

Legislative Analysis



SEX EDUCATION INSTRUCTION

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House Bill 5477

Sponsor: Rep. Scott Hummel

House Bill 5478

Sponsor: Rep. John Stahl

Committee: Education

Complete to 3-16-04

A REVISED SUMMARY OF HOUSE BILLS 5477 AND 5478 AS INTRODUCED 2-5-04

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 meet all of the following requirements:

- Be age appropriate.
- 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, or any of the schools it operated, 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. 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.

FISCAL IMPACT:

House Bill 5477 would have no fiscal impact on state or local government.

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 was deemed to have failed to meet the requirements of Section 166a an amount equal to 5 percent of its State Aid.

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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.