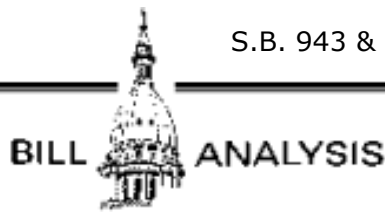




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 943 and 944 (as introduced 2-3-04)
Sponsor: Senator Wayne Kuipers
Committee: Education

Date Completed: 2-26-04

CONTENT

Senate Bill 943 would amend the Revised School Code to require that public school instruction on HIV, AIDS, and sex education emphasize abstinence, respect for marriage, personal responsibility, adoption, and other content. The bill also would prescribe the membership, terms, and responsibilities of each district's "health education advisory board".

Senate Bill 944 would amend the State School Aid Act to include instruction under Senate Bill 943 in provisions that require a district to forfeit 5% of its State aid if it fails to comply with requirements for sex education instruction. Senate Bill 944 also would provide for a complaint process for those who believed a district was not complying with sex education requirements under the Act or the Revised School Code (including Senate Bill 943). The bill is tie-barred to Senate Bill 943.

Senate Bill 943

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 pupils 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 as a responsible and effective method of preventing unplanned or out-of-wedlock pregnancy.

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% 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 pupils 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 pupils of the laws pertaining to their responsibility as parents to children born in and out of wedlock.
- Ensure that pupils 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 pupils not to initiate physical and verbal sexual advances and how to say "no" to sexual advances. Pupils would have to be taught that it was wrong to take advantage of, harass, or exploit another person sexually.
- Teach refusal skills and encourage pupils to resist pressure to engage in risky behavior.
- Teach that the pupil had the power to control personal behavior, and teach pupils 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 pupils about how young parents could obtain adoption information.
- Include information clearly informing pupils 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, pupils 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 district's school board would have to determine the advisory board's terms of service, the number of members who would serve on it, and a membership selection process that reasonably reflected the school district's population. The school board would have to appoint a parent to chair the health education 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 pupils 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 do all of the following:

- Establish program goals and objectives for pupil knowledge and skills that likely would reduce the levels of adolescent sexual intercourse.
- Review the materials and methods of instruction used, and make recommendations to the school board for implementation.
- At least once every two years, develop procedures for evaluating, measuring, and reporting the attainment of the board's 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.

Senate Bill 944

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 5% of its total State aid allocation. (These requirements include informing pupils 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 Senate Bill 943.

Senate Bill 944 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 Senate Bill 943), the person could file a complaint with the Superintendent of Public Instruction. Upon receiving the complaint, the Superintendent would have to order the Department of Education to investigate it and to determine within 90 days whether or not the district would have to forfeit 5% 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.

MCL 380.1169 et al. (S.B. 943)
MCL 388.1766a (S.B. 944)

Legislative Analyst: Claire Layman

FISCAL IMPACT

Senate Bill 943

The bill would have no fiscal impact on State or local government.

Senate Bill 944

The Department could see minor increased costs from this legislation related to the assignment of departmental personnel to investigate the proposed public complaint procedure. The bill would have no fiscal impact on local government.

Fiscal Analyst: Kathryn Summers-Coty

S0304\943sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.