

By Mr. Teague of Yarmouth, petition of Edward B. Teague III and other members of the House relative to the teaching of morally or religiously sensitive topics in the schools of the Commonwealth. Education, Arts and Humanities.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT TO REAFFIRM THE RIGHT OF PARENTS TO CONTROL THE MORAL AND RELIGIOUS EDUCATION OF THEIR CHILDREN AND PROVIDE FOR PRIVACY PROTECTION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 71 of the General Laws is hereby amended by adding
2 the following Section: —
3 Section 90. (a) NOTICE REGARDING INSTRUCTION AND
4 EXTRACURRICULAR ACTIVITIES. A public school shall
5 give custodial parents or legal guardians advance written notice
6 before presenting in any public school sponsored curriculum, pro-
7 gram or activity (whether curricular or extra-curricular) any infor-
8 mation involving a morally or religiously sensitive topic. Morally
9 or religiously sensitive topics include the topics of human sexuality,
10 sexual orientation (including homosexuality, lesbianism, bisexu-
11 ality or transvestism), contraception, abortion, sexually trans-
12 mitted diseases, sexual or physical abuse, alcohol or drug abuse,
13 marriage, divorce or family life, gender or sexual relationships,
14 moral decision-making methods, suicide, euthanasia, coping with
15 or understanding death or other forms of personal loss or grief,
16 self-esteem, emotional or psychological health, religious practice
17 or belief. The notice shall provide full information regarding the
18 subject matter and nature of the curriculum, program or activity.
19 The notice shall be given by sending a letter addressed to the cus-
20 todial parent's or legal guardian's home address. A school shall
21 mail each notice in time for delivery to be made, according to a

22 normal delivery schedule, at least ten days before any presentation
23 is to be made regarding a morally or religiously sensitive topic.

24 (b) REVIEW OF INSTRUCTIONAL AND EXTRACURRIC-
25 ULAR MATERIALS AND PRESENTATIONS. All instructional
26 materials including teacher's manuals, films, tapes or other sup-
27plementary material which a school uses in presenting any
28 morally or religiously sensitive topic as well as such instructional
29 materials to be used by any guest speaker and all such items a
30 school uses for student entertainment shall be available for inspec-
31tion, in advance of their use at the school during normal school
32 hours, by the custodial parents or legal guardians of a student.

33 (c) CONSENT TO ATTEND INSTRUCTIONAL SESSIONS
34 OR EXTRACURRICULAR ACTIVITIES. No student shall attend
35 or participate in a public school sponsored class, program or
36 activity (whether curricular or extra-curricular) involving any
37 morally or religiously sensitive topic unless the school obtains
38 affirmative written consent in advance from one of the student's
39 custodial parents or legal guardians. The failure of a student's cus-
40todial parents or legal guardians to reply or object shall not sig-
41nify consent. A school that does not receive such consent must
42 exclude a student from the class, program or activity involving a
43 morally or religiously sensitive topic.

44 (d) OPTION TO WITHDRAW FROM INSTRUCTIONAL
45 SESSIONS OR EXTRACURRICULAR ACTIVITIES. Parents or
46 legal guardians shall have the right to withdraw their child from
47 any class and from any school sponsored activity when the cur-
48riculum that will be taught, the information that will be given or
49 the program or instruction that will be provided will involve any
50 morally or religiously sensitive topic.

51 (e) CONSENT TO RECEIVE MEDICAL DEVICES. No stu-
52 dent shall receive a medical device including, but not limited to,
53 condoms and other birth control devices, equipment, literature or
54 paraphernalia from a public school, its agents or through any
55 public school sponsored program or activity unless the school
56 obtains affirmative written consent, in advance, from one of the
57 student's custodial parents or legal guardians. The failure of a stu-
58 dent's custodial parents or legal guardians to reply or object shall
59 not signify consent.

60 (f) NOTICE REGARDING SURVEYS. A public school shall
61 give custodial parents or legal guardians advance written notice
62 before the school, or before any person or organization, under
63 contract with the school, conducts any student survey, analysis or
64 evaluation that involves disclosure by the student of information
65 about either the student or the student's custodial parents or legal
66 guardians concerning: political affiliations, mental or psycholog-
67 ical problems, sexual behavior or attitudes, illegal, anti-social,
68 self-incriminating or demeaning behavior, critical appraisals of
69 any other individual with whom the student has a family relation-
70 ship, legally privileged information arising out of confidential
71 relationships with persons such as lawyers, physicians or minis-
72 ters, income, or any morally or religiously sensitive topic. The
73 notice shall provide full information for a student's custodial par-
74 ents or legal guardians regarding the subject matter and nature of
75 the survey, analysis or evaluation. The notice shall be given by
76 sending a letter addressed to the custodial parent's or legal
77 guardian's home address. A school shall mail each notice in time
78 for delivery to be made, according to a normal delivery schedule,
79 one week before any student survey, analysis or evaluation is con-
80 ducted.

81 (g) REVIEW OF SURVEY MATERIAL. All materials which a
82 school uses in conducting any student survey, analysis or evalua-
83 tion that involves disclosure of information, described in (f)
84 above, shall be available for inspection, in advance of their use, at
85 the school during normal school hours by the custodial parents or
86 legal guardians of a student.

87 (h) PARTICIPATION IN SURVEYS. No student shall partici-
88 pate in any survey, analysis or evaluation conducted by a school,
89 or any person or organization under contract with a school, that
90 involves disclosure by the student of information, described in (f)
91 above, unless the school obtains affirmative written consent, in
92 advance, from one of the student's custodial parents or legal
93 guardians. The failure of a student's custodial parents or legal
94 guardians to reply or object shall not signify consent. A school
95 that does not receive such consent must exclude a student from
96 the survey, analysis or evaluation.

97 (i) PROHIBITION AGAINST PENALTY FOR NON-PARTIC-
98 IPATION. No public school shall penalize, ostracize, subject to

99 ridicule or embarrassment, or deny academic credits to a student
100 on account of the failure or refusal of that student's custodial par-
101 ents or legal guardians to consent to that student's attendance or
102 participation in any curriculum, program, activity, or survey
103 described in this section.

104 (j) OPEN MEETINGS OF DELIBERATING BODIES. The
105 provisions of the General Laws in section twenty-three (A to C) of
106 chapter thirty-nine shall apply to any meeting of the agents or
107 employees of a public school who are vested with authority to
108 decide or make recommendations on matters regarding cur-
109 riculum, instructional programs, or student activities, where there
110 is discussion, deliberation, or decision-making (whether or not by
111 a formal vote) regarding inclusion of any morally or religiously
112 sensitive topic in any curriculum, program, or activity, or
113 regarding any survey described in (f) above.

114 (k) REDRESS FOR FAILURE TO COMPLY. Any custodial
115 parent or legal guardian whose rights under this section are vio-
116 lated by any public school or any public school agent or employee
117 which fails to comply with any of the foregoing provisions of
118 Section 90 (a)-(j), may bring a civil action against such public
119 school for injunctive and declaratory relief, together with the
120 actual reasonable costs of bringing the action.