

SENATE BILL No. 270

April 17, 2019, Introduced by Senators HERTEL, ANANICH, BRINKS, CHANG, ALEXANDER, GEISS, SANTANA, MCMORROW, BULLOCK, WOJNO, BAYER, HOLLIER, MOSS, IRWIN and POLEHANKI and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1507b (MCL 380.1507b), as added by 2004 PA 165, and by adding section 1507c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1507b. (1) Instruction under section 1507 in sex
2 education and instruction under section 1169 on human
3 immunodeficiency virus infection and acquired immunodeficiency
4 syndrome ~~shall~~**MUST** emphasize that abstinence from sex is a
5 positive lifestyle for unmarried young people because abstinence is
6 the only protection that is 100% effective against unplanned
7 pregnancy, sexually transmitted ~~disease,~~**INFECTION**, and sexually

1 transmitted human immunodeficiency virus infection and acquired
2 immunodeficiency syndrome.

3 (2) Material and instruction in the sex education curriculum
4 under section 1507 that discusses sex ~~shall~~**MUST** be age-
5 appropriate, ~~shall~~**MUST** not be medically inaccurate, and ~~shall~~**MUST**
6 do at least all of the following:

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

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

11 (c) Stress that unplanned pregnancy and sexually transmitted
12 ~~diseases~~**INFECTIONS** are serious possibilities of sex that are not
13 fully preventable except by abstinence.

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

16 (e) Ensure that pupils are not taught in a way that condones
17 the violation of the laws of this state pertaining to sexual
18 activity, including, but not limited to, sections 158, 335a, 338,
19 338a, 338b, and 520b to 520e of the Michigan penal code, 1931 PA
20 328, MCL 750.158, 750.335a, 750.338, 750.338a, 750.338b, and
21 750.520b to 750.520e.

22 (f) Teach pupils ~~how to say "no" to sexual advances and that~~
23 ~~it is wrong to take advantage of, harass, or exploit another person~~
24 ~~sexually.~~**ABOUT SEXUAL ASSAULT AND DATING VIOLENCE AND THE**
25 **PREVENTION OF SEXUAL ASSAULT AND DATING VIOLENCE, INCLUDING, BUT**
26 **NOT LIMITED TO, CONCEPTS RELATING TO BYSTANDER INTERVENTION, AND**
27 **CREATE A SCHOOL ENVIRONMENT IN WHICH SEXUAL ASSAULT AND DATING**

1 VIOLENCE ARE NOT ACCEPTABLE AND VICTIMS OF SEXUAL ASSAULT AND
2 DATING VIOLENCE ARE PROVIDED HELP AND SUPPORT. INSTRUCTION PROVIDED
3 TO COMPLY WITH THIS SUBDIVISION MUST BE CONSISTENT WITH SECTION
4 1507C.

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

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

12 (i) Provide instruction on **RESPECTFUL AND** healthy dating
13 relationships, **ON CONSENT**, and on ~~how to set limits and recognize a~~
14 ~~dangerous environment.~~**SETTING AND RESPECTING PERSONAL BOUNDARIES.**
15 **INSTRUCTION ON CONSENT MUST INCLUDE INSTRUCTION THAT TEACHES PUPILS**
16 **ALL OF THE FOLLOWING:**

17 (i) THAT IN ORDER FOR CONSENT TO BE GIVEN TO SEXUAL ACTIVITY,
18 IT MUST BE AFFIRMATIVE AND CONSCIOUS AND INVOLVE A FREELY GIVEN
19 AGREEMENT TO ENGAGE IN SEXUAL ACTIVITY.

20 (ii) THAT IT IS THE RESPONSIBILITY OF EACH INDIVIDUAL INVOLVED
21 IN THE SEXUAL ACTIVITY TO ENSURE THAT HE OR SHE HAS THE CONSENT OF
22 THE OTHER TO ENGAGE IN SEXUAL ACTIVITY.

23 (iii) THAT AN INDIVIDUAL'S LACK OF VERBAL OR PHYSICAL
24 RESISTANCE OR SUBMISSION RESULTING FROM THE USE OR THREAT
25 OF FORCE DOES NOT CONSTITUTE CONSENT.

26 (iv) THAT AN INDIVIDUAL'S MANNER OF DRESS DOES NOT CONSTITUTE
27 CONSENT.

1 (v) THAT AN INDIVIDUAL'S CONSENT TO PAST SEXUAL ACTIVITY DOES
2 NOT CONSTITUTE CONSENT TO FUTURE SEXUAL ACTIVITY.

3 (vi) THAT AN INDIVIDUAL'S CONSENT TO ENGAGE IN SEXUAL ACTIVITY
4 WITH 1 INDIVIDUAL DOES NOT CONSTITUTE CONSENT TO ENGAGE IN SEXUAL
5 ACTIVITY WITH ANOTHER INDIVIDUAL.

6 (vii) THAT AN INDIVIDUAL CAN WITHDRAW CONSENT AT ANY TIME
7 DURING SEXUAL ACTIVITY.

8 (viii) THAT AN INDIVIDUAL CANNOT CONSENT TO SEXUAL ACTIVITY IF
9 THAT INDIVIDUAL IS UNABLE TO UNDERSTAND THE NATURE OF THE ACTIVITY
10 OR GIVE KNOWING CONSENT DUE TO CERTAIN CIRCUMSTANCES, INCLUDING,
11 BUT NOT LIMITED TO, ANY OF THE FOLLOWING CIRCUMSTANCES:

12 (A) THE INDIVIDUAL IS INCAPACITATED DUE TO THE USE OR
13 INFLUENCE OF ALCOHOL OR DRUGS.

14 (B) THE INDIVIDUAL IS ASLEEP OR UNCONSCIOUS.

15 (C) THE INDIVIDUAL IS UNDERAGE, AS DEFINED OR DETERMINED UNDER
16 STATE LAW.

17 (j) Provide information for pupils about how young parents can
18 learn more about adoption services and about the provisions of the
19 safe delivery of newborns law, chapter XII of the probate code of
20 1939, 1939 PA 288, MCL 712.1 to 712.20.

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

26 (3) This section does not prohibit a public school from
27 offering sex education with behavioral risk reduction strategies,

1 as defined by law, that are not 100% effective against unplanned
2 pregnancy, sexually transmitted ~~disease~~, **INFECTION**, and sexually
3 transmitted human immunodeficiency virus infection and acquired
4 immunodeficiency syndrome.

5 (4) AS USED IN THIS SECTION:

6 (A) "DATING RELATIONSHIP" MEANS THAT TERM AS DEFINED IN
7 SECTION 1 OF 1978 PA 389, MCL 400.1501.

8 (B) "DATING VIOLENCE" MEANS AN ACT OF DOMESTIC VIOLENCE
9 AGAINST AN INDIVIDUAL WHO HAS OR HAD A DATING RELATIONSHIP WITH THE
10 INDIVIDUAL WHO COMMITTED THE ACT OF DOMESTIC VIOLENCE.

11 (C) "DOMESTIC VIOLENCE" MEANS THAT TERM AS DEFINED IN SECTION
12 1 OF 1978 PA 389, MCL 400.1501.

13 (D) "SEXUAL ASSAULT" MEANS THAT TERM AS DEFINED IN SECTION
14 2950A OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
15 600.2950A.

16 SEC. 1507C. (1) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE
17 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT OF
18 HEALTH AND HUMAN SERVICES, IN CONSULTATION WITH THE MICHIGAN
19 COALITION TO END DOMESTIC AND SEXUAL VIOLENCE, THE SUPERINTENDENT
20 OF PUBLIC INSTRUCTION, COMMUNITY-BASED SEXUAL ASSAULT OR DOMESTIC
21 VIOLENCE SERVICE PROVIDERS THAT ARE FUNDED BY THE DEPARTMENT OF
22 HEALTH AND HUMAN SERVICES, AND EDUCATION PROFESSIONALS, SHALL
23 DEVELOP A MODEL CURRICULUM FOR INSTRUCTION ON SEXUAL ASSAULT AND
24 DATING VIOLENCE AND THE PREVENTION OF SEXUAL ASSAULT AND DATING
25 VIOLENCE. THE MODEL CURRICULUM DEVELOPED UNDER THIS SECTION MUST BE
26 ALIGNED WITH THE INSTRUCTIONAL REQUIREMENTS DESCRIBED IN SECTION
27 1507B(2)(F).

1 (2) NOT LATER THAN 1 YEAR AFTER THE MODEL CURRICULUM IS
2 DEVELOPED UNDER SUBSECTION (1), THE INSTRUCTION PROVIDED TO COMPLY
3 WITH SECTION 1507B(2) (F) MUST MEET BOTH OF THE FOLLOWING:

4 (A) IS DELIVERED USING THE MODEL CURRICULUM DEVELOPED UNDER
5 SUBSECTION (1).

6 (B) IS PROVIDED BY A TEACHER QUALIFIED TO TEACH HEALTH
7 EDUCATION AS REQUIRED UNDER SECTION 1507.

8 (3) AS USED IN THIS SECTION, "DATING VIOLENCE", "DOMESTIC
9 VIOLENCE", AND "SEXUAL ASSAULT" MEAN THOSE TERMS AS DEFINED IN
10 SECTION 1507B.

11 Enacting section 1. This amendatory act takes effect 90 days
12 after the date it is enacted into law.