



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3356/1
KRP/FFK/SWB:wlj&cjs

2021 ASSEMBLY BILL 411

June 25, 2021 - Introduced by Representatives WICHGERS, RAMTHUN, ALLEN, BEHNKE, BRANDTJEN, DITTRICH, GUNDRUM, HORLACHER, KNODL, KUGLITSCH, MURPHY, NEYLON, ROZAR, SORTWELL, THIESFELDT, ARMSTRONG, TUSLER, SCHRAA and TITTL, cosponsored by Senators JACQUE, DARLING and NASS. Referred to Committee on Education.

AN ACT *to amend* 118.57 (title) and 119.04 (1); and *to create* 118.018, 118.40

(2r) (b) 2. m., 118.40 (2r) (d) 3., 118.40 (2x) (b) 2. m., 118.40 (2x) (d) 3. and 118.57 (1m) of the statutes; **relating to:** anti-racism and anti-sexism pupil instruction and anti-racism and anti-sexism training for employees of school districts and independent charter schools.

Analysis by the Legislative Reference Bureau

This bill prohibits race or sex stereotyping in 1) instruction provided to pupils in school districts and independent charter schools; and 2) training provided to employees of school boards and independent charter schools. Under the bill, a school board or the operator of an independent charter school is prohibited from allowing a teacher to teach pupils race or sex stereotyping in any course or as part of any curriculum and is prohibited from requiring an employee to attend a training that teaches, advocates, acts upon, or promotes race or sex stereotyping. Among the concepts that are prohibited from being taught under the bill are the following: that one race or sex is inherently superior to another race or sex and that an individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other individuals of the same race or sex. The bill provides that the state superintendent of public instruction must withhold 10 percent of state aid

ASSEMBLY BILL 411

distributions from a school board or operator that violates these prohibitions. The bill also provides that a parent or guardian of a student may bring a claim against a school district or operator of a charter school for violation of the prohibitions.

The bill also requires each school board to post all curricula used in schools in the school district on the school district's Internet site and, if a school board maintains an Internet site for an individual school, on the individual school's Internet site. If an Internet site is maintained for an independent charter school, the bill requires the authorizer of the independent charter school to ensure that all curricula used in the independent charter school are posted on the independent charter school's Internet site. Under the bill, upon request, a school board or independent charter school operator must provide a printed copy of any curriculum that it is required to post on its Internet site, at no cost to the requester.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 118.018 of the statutes is created to read:

118.018 Instruction and employee training regarding race and sex stereotyping. (1) A school board or the operator of a charter school established under s. 118.40 (2r) or (2x) shall not allow a teacher to teach race or sex stereotyping, including any of the following concepts, to pupils in any course or as part of any curriculum:

(a) One race or sex is inherently superior to another race or sex.

(b) An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

(c) An individual should be discriminated against or receive adverse treatment because of the individual's race or sex.

(d) Individuals of one race or sex are not able to and should not attempt to treat others without respect to race or sex.

ASSEMBLY BILL 411**SECTION 1**

(e) An individual's moral character is necessarily determined by the individual's race or sex.

(f) An individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other individuals of the same race or sex.

(g) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of the individual's race or sex.

(h) Systems based on meritocracy or traits such as a hard work ethic are racist or sexist or are created by individuals of a particular race to oppress individuals of another race.

(2) A school board or the operator of a charter school established under s. 118.40 (2r) or (2x) shall not require its employees to attend training in which the school board or operator, or a contractor hired by the school board or operator, teaches, advocates, acts upon, or promotes race or sex stereotyping, including any of the concepts described in sub. (1) (a) to (h).

(3) (a) If the state superintendent determines that a school board or the operator of a charter school established under s. 118.40 (2r) or (2x) has violated sub. (1) or (2), the state superintendent shall notify the school board or operator of the violation.

(b) 1. If, at least 10 days after sending a notification under par. (a) to a school board, the state superintendent determines that the school board has not remedied the violation that is the subject of the notification, the state superintendent shall withhold 10 percent of the school district's state aid distributions under s. 121.15.

2. If, at least 10 days after sending a notification under par. (a) to the operator

ASSEMBLY BILL 411**SECTION 1**

of a charter school established under s. 118.40 (2r) or (2x), the state superintendent determines that the governing body has not remedied the violation that is the subject of the notification, the state superintendent shall withhold 10 percent of the charter school's state aid distributions under s. 118.40 (2r) (e) 3m. or (f) 2. or (2x) (e) 2.

(c) If the state superintendent is withholding state aid from a school board or the operator of a charter school established under s. 118.40 (2r) or (2x) under par. (b) and the state superintendent determines that the school board or operator is complying with subs. (1) and (2), the state superintendent shall cease withholding state aid from the school board or operator under par. (b).

****NOTE: Individual bills do not include severability provisions. Current statutes already provide that, if any provision of the statutes or of a session law (i.e., a nonstatutory provision) is invalid, that invalidity does not affect other provisions that can be given effect independently. See s. 990.001 (11), stats. Therefore, an individual bill addresses severability only if the intent is to make the bill's provisions not severable.

(4) A parent or guardian of a student in a school district or a charter school established under s. 118.40 (2r) or (2x) may bring an action in circuit court against the school board or operator of a charter school established under s. 118.40 (2r) or (2x) for violation of sub. (1) or (2). Notwithstanding s. 118.26, s. 893.80 does not apply to actions commenced under this subsection. Notwithstanding s. 814.04 (1), if a parent or guardian prevails in an action under this subsection, the court shall award reasonable attorney fees and costs.

****NOTE: Section 118.26 of the statutes provides, with several exceptions, that "[n]o action may be brought or maintained against a school district upon a claim or cause of action" unless the claimant complies with the procedural (notice of claim) requirements under s. 893.80. The bill currently exempts claims brought under the bill from this requirement. Please let me know if you would to make any changes.

SECTION 2. 118.40 (2r) (b) 2. m. of the statutes is created to read:

ASSEMBLY BILL 411**SECTION 2**

118.40 (2r) (b) 2. m. A requirement that, upon the request of any individual, the operator of the charter school shall provide a printed copy of any curriculum posted under par. (d) 3. to the individual at no cost to the individual.

SECTION 3. 118.40 (2r) (d) 3. of the statutes is created to read:

118.40 (2r) (d) 3. If an Internet site is maintained for a charter school under this subsection, ensure that all curricula used in the charter school are posted on the charter school's Internet site and that the posted information is updated as necessary to ensure that it is accurate.

SECTION 4. 118.40 (2x) (b) 2. m. of the statutes is created to read:

118.40 (2x) (b) 2. m. A requirement that, upon the request of any individual, the operator of the charter school shall provide a printed copy of any curriculum posted under par. (d) 3. to the individual at no cost to the individual.

SECTION 5. 118.40 (2x) (d) 3. of the statutes is created to read:

118.40 (2x) (d) 3. If an Internet site is maintained for a charter school under this subsection, ensure that all curricula used in the charter school are posted on the charter school's Internet site and that the posted information is updated as necessary to ensure that it is accurate.

SECTION 6. 118.57 (title) of the statutes is amended to read:

118.57 (title) Notice of educational options; accountability report performance category; ~~pupil-assessments~~ curricula.

SECTION 7. 118.57 (1m) of the statutes is created to read:

118.57 (1m) Each school board shall post all curricula used in schools in the school district, including charter schools authorized by the school board, on the

ASSEMBLY BILL 411**SECTION 7**

school district's Internet site, and if the school board maintains Internet sites for schools in the school district, post the curricula used in each school on each school's Internet site. The school board shall ensure that curricula posted under this subsection are updated as necessary to ensure that the posted information is accurate. Upon the request of any individual, the school board shall provide to the individual a printed copy of any curriculum posted under this subsection at no cost to the individual.

SECTION 8. 119.04 (1) of the statutes is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.363, 115.364, 115.365 (3), 115.366, 115.367, 115.38 (2), 115.415, 115.445, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.196, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.25, 118.255, 118.258, 118.291, 118.292, 118.293, 118.30 to 118.43, 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 118.57 (1m), 120.12 (2m), (4m), (5), and (15) to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board but not, unless explicitly provided in this chapter or in the terms of a contract, to the commissioner or to any school transferred to an opportunity schools and partnership program.

SECTION 9. Initial applicability.

ASSEMBLY BILL 411

SECTION 9

(1) The treatment of s. 118.40 (2r) (b) 2. m. and (2x) (b) 2. m. first applies to a contract that is entered into, renewed, or modified on the effective date of this subsection.

(2) The treatment of s. 118.018 (4) first applies to a claim accruing on the effective date of this subsection.

(END)