

HOUSE BILL No. 5163

June 25, 2009, Introduced by Reps. Smith, Bledsoe, Warren, Liss, Valentine, Byrnes, Miller, Donigan, Roberts, Slavens, Lipton, Hammel, Barnett, Kennedy, Lisa Brown, Bauer, Robert Jones, Geiss, Gonzales, Haugh, Neumann, Coulouris and Meadows and referred to the Committee on Judiciary.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1169, 1507, and 1507b (MCL 380.1169, 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 principal modes by which dangerous
2 communicable diseases, including, but not limited to, human
3 immunodeficiency virus infection and acquired immunodeficiency
4 syndrome, are spread and the best methods for the restriction and
5 prevention of these diseases shall be taught in every public school
6 in this state. Subject to subsection (3) and section 1507b, the
7 teaching under this section shall stress that abstinence from sex
8 is a responsible and effective method for restriction and

1 prevention of these diseases and is a positive lifestyle for
2 unmarried young people. **FACTUAL INFORMATION INCLUDED IN THE**
3 **TEACHING UNDER THIS SECTION SHALL BE MEDICALLY ACCURATE AND**
4 **OBJECTIVE.**

5 (2) Except for licensed health care professionals who have
6 received training on human immunodeficiency virus infection and
7 acquired immunodeficiency syndrome, each person who teaches K to 12
8 pupils about human immunodeficiency virus infection and acquired
9 immunodeficiency syndrome pursuant to subsection (1) shall have
10 training in human immunodeficiency virus infection and acquired
11 immunodeficiency syndrome education for young people. The
12 superintendent of public instruction, in cooperation with the
13 department of ~~public~~**COMMUNITY** health, shall train trainers to
14 provide the teacher training required by this subsection and shall
15 provide for the development and distribution to school districts of
16 medically accurate material on the teaching of human
17 immunodeficiency virus infection and acquired immunodeficiency
18 syndrome to young people.

19 (3) The choice of curricula to be used for human
20 immunodeficiency virus infection and acquired immunodeficiency
21 syndrome education required to be taught under subsection (1) shall
22 be approved by the appropriate school board and implemented in the
23 school setting. ~~not later than October 1, 1990.~~ Before adopting any
24 revisions to the curriculum implemented under this section,
25 including, but not limited to, revisions to provide for the
26 teaching of abstinence from sex as a responsible method for
27 restriction and prevention of disease, a school board shall hold at

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least 2 public hearings on the proposed revisions. The hearings shall be held at least 1 week apart and public notice of the hearings shall be given in the manner required under section 1201 for board meetings. A public hearing held pursuant to this section may be held in conjunction with a public hearing held pursuant to section 1507.

(4) AS USED IN THIS SECTION:

(A) "FACTUAL INFORMATION" INCLUDES, BUT IS NOT LIMITED TO, MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL, EMPIRICAL, AND STATISTICAL STATEMENTS.

(B) "MEDICALLY ACCURATE" MEANS VERIFIED OR SUPPORTED BY RESEARCH CONDUCTED IN COMPLIANCE WITH SCIENTIFIC METHODS AND PUBLISHED IN PEER-REVIEWED JOURNALS, WHERE APPROPRIATE, AND RECOGNIZED AS ACCURATE AND OBJECTIVE BY PROFESSIONAL ORGANIZATIONS AND AGENCIES WITH EXPERTISE IN THE RELEVANT FIELD, SUCH AS THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION.

Sec. 1507. (1) The board of a school district [may] engage qualified instructors and provide facilities and equipment for instruction in sex education, including family planning, human sexuality, and the emotional, physical, psychological, hygienic, economic, and social aspects of family life. [IF THE BOARD OF A SCHOOL DISTRICT PROVIDES INSTRUCTION IN SEX EDUCATION UNDER THIS SECTION,] THE INSTRUCTION SHALL INCLUDE COMPREHENSIVE SEXUALITY EDUCATION THAT IS MEDICALLY ACCURATE AND AGE-APPROPRIATE []. Instruction may also include the subjects of reproductive health and the recognition, prevention, and treatment of sexually transmitted disease—**INFECTION**. Subject to subsection ~~(7)~~—(6) and section 1507b, the instruction described in this subsection shall stress that

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abstinence from sex is a responsible and effective method of preventing unplanned or out-of-wedlock pregnancy and sexually transmitted disease-**INFECTION** and is a positive lifestyle for unmarried young people. **FACTUAL INFORMATION INCLUDED IN THE INSTRUCTION UNDER THIS SECTION SHALL BE MEDICALLY ACCURATE AND OBJECTIVE.**

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

(2) ~~(3)~~ A pupil shall not be enrolled in a class in which the subjects of family planning or reproductive health are discussed unless the pupil's parent or guardian is notified in advance of the course and the content of the course, is given a prior opportunity to review the materials to be used in the course and is notified in advance of his or her right to have the pupil excused from the class. The state board shall determine the form and content of the notice required in this subsection.

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

(4) ~~(5)~~ A school district ~~that provides a class as permitted by subsection (1) shall offer~~ **SHALL PROVIDE** the instruction **UNDER THIS SECTION** by teachers qualified to teach ~~health~~ **SEXUALITY** education. A school district **[THAT PROVIDES THE INSTRUCTION UNDER THIS SECTION]** ~~shall not offer this instruction unless~~ **ESTABLISH** a sex education advisory board. ~~is established by the board of the school district.~~ The board of a school district shall determine terms of service for the sex education advisory

1 board, the number of members to serve on the advisory board, and a
2 membership selection process that reasonably reflects the school
3 district population, and shall appoint 2 co-chairs for the advisory
4 board, at least 1 of whom is a parent of a child attending a school
5 operated by the school district. At least 1/2 of the members of the
6 sex education advisory board shall be parents who have a child
7 attending a school operated by the school district, and a majority
8 of these parent members shall be individuals who are not employed
9 by a school district. The board of a school district shall include
10 pupils of the school district, educators, local clergy, and
11 community health professionals on the sex education advisory board.
12 Written or electronic notice of a sex education advisory board
13 meeting shall be sent to each member at least 2 weeks before the
14 date of the meeting. The advisory board shall do all of the
15 following:

16 (a) Establish program goals and objectives for pupil knowledge
17 and skills that are likely to reduce the rates of sex, pregnancy,
18 and sexually transmitted diseases. This subdivision does not
19 prohibit a school district from establishing additional program
20 goals and objectives that are not contrary to this section, section
21 1169, or section 1507b.

22 (b) Review the materials and methods of instruction used and
23 make recommendations to the board of the school district for
24 implementation. The advisory board shall take into consideration
25 the school district's needs, demographics, and trends, including,
26 but not limited to, teenage pregnancy rates, sexually transmitted
27 disease rates, and incidents of student sexual violence and

1 harassment.

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

6 (5) ~~(6)~~—Before adopting any revisions in the materials or
7 methods used in instruction under this section, including, but not
8 limited to, revisions to provide for the teaching of abstinence
9 from sex as a method of preventing unplanned or out-of-wedlock
10 pregnancy and sexually transmitted disease, the board of a school
11 district shall hold at least 2 public hearings on the proposed
12 revisions. The hearings shall be held at least 1 week apart and
13 public notice of the hearings shall be given in the manner required
14 under section 1201 for board meetings. A public hearing held
15 pursuant to this section may be held in conjunction with a public
16 hearing held pursuant to section 1169.

17 (6) ~~(7)~~—A person shall not dispense or otherwise distribute in
18 a public school or on public school property a family planning drug
19 or device.

20 (7) ~~(8)~~—As used in this section, "family planning" means the
21 use of a range of methods of fertility regulation to help
22 individuals or couples avoid unplanned pregnancies; bring about
23 wanted births; regulate the intervals between pregnancies; and plan
24 the time at which births occur in relation to the age of parents.
25 It may include the study of fetology. It may include marital and
26 genetic information. Clinical abortion shall not be considered a
27 method of family planning, nor shall abortion be taught as a method

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 of reproductive health.

(8) ~~(9)~~—As used in this section and sections 1506 and 1507a:

(A) "BOARD OF A SCHOOL DISTRICT" MEANS THE BOARD OF A SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY.

(B) ~~(a)~~—"Class" means an instructional period of limited duration within a course of instruction and includes an assembly or small group presentation.

(C) ~~(b)~~—"Course" means a series of classes linked by a common subject matter.

(D) "FACTUAL INFORMATION" INCLUDES, BUT IS NOT LIMITED TO, MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL, EMPIRICAL, AND STATISTICAL STATEMENTS.

(E) "MEDICALLY ACCURATE" MEANS VERIFIED OR SUPPORTED BY RESEARCH CONDUCTED IN COMPLIANCE WITH SCIENTIFIC METHODS AND PUBLISHED IN PEER-REVIEWED JOURNALS, WHERE APPROPRIATE, AND RECOGNIZED AS ACCURATE AND OBJECTIVE BY PROFESSIONAL ORGANIZATIONS AND AGENCIES WITH EXPERTISE IN THE RELEVANT FIELD, SUCH AS THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION.

(F) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT OR A PUBLIC SCHOOL ACADEMY.

Sec. 1507b. (1) Instruction under section 1507 in ~~sex~~ **SEXUALITY** education and instruction under section 1169 on human immunodeficiency virus infection and acquired immunodeficiency syndrome shall ~~emphasize~~ **BE AGE-APPROPRIATE, MEDICALLY ACCURATE, AND OBJECTIVE, AND SHALL [EMPHASIZE**] that abstinence from sex is a positive lifestyle for unmarried young people because abstinence is the only protection that is 100% effective against

1 unplanned pregnancy, sexually transmitted ~~disease~~ **INFECTION**, and
2 sexually transmitted human immunodeficiency virus infection and
3 acquired immunodeficiency syndrome.

4 (2) Material, **FACTUAL INFORMATION**, and instruction in the ~~sex~~
5 **SEXUALITY** education curriculum under section 1507 that discusses
6 sex shall be age-appropriate, ~~shall not be medically inaccurate~~
7 **ACCURATE, AND OBJECTIVE**, and shall do at least all of the
8 following:

9 (a) Discuss the benefits of abstaining from sex until marriage
10 and the benefits of ~~ceasing sex~~ **PROTECTING ONESELF** if a pupil is
11 sexually active, **AND PROVIDE THE TOOLS TO MAKE INFORMED AND**
12 **RESPONSIBLE DECISIONS.**

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

15 (c) Stress that unplanned pregnancy and sexually transmitted
16 diseases are serious possibilities of sex that are not fully
17 preventable except by abstinence.

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

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

26 (f) Teach pupils how to say "no" to sexual advances and that
27 it is wrong to take advantage of, harass, or exploit another person

1 sexually.

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

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

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

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

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

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

26 **(4) AS USED IN THIS SECTION:**

27 **(A) "FACTUAL INFORMATION" INCLUDES, BUT IS NOT LIMITED TO,**

1 MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL, EMPIRICAL, AND STATISTICAL
2 STATEMENTS.

3 (B) "MEDICALLY ACCURATE" MEANS VERIFIED OR SUPPORTED BY
4 RESEARCH CONDUCTED IN COMPLIANCE WITH SCIENTIFIC METHODS AND
5 PUBLISHED IN PEER-REVIEWED JOURNALS, WHERE APPROPRIATE, AND
6 RECOGNIZED AS ACCURATE AND OBJECTIVE BY PROFESSIONAL ORGANIZATIONS
7 AND AGENCIES WITH EXPERTISE IN THE RELEVANT FIELD, SUCH AS THE
8 FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION.