropriate sex education grant program awards.
1453. Application for grants; age-appropriate sex education grant program plan.
1454. Maintenance of effort.
1455. Annual reports by grant recipients.
1456. Notification to potential applicants.
1457. Regulations.

§ 1450. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Eligible applicant" means (a) a public school district, (b) a board of cooperative educational services, (c) a school-based health center, (d) a community based organization which may be a for-profit corporation or entity or not-for-profit corporation or organization, or (e) a consortium or partnership formed by a public school district, a board of cooperative educational services and/or a school-based health center and one or more community based organizations which qualifies for the award of an age-appropriate sex education grant by the commissioner under this article.

2. "Grant program plan" means the plan submitted to the commissioner by an eligible applicant under section fourteen hundred fifty-one of this article.

3. "State income standard" means the most recent federal income official poverty line as defined annually and revised by the federal office of management and budget adjusted for family size.

4. "Age-appropriate sex education grant program" means a comprehensive age-appropriate sex education program conducted by an eligible applicant under section fourteen hundred fifty-one of this article.

5. "School-based health center" means a clinic licensed under article twenty-eight of this chapter, or sponsored by a facility licensed under article twenty-eight of this chapter, which provides primary care services within an elementary or secondary public school setting.

§ 1451. Establishment of age-appropriate sex education grant program; general components. 1. There is hereby established within the department an age-appropriate sex education grant program. The program shall be formulated by the commissioner after consultation with the commissioner of education. The purpose of the program shall be to provide grants to eligible applicants to support age-appropriate sex education grant programs for young people which provides them with topics of instruction in the components set forth in subdivision two of this section.

2. In order for an eligible applicant to receive an award of an annual grant under subdivision three of this section, such an applicant shall submit with its application the components of instruction which shall be offered in its age-appropriate sex education grant program. The commissioner shall determine certain topics of instruction to be optional for age-appropriate reasons as shall be specified by the commissioner in application instructions made available by the department for the purposes of implementing this article. It is not necessary to provide equal emphasis on each component of instruction, however a project may not be inconsistent with any of the components. The components of instruction shall include whether such instruction:

(a) is age-appropriate and medically-accurate;

(b) does not teach or promote religion, provided that this paragraph shall not preclude discussion of moral, ethical or religious views related to sex or sexual relationships;

(c) teaches that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(d) stresses the value of abstinence while not ignoring those adolescents who have had or who are having sexual intercourse;

(e) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy;

(f) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to reduce the risk of contracting sexually transmitted diseases, HIV/AIDS and other diseases;

(g) provides information about the vaccine for human papilloma virus, which may prevent cervical cancer, genital warts, infertility, and other reproductive health problems, when administered prior to becoming sexually active;

(h) encourages family communication about sexuality among parents, other adult household members and children;

(i) teaches skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical and sexual advances, and how not to make unwanted verbal, physical and sexual advances;

(j) teaches how alcohol and drug use can affect responsible decision making;

(k) helps young people to gain knowledge about the physical, biological and hormonal changes of adolescence and subsequent stages of human maturation;

(l) develops the knowledge and skills necessary to ensure and protect young people with respect to their sexual and reproductive health;

(m) assists young people in gaining knowledge about the specific involvement of, and responsibility of both males and females in sexual decision making;

(n) develops healthy attitudes and values concerning growth and development, body image, gender roles, sexual orientation and other subjects;

(o) encourages young people to practice healthy life skills including goal setting, decision making, negotiation, and communication and stress management;

(p) promotes self-esteem and positive interpersonal skills focusing on relationship skills, including platonic, romantic, intimate and family relationships and interaction and how to avoid relationship abuse; and

(q) is based on theoretical projects that have been demonstrated to influence health behavior.

It is not necessary for the grantee to address every component of instruction, however, paragraphs (a) and (b) of this subdivision are required of all applicant programs. No program may include information or messages that contradict any of the components.

3. Any eligible applicant may apply for, and upon approval of the application by the commissioner, shall be awarded an annual sex education grant provided it demonstrates in the grant program plan submitted to the commissioner that:

(a) it is capable of providing young persons with an effective sex education program that shall be meaningful, substantially involve parents and other adults as feasible and appropriate, and shall be conducted in accordance with this article and any regulations under this article;

(b) if such applicant is a community based organization, that it has a proven record and experience in conducting meaningful and successful age-appropriate sex education programs for at least five years prior to the calendar year in which application for the grant is made, and that it is capable of providing an age-appropriate sex education program to a broad based segment of the youth population with specific emphasis on targeted at-risk youths in such organization's service area. The commissioner may seek and he or she shall receive any pertinent information or request and receive recommendations as to such community based organization's interactions or prior dealings with any other state or local governmental entity, including, but not limited to, any public school district or board of cooperative educational services in making the determination required by this paragraph.

4. All monies provided in grants under this article shall be in addition to, and not in lieu of, any moneys historically appropriated for the same or similar purposes and shall not be used to offset or reduce moneys previously expended for similar programs.

§ 1452. Age-appropriate sex education grant program awards. 1. Within amounts appropriated therefor, the commissioner shall be authorized to grant awards for the support of approved age-appropriate sex education grant programs.

2. Grants to support an approved age-appropriate sex education grant program shall be awarded on a competitive basis in accordance with criteria established by the commissioner.

3. The department shall, from within amounts appropriated to the department, undertake all activities necessary to plan for and preliminarily provide for the timely implementation of the age-appropriate sex education grant program authorized by this article for the state fiscal year commencing one year following the effective date of this article.

4. Not more than five percent of any amounts made available by appropriation in any single fiscal year for the age-appropriate sex education grant program shall be annually retained by the commissioner for the administrative purposes of the department.

5. Of the amounts made available by appropriation for the sex education grant program, not more than five percent of any funds made by such appropriation for the state fiscal year commencing three years following the effective date of this article shall be made available for payment to a nationally recognized and accredited organization with experience in analyzing the efficacy and benefits of sex education grant programs for purposes of enabling such organization to evaluate the totality of the grant program and grants awarded in the two years following the effective date of this article. Similarly, not more than four percent of any funds for the state fiscal year commencing four years following the effective date of this article shall be made available for payment to the same organization which was awarded the initial contract to so analyze the age-appropriate sex education grant program for the purpose of providing necessary funds to them to analyze the age-appropriate sex education grant program from its inception through and including all the grant year periods authorized under this article. The contract to be awarded to such organization shall be let only after a request for proposal has been issued by the department in the manner provided for by law, and the award of such contract shall be subject to competitive bidding requirements as also required by law. The department shall include within the request for proposal detailed criteria of evaluation to be employed by the organization to be awarded the bid. The request for proposal shall also allow for a bidding organization to submit additional evaluative criteria that may be utilized by the organization awarded the bid if approved by the department. Notwithstanding any inconsistent provision of this subdivision, the request for proposal shall include a provision authorizing the commissioner to terminate the awarded contract to the successful bidder with respect to the conduct of the second evaluation of the grant program for the entire grant period authorized under this article if the commissioner is not satisfied with the quality of effort demonstrated by such bidder in the first evaluation of the grant program period. In such case, a similar request for proposal procedure shall be utilized for the purpose of making the second evaluation.

6. Beginning with the school year in July two years following the effective date of this article and every school year thereafter, from any annual appropriations and/or reappropriations made therefor, the commissioner shall set aside eighty percent of the money so appropriated (minus any amounts necessary to pay adjustment expenses pursuant to subdivisions three, four and five of this section) for the purpose of awarding grants for sex education grant program plans approved by the commissioner pursuant to section fourteen hundred fifty-three of this article to be conducted by public school districts and/or boards of cooperative educational services including those programs which are going to be conducted in accordance with a program plan pursuant to consortiums or partnerships formed by a public school district and/or board of cooperative educational services and a school-based health center or one or more community based organizations. Priority, substantial consideration and weight shall be accorded by the commissioner in the awarding of grants to such consortiums or partnerships. Similarly, the commissioner shall set aside twenty per centum of any appropriation for the purpose of awarding grants for age-appropriate sex education grant program plans approved by the commissioner for eligible applicants who are community based organizations or school-based health centers which are not conducting such program as part of a consortium or partnership.

7. In making grants under this article, the commissioner shall also give special consideration and weight to: (a) the number of reported adolescent pregnancies by persons residing in such area over the previous ten years and the number of adolescent parents, including where feasible, the number of single parents, who currently reside in such area, (b) the number of reported occurrences of sexually transmitted diseases and HIV/AIDS among residents of the area to be served, with particular emphasis on HIV/AIDS, (c) the number of persons residing in the area to be served whose annual personal income is less than one hundred fifty percent of the established state income standard or who participate in the free and reduced price lunch program as defined in subdivision one of section thirty-six hundred two of the education law, and any other generally available statistical data which indicates that the area to be served is economically or otherwise disadvantaged, (d) the high school drop out rate in the area as determined by the education department, and (e) any other generally available statistical data which indicates that the area to be served is in need of an age-appropriate sex education program.

§ 1453. Application for grants; age-appropriate sex education grant program plan. 1. The commissioner shall establish an application procedure by which eligible applicants may apply for a grant pursuant to this article, and the manner and method including specified objective criteria consistent with this article by which the commissioner shall determine the eligibility of an applicant.

2. The eligible applicant shall submit with its age-appropriate sex education grant application its grant program plan to the commissioner, which shall include a detailed description of the proposed age-appropriate sex education program, including but not limited to:

(a) the manner in which parents and other adults will be included in the program;

(b) an outline for the curriculum to be covered in the eligible applicant's program, including the instructional materials, books, videos or other instructional tools to be used and the training which will be provided to teachers, personnel and volunteers who will conduct the program. Such curriculum shall include, but need not be limited to, a comprehensive block of instruction that stresses abstinence as the most effective and appropriate protection against HIV/AIDS and pregnancy and which contains written and oral instruction on the prevention of sexually transmitted diseases. The other core elements shall satisfy a significant number of, or preferably all of, the components of an age-appropriate sex education grant program as established in section fourteen hundred fifty-one of this article;

(c) any special, or unusual or innovative services, programs or education methods to be utilized;

(d) the number and types of teaching or other personnel to be employed, or volunteers to be used, together with their professional or academic credentials;

(e) the geographic area in which the proposed program will be offered and a description of the categories and age groupings of at-risk adolescents included in such program, along with an estimate of the number of adolescents who the applicant estimates will participate in such program;

(f) a demonstration that the proposed program is adequate in terms of course length and in terms of both short term and long-range goals;

(g) the need for such program in the proposed area to be served. In determining such need the commissioner shall specifically consider the

following factors and give special attention to programs servicing areas which have a higher than average incidence in one or more of the following enumerated life experiences: (i) the number of reported adolescent pregnancies by persons residing in such area over the previous ten years and the number of adolescent parents, including where feasible, the number of single parents, who currently reside in such area, (ii) the number of reported occurrences of sexually transmitted diseases and HIV/AIDS among residents of the area to be served, with particular emphasis on HIV/AIDS, (iii) the number of persons residing in the area to be served whose annual personal income is less than one hundred fifty percent of the established state income standard or who participate in the free or reduced price lunch program as defined in subdivision one of section thirty-six hundred two of the education law, and any other generally available statistical data which indicates that the area to be served is economically or otherwise disadvantaged, (iv) the high school drop out rate in the area as determined by the education department, and (v) any other generally available statistical data which indicates that the area to be served is in need of an age-appropriate sex education program;

(h) the success realized by an eligible applicant in reducing unwanted pregnancies and cases of sexually transmitted diseases, as well as reducing risk behavior, in programs previously, or currently, conducted; and

(i) any other information as the commissioner may request.

3. In considering applications submitted by eligible applicants, the commissioner shall give special attention, and grant priority to applications submitted by an eligible applicant which is a public school district or board of cooperative educational services working in consortium or partnership with one or more community based organizations or school-based health centers, especially where the community based organization, organizations or school-based health centers has a demonstrated record of success in the conduct of sex education programs of a similar nature to the sex education program provided for in this article.

§ 1454. Maintenance of effort. Any monies made available to an eligible applicant shall not be used to offset or reduce the amount of moneys previously expended for the same or similar programs in a prior year, but shall be used to supplement any prior years' expenditures. No eligible applicant shall reduce any subsequent years' expenditures for the same or similar programs as a result of receiving any grant, or increase in the amount of any prior awarded grant, pursuant to this article.

§ 1455. Annual reports by grant recipients. 1. Every eligible applicant that has been awarded a grant under this article shall file an annual report with the commissioner, in such form and with such data as the commissioner prescribes detailing the expenditure of grant funds, together with an analysis of the age-appropriate sex education grant program it conducted, with a summary of its success or failures in altering attitudes regarding the merits of sexual abstinence as well as in preventing unwanted pregnancies, sexually transmitted diseases and HIV/AIDS.

2. The commissioner shall on or before February first in each year, submit a report on the program to the governor, the temporary president of the senate and the speaker of the assembly containing his or her findings and recommendations. In the report submitted in the fourth year and the sixth year following the effective date of this article respectively, the commissioner shall also include the evaluation of the

program as presented by the accredited organization in accordance with section fourteen hundred fifty-two of this article.

§ 1456. Notification to potential applicants. The commissioner shall timely send to every public school district and board of cooperative educational services and to every requesting community based organization or school-based health center a copy of this article and general information relating to the age-appropriate sex education grant program and the application process therefor.

§ 1457. Regulations. The commissioner shall promulgate regulations as shall be reasonably necessary to effectuate the provisions of this article.

§ 4. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act.

§ 5. This act shall take effect immediately and shall apply to the school year which commences on or after July first in the year next succeeding the date on which it shall have become a law. The commissioner of health shall promulgate such regulations as shall be necessary to implement the provisions of this act not later than 90 days after such effective date.