

HOUSE BILL NO. 5337

November 14, 2023, Introduced by Rep. Markkanen and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1169, 1506, 1507, and 1507b (MCL 380.1169,
380.1506, 380.1507, and 380.1507b), sections 1169 and 1507 as
amended and section 1507b as added by 2004 PA 165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1169. (1) ~~The~~ **Except as otherwise provided in this**

1 **section, the** principal modes by which dangerous communicable
 2 diseases, including, but not limited to, human immunodeficiency
 3 virus infection and acquired immunodeficiency syndrome, are spread
 4 and the best methods for the restriction and prevention of these
 5 diseases ~~shall~~**must** be taught in every public school in this state.
 6 **The information described in this subsection concerning sexually**
 7 **transmitted infections must not be taught in any public school in**
 8 **this state to pupils enrolled in any grade below grade 4.** Subject
 9 to subsection (3) and section 1507b, the teaching under this
 10 section ~~shall~~**must** stress that abstinence from sex is a responsible
 11 and effective method for restriction and prevention of these
 12 diseases and is a positive lifestyle for unmarried young
 13 ~~people~~**individuals.**

14 (2) Except for licensed health care professionals who have
 15 received training on human immunodeficiency virus infection and
 16 acquired immunodeficiency syndrome, each ~~person~~**individual** who
 17 teaches ~~K to 12~~ pupils **in grades 4 to 12** about human
 18 immunodeficiency virus infection and acquired immunodeficiency
 19 syndrome ~~pursuant to~~**under** subsection (1) shall have training in
 20 human immunodeficiency virus infection and acquired
 21 immunodeficiency syndrome education for young ~~people~~**individuals.**
 22 The superintendent of public instruction, in cooperation with the
 23 department of ~~public health,~~**health and human services,** shall train
 24 ~~trainers~~**instructors** to provide the teacher training required ~~by~~
 25 **under** this subsection and shall provide for the development and
 26 distribution to school districts of medically accurate material on
 27 the teaching of human immunodeficiency virus infection and acquired
 28 immunodeficiency syndrome to young ~~people~~**individuals.**

29 (3) The choice of curricula to be used for human

1 immunodeficiency virus infection and acquired immunodeficiency
2 syndrome education required to be taught under subsection (1) ~~shall~~
3 **must** be approved by the appropriate school board and implemented in
4 the school setting not later than October 1, 1990. Before adopting
5 any revisions to the curriculum implemented under this section,
6 including, but not limited to, revisions to provide for the
7 teaching of abstinence from sex as a responsible method for
8 restriction and prevention of disease, a school board ~~shall~~**must**
9 hold at least 2 public hearings on the proposed revisions. The
10 hearings ~~shall~~**must** be held at least 1 week apart and public notice
11 of the hearings ~~shall~~**must** be given in the manner required under
12 section 1201 for board meetings. A public hearing held ~~pursuant to~~
13 **under** this section may be held in conjunction with a public hearing
14 held ~~pursuant to~~**under** section 1507.

15 Sec. 1506. (1) ~~A~~**If provided, a** program of instruction in
16 reproductive health ~~shall be~~**must meet both of the following**
17 **criteria:**

18 **(a) It must be provided only to pupils enrolled in grade 4 or**
19 **above grade 4 and must not be provided to pupils enrolled in any**
20 **grade below grade 4.**

21 **(b) It must be** supervised by a registered physician, a
22 registered nurse, or other person certified by the state board as
23 qualified.

24 **(2) Upon the written request of a pupil or the pupil's parent**
25 **or legal guardian, a pupil shall****must** be excused, without penalty
26 or loss of academic credit, from attending classes in which the
27 subject of reproductive health is under discussion.

28 **(3) If a pupil enrolled in any grade in a school district,**
29 **intermediate school district, or public school academy has**

1 questions or comments concerning items covered in a program of
 2 instruction in reproductive health described in this section, the
 3 school district, intermediate school district, or public school
 4 academy may send materials from the program to the pupil's parent
 5 or legal guardian.

6 (4) ~~(2)~~ As used in subsection ~~(1)~~ **this section** and sections
 7 **section 1507, and 1508,** "reproductive health" means that state of
 8 an individual's well-being which involves the reproductive system
 9 and its physiological, psychological, and endocrinological
 10 functions.

11 Sec. 1507. (1) The board of a school district may engage
 12 qualified instructors and provide facilities and equipment for
 13 instruction in sex education, including family planning, human
 14 sexuality, and the emotional, physical, psychological, hygienic,
 15 economic, and social aspects of family life **only for pupils**
 16 **enrolled in grade 4 or above grade 4.** ~~Instruction~~ **The board of a**
 17 **school district shall not provide the instruction described in this**
 18 **subsection to pupils enrolled in any grade below grade 4. The**
 19 **instruction described in this subsection** may also include the
 20 subjects of reproductive health and the recognition, prevention,
 21 and treatment of sexually transmitted ~~disease.~~ **infections.** Subject
 22 to subsection (7) and section 1507b, the instruction described in
 23 this subsection ~~shall~~ **must** stress that abstinence from sex is a
 24 responsible and effective method of preventing unplanned or out-of-
 25 wedlock pregnancy and sexually transmitted ~~disease~~ **infections** and
 26 is a positive lifestyle for unmarried young ~~people.~~ **individuals.**

27 (2) The class described in subsection (1) ~~shall~~ **must** be
 28 elective and not a requirement for graduation.

29 (3) A pupil ~~shall~~ **must** not be enrolled in a class in which the

1 subjects of family planning or reproductive health are discussed
2 unless the pupil's parent or **legal** guardian is notified in advance
3 of the course and the content of the course, is given a prior
4 opportunity to review the materials to be used in the course and is
5 notified in advance of ~~his or her~~**the** right to have the pupil
6 excused from the class. The state board shall determine the form
7 and content of the notice required in this subsection.

8 (4) Upon the written request of a pupil or the pupil's parent
9 or legal guardian, a pupil ~~shall~~**must** be excused, without penalty
10 or loss of academic credit, from attending a class described in
11 subsection (1).

12 (5) A school district that provides a class as permitted by
13 subsection (1) shall offer the instruction by teachers qualified to
14 teach health education. A school district shall not offer this
15 instruction unless a sex education advisory board is established by
16 the board of the school district. The board of a school district
17 shall determine terms of service for the sex education advisory
18 board, the number of members to serve on the advisory board, and a
19 membership selection process that reasonably reflects the school
20 district population, and shall appoint 2 co-chairs for the advisory
21 board, at least 1 of whom is a parent of a child attending a school
22 operated by the school district. At least 1/2 of the members of the
23 sex education advisory board shall be parents who have a child
24 attending a school operated by the school district, and a majority
25 of these parent members shall be individuals who are not employed
26 by a school district. The board of a school district shall include
27 pupils of the school district, educators, local clergy, and
28 community health professionals on the sex education advisory board.
29 Written or electronic notice of a sex education advisory board

1 meeting ~~shall~~**must** be sent to each member at least 2 weeks before
2 the date of the meeting. The advisory board shall do all of the
3 following:

4 (a) Establish program goals and objectives for pupil knowledge
5 and skills that are likely to reduce the rates of sex, pregnancy,
6 and sexually transmitted ~~diseases.~~**infections**. This subdivision
7 does not prohibit a school district from establishing additional
8 program goals and objectives that are not contrary to this section,
9 section 1169, or section 1507b.

10 (b) Review the materials and methods of instruction used and
11 make recommendations to the board of the school district for
12 implementation. The advisory board shall take into consideration
13 the school district's needs, demographics, and trends, including,
14 but not limited to, teenage pregnancy rates, sexually transmitted
15 ~~disease~~**infection** rates, and incidents of student sexual violence
16 and harassment.

17 (c) At least once every 2 years, evaluate, measure, and report
18 the attainment of program goals and objectives established under
19 subdivision (a). The board of a school district shall make the
20 resulting report available to parents in the school district.

21 (6) Before adopting any revisions in the materials or methods
22 used in instruction under this section, including, but not limited
23 to, revisions to provide for the teaching of abstinence from sex as
24 a method of preventing unplanned or out-of-wedlock pregnancy and
25 sexually transmitted ~~disease,~~**infections**, the board of a school
26 district shall hold at least 2 public hearings on the proposed
27 revisions. The hearings ~~shall~~**must** be held at least 1 week apart
28 and public notice of the hearings ~~shall~~**must** be given in the manner
29 required under section 1201 for board meetings. A public hearing

1 held ~~pursuant to~~**under** this section may be held in conjunction with
2 a public hearing held ~~pursuant to~~**under** section 1169.

3 (7) A person shall not dispense or otherwise distribute in a
4 public school or on public school property a family planning drug
5 or device.

6 (8) **If a pupil enrolled in any grade in a school district,**
7 **intermediate school district, or public school academy has**
8 **questions or comments concerning items covered by instruction in**
9 **sex education as described in this section, the school district,**
10 **intermediate school district, or public school academy may send**
11 **materials concerning the instruction to the pupil's parent or legal**
12 **guardian.**

13 (9) ~~(8)~~As used in this section, "family planning" means the
14 use of a range of methods of fertility regulation to help
15 individuals or couples avoid unplanned pregnancies; bring about
16 wanted births; regulate the intervals between pregnancies; and plan
17 the time at which births occur in relation to the age of parents.
18 It may include the study of fetology. It may include marital and
19 genetic information. Clinical abortion ~~shall not be~~**is not**
20 considered a method of family planning, ~~nor shall~~**and** abortion **must**
21 **not** be taught as a method of reproductive health.

22 (10) ~~(9)~~As used in this section and sections 1506 and 1507a:

23 (a) "Class" means an instructional period of limited duration
24 within a course of instruction and includes an assembly or small
25 group presentation.

26 (b) "Course" means a series of classes linked by a common
27 subject matter.

28 Sec. 1507b. (1) Instruction under **section 1506 in reproductive**
29 **health, instruction under** section 1507 in sex education, and

1 instruction under section 1169 on human immunodeficiency virus
2 infection and acquired immunodeficiency syndrome ~~shall~~**must**
3 emphasize that abstinence from sex is a positive lifestyle for
4 unmarried young ~~people~~**individuals** because abstinence is the only
5 protection that is 100% effective against unplanned pregnancy,
6 sexually transmitted ~~disease~~**, infections**, and sexually transmitted
7 human immunodeficiency virus infection and acquired
8 immunodeficiency syndrome.

9 (2) Material and instruction in the sex education curriculum
10 under section 1507 that discusses sex ~~shall~~**must** be age-appropriate
11 ~~, shall for pupils in grade 4 or in a grade above grade 4, must~~ not
12 be medically inaccurate, and ~~shall~~**must** do at least all of the
13 following:

14 (a) Discuss the benefits of abstaining from sex until marriage
15 and the benefits of ceasing sex if a pupil is sexually active.

16 (b) Include a discussion of the possible emotional, economic,
17 and legal consequences of sex.

18 (c) Stress that unplanned pregnancy and sexually transmitted
19 ~~diseases~~**infections** are serious possibilities of sex that are not
20 fully preventable except by abstinence.

21 (d) Advise pupils of the laws pertaining to their
22 responsibility as parents to children born in and out of wedlock.

23 (e) Ensure that pupils are not taught in a way that condones
24 the violation of the laws of this state pertaining to sexual
25 activity, including, but not limited to, sections 158, 335a, 338,
26 338a, 338b, and 520b to 520e of the Michigan penal code, 1931 PA
27 328, MCL 750.158, 750.335a, 750.338, 750.338a, 750.338b, and
28 750.520b to 750.520e.

29 (f) Teach pupils how to say "no" to sexual advances and that

1 it is wrong to take advantage of, harass, or exploit another ~~person~~
2 **individual** sexually.

3 (g) Teach refusal skills and encourage pupils to resist
4 pressure to engage in risky behavior.

5 (h) Teach that the pupil has the power to control personal
6 behavior. Pupils ~~shall~~**must** be taught to base their actions on
7 reasoning, self-discipline, a sense of responsibility, self-
8 control, and ethical considerations such as respect for self and
9 others.

10 (i) Provide instruction on healthy dating relationships and on
11 how to set limits and recognize a dangerous environment.

12 (j) Provide information for pupils about how young parents can
13 learn more about adoption services and about the provisions of the
14 safe delivery of newborns law, chapter XII of the probate code of
15 1939, 1939 PA 288, MCL 712.1 to 712.20.

16 (k) Include information clearly informing pupils that having
17 sex or sexual contact with an individual under the age of 16 is a
18 crime punishable by imprisonment and that 1 of the other **possible**
19 results of being convicted of this crime is to be listed on the sex
20 offender registry on the internet for up to 25 years.

21 (3) This section does not prohibit a public school from
22 offering sex education with behavioral risk reduction strategies,
23 as defined by law, that are not 100% effective against unplanned
24 pregnancy, sexually transmitted ~~disease,~~**infections**, and sexually
25 transmitted human immunodeficiency virus infection and acquired
26 immunodeficiency syndrome.