

# Legislative Analysis

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## SEX EDUCATION INSTRUCTION

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**House Bill 5477 (Substitute H-2)**  
**Sponsor: Rep. Scott Hummel**

**House Bill 5478 as introduced**  
**Sponsor: Rep. John Stahl**

**Committee: Education**  
**First Analysis (3-29-04)**

**BRIEF SUMMARY:** House Bill 5477 would require that public school sex education instruction be, among other things, age appropriate, and have goals that reduced levels of adolescent sexual intercourse. Further, the sex education instruction would have to teach, among other topics, honor and respect for marriage, and abstinence from sexual intercourse until marriage. House Bill 5477 would also prescribe the membership, terms, and responsibilities of each school district's health education advisory board.

House Bill 5478 requires that a school district forfeit five percent of its state aid if it fails to comply with the instructional requirements of House Bill 5477, to which it is tie-barred. House Bill 5478 also would put in place a complaint process for use by those who believed a district was not complying with sex education requirements.

**FISCAL IMPACT:** House Bill 5477 would have no fiscal impact on state or local government, while House Bill 5478 could create an indeterminate cost to the Department of Education to investigate complaints and determine whether or not they warrant forfeiture of State Aid. House Bill 5478 would also cost any local school district that failed to meet the requirements of Section 166a an amount equal to 5 percent of its State Aid.

### **THE APPARENT PROBLEM:**

Many adults who guide adolescent children's moral and intellectual growth express concern about the physical and psychological health of young people when early sexual intercourse results in unwanted pregnancy or sexually transmitted disease. Concerned for the health, safety and well-being of youngsters—including the quality of their work lives and family lives as they grow older—these adults say that sex education classes in public schools should stress respect for marriage, and abstinence from sexual intercourse before marriage. They also advocate a larger leadership role for parents on school sex education advisory committees.

To address these concerns, legislation has been introduced.

## ***THE CONTENT OF THE BILLS:***

House Bill 5477 would amend the Revised School Code (380.1169 and 380.1507) to require that public school instruction on HIV, AIDS, and sex education be age appropriate and emphasize honor and respect for marriage, abstinence from sexual intercourse until marriage, the psychological consequences of teenage sexual activity outside of marriage, parental responsibility, and the positive nature of adoption as an outcome for teenage mothers and their children, among other things. House Bill 5477 would also prescribe the membership, terms, and responsibilities of each school district's health education advisory board.

House Bill 5478 would amend the State School Aid Act so that a school district that failed to comply with the instructional requirements of House Bill 5477 would forfeit five percent of its state aid. House Bill 5478 also would put in place a complaint process for use by those who believed a district was not complying with sex education requirements. House Bill 5478 is tie-barred to House Bill 5477, so that it could not become law unless House Bill 5477 was also enacted. A more detailed description of each bill follows.

House Bill 5477 would amend the Revised School Code (MCL 380.1169 et al.), as follows.

Sex Education Instruction. The code permits a school district to offer an elective class in sex education, including family planning, human sexuality, reproductive health, and the recognition, prevention and treatment of sexually transmitted diseases. (A district is required, however, to teach its students about HIV, AIDS, and other communicable diseases.) Any teaching on communicable diseases and sex education must include the teaching of abstinence from sex as a responsible method of preventing disease and unwanted pregnancies, and as a positive lifestyle for unmarried young people. The bill would retain these provisions, but would refer to the teaching of abstinence from sexual activity (rather than from sex) as a responsible and effective method of preventing unplanned or out-of wedlock (rather than unwanted) pregnancies.

In addition, the bill would require that HIV, AIDS, and sex education instruction emphasize that "abstinence from sexual intercourse is the expected behavioral norm for unmarried people because abstinence is the only protection that is 100 percent effective against unplanned pregnancy, sexually transmitted disease, and sexually transmitted [HIV infection and AIDS]".

Sex education material discussing sexual intercourse would have to be age appropriate and do at least all of the following:

- Teach honor and respect for marriage.
- Stress that students should abstain from sexual intercourse until marriage.
- Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual activity outside of marriage, and the consequences of teenage pregnancy.

- Stress that unplanned pregnancy and sexually transmitted diseases are serious possibilities of sexual intercourse that are not fully preventable except by abstinence.

- Advise students of the laws pertaining to their responsibility as parents to children born in and out of wedlock.

- Ensure that students would not be addressed, individually or as a group, in a way that could encourage or condone the violation of laws of the state pertaining to sexual activity, including, but not limited to sodomy, lewd and lascivious cohabitation, indecent exposure, gross indecency, and criminal sexual conduct in the first, second, third, and fourth degrees.

- Teach students not to initiate physical and verbal sexual advances and how to say "no" to sexual advances. Students would have to be taught that it is wrong to take advantage of, harass, or exploit another person sexually.

- Teach refusal skills and encourage students to resist pressure to engage in risky behavior.

- Teach that the student has the power to control personal behavior, and teach students to base their actions on reasoning, self-discipline, a sense of responsibility, self-control, and ethical considerations such as respect for self and others.

- Provide instruction in parental responsibility and marriage.

- Teach that adoption should be considered as a positive and healthy outcome for teenage mothers and their children, and inform students about how young parents can obtain adoption information.

- Include information clearly informing students that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment and that one of the other results of being convicted of this crime is to be listed on the sex offender registry on the Internet for at least 25 years.

Health Education Advisory Board. Under the code, a district providing a course in sex education must have in place an advisory board to review the material and instructional methods used for the course, and to make recommendations to the district regarding changes in the course materials or methods. The board must consist of parents with children in the district's schools, students in the district's schools, educators, local clergy, and community health professionals.

Under the bill, this board would be called the "health education advisory board". The local school board would determine the advisory board's terms of service, the number of members serving on it, and a membership selection process that reasonably reflected the school district's population. A parent would have to be appointed to chair the advisory board. A majority of the members of the advisory board would have to be parents who were not employed by or at the school district, and who had a child attending a school operated by the school district. The remainder of the board would have to consist of

students enrolled in the district's schools, educators, local clergy, and community health professionals, or any other individuals the board of the school district considered appropriate. Written notice of a health education advisory board meeting would have to be sent to each member at least two weeks before the date of the meeting.

A health education advisory board would have to establish program goals and objectives for student knowledge and skills likely to reduce the levels of adolescent sexual intercourse; review the materials and methods of instruction used, and make recommendations to the school board for implementation; and at least once every two years, develop procedures for evaluating, measuring, and reporting the attainment of program goals and objectives. The board would have to make the resulting report available to parents in the district.

Family Planning Drug or Device. The code prohibits a person from dispensing or distributing a family planning drug or device in a public school. The bill would extend this to public school property.

House Bill 5478 would amend the State School Aid Act (MCL 388.1766a), as follows.

The State School Aid Act requires a district or intermediate district providing instruction on reproductive health or other sex education under the Revised School Code to comply with certain requirements, or forfeit of five percent of its total state aid allocation. (These requirements include informing students that sex with a person under 16 is a crime; notifying parents of the content of the instruction; and notifying parents of their right to excuse their child from instruction.) Under the bill, this also would apply to districts providing instruction as set forth in House Bill 5478.

House Bill 5478 provides that, if a person who resided in a district believed that the district had violated these requirements or the requirements contained in the Revised School Code pertaining to AIDS/HIV and sex education (including those proposed by House Bill 5477), the person could file a complaint with the state superintendent of public instruction. The superintendent would have to order the Department of Education to investigate any complaints and determine within 90 days whether or not the district should forfeit five percent of its total state aid allocation.

The Department of Education, with the approval of the superintendent, would have to establish a reasonable procedure for filing these complaints, so that they did not place an undue burden on the complainant, the school district, or the department.

## ***ARGUMENTS:***

### ***For:***

Teen pregnancy is still high in many Michigan counties, and there are unacceptable rates of sexually transmitted diseases. This is evidence that the current sex education curriculum being used in public schools does not work. The curriculum needs a stronger emphasis of marriage and abstinence from sexual intercourse until after marriage. It

should be updated regularly, so that ineffective materials can be discarded, and new ones with greater efficacy introduced. All of these decisions should be made with the advice of students' parents, working as advisors to educators who offer the sex education programs. These bills are important because they signal a new and bolder commitment to sex education that reduces sexual intercourse before marriage, as well as unwanted pregnancies and sexually transmitted diseases.

***For:***

One person who testified drew an analogy between the new sex education being proposed and the popular and widespread Drug Abuse Resistance Education (DARE) program. That program has three major tenets: a) to teach consequences for bad choices, b) to teach about the effects of peer and personal pressure, and c) to instill self-esteem and the ability to make better choices. In many ways, a sex education program that stresses abstinence from sexual intercourse until after marriage must instill the same values, attempting to stop a problem before it starts. The same logic can be used to teach the subject of abstinence. And like DARE, it has the potential to save lives, dreams, and money.

***Against:***

Many parts of the proposed bills are redundant—already addressed by state statute. Michigan's existing laws governing sex education in schools are more than adequate. Already the current laws require abstinence education, specify that an advisory committee be established comprising parents with children in the school district, prohibit the teaching of abortion as a method of family planning, require two public hearings to receive comments on proposed programs prior to adoption of any program, and provide that parents may opt out, if they do not want their children to participate in the instruction. By stressing abstinence and parental involvement, current laws are especially parent-friendly. Consequently, the proposed bills are duplicative and unnecessary.

***Against:***

Many who oppose these bills note that abstinence from sexual intercourse before marriage is the strongest component of nearly all sex education programs in the state. Nonetheless, the Youth Risk Behavior Survey of 2001 indicates that fully 60 percent of all high school seniors have had sexual intercourse. Consequently, sex education programs must emphasize abstinence, and then also must meet the needs of students who already are sexually active. What is more, the programs must address the needs of those who will never marry. Public schools are charged with teaching *all* students. In sum, schools must be in the business of preparing students for life, and for some sexually active people that will not include marriage at all, while for others it will mean sex after marriage, and yet others, sex before and after marriage. All students need the knowledge and skills to remain abstinent, but they also must be prepared for the decisions they will be making as adults. These bills could constrain educators from offering sex education programs that promote abstinence as a healthy choice for young people, and also prepare them for future health decisions that will help them reduce the risk of unplanned pregnancy and/or sexually transmitted infections.

## ***POSITIONS:***

The Safe Sex Program supports the bills. (3-23-04)  
The Faith Baptist Schools of Davison support House Bill 5477. (3-23-04)  
The Hillsdale College Concerned About Teen Sexuality Program supports the bills. (3-23-04)  
The Reach Runaway Shelter supports the bills (3-23-04)  
The Michigan Association of Christian Schools supports the bills. (3-23-04)  
Concerned Parents of Saginaw Township support the bills. (3-23-04)  
Michigan Family Forum supports the bills. (3-23-04)

The Michigan Parent Teacher Student Association opposes the bills. (3-23-04)  
Horton Bay Associates opposes the bills. (3-23-04)  
Eaton County Intermediate School District opposes the bills. (3-23-04)  
The Michigan Association of School Nurses opposes the bills. (3-23-04)  
The Michigan Department of Education opposes the bills. (3-23-04)  
The Lansing School District opposes the bills. (3-23-04)  
The Michigan Association of School Boards opposes the bills. (3-23-04)  
Planned Parenthood Advocates of Michigan oppose the bills. (3-23-04)  
Okemos Health and Sexuality Education Advisory Board opposes the bills. (3-23-04)  
The Michigan Association of Local Public Health opposes the bills. (3-23-04)  
Oakland Schools opposes the bills. (3-23-04)  
The Michigan Association of School Administrators opposes the bills. (3-23-04)  
The National Association of School Social Workers-Michigan Chapter opposes the bills. (3-23-04)  
The Michigan Education Association opposes the bills. (3-23-04)  
MARAL Pro-Choice Michigan opposes the bills. (3-23-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.