

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 365 (Montgomery County Delegation)  
Ways and Means

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Montgomery County - Family Life and Human Sexuality Curriculum -  
Affirmative Consent  
MC 14-17

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This bill requires, beginning in the 2017-2018 school year, the Montgomery County Board of Education to provide instruction on affirmative consent as part of the Family Life and Human Sexuality curriculum in grades 7 and 10. “Affirmative consent” is defined as clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in each act within the course of sexual activity.

The bill takes effect July 1, 2017.

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**Fiscal Summary**

**State Effect:** None. The bill is directed at the Montgomery County Board of Education.

**Local Effect:** None. Affirmative consent is currently part of Montgomery County Public Schools’ (MCPS) health curriculum. Any updates and enhancements to the curriculum related to the specific definition of affirmative consent in the bill can be shared with health educators prior to the 2017-2018 school year using existing resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** With the assistance of the local health department, each local board of education must provide adequate school health services; instruction in health education, including the importance of physical activity in maintaining good health; and a healthful

school environment. The Maryland State Department of Education and the Department of Health and Mental Hygiene must jointly develop public standards and guidelines for school health programs and offer assistance to the local boards of education and local health departments in their implementation.

According to the Code of Maryland Regulations (13A.04.18.01) each local school system must provide public schools an instructional program in comprehensive health education that includes specified family life and human sexuality objectives.

**Background:** Recent high-profile sexual assault cases, especially on the campuses of higher education institutions, have highlighted the issues of sexual assault and affirmative consent.

In 2014, California enacted affirmative consent legislation known as “Yes means yes” to be used for disciplinary hearings at institutions of higher education. Illinois and New York enacted similar affirmative consent legislation in 2015 and Connecticut did the same in 2016. In addition, other states including Maryland have introduced affirmative consent legislation in past legislative sessions.

In 2015, Virginia enacted legislation that requires the high school family life curriculum to incorporate age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, and sexual violence. A bill was introduced in Michigan in 2015 that would have required sex education classes to teach affirmative consent.

MCPS advises that affirmative consent is part of their current health education curriculum, and that teachers have received the curriculum, updates, and training. Any updates and enhancements to the curriculum related to the specific definition of affirmative consent in the bill can be shared with health educators prior to the 2017-2018 school year using existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County; Maryland State Department of Education; National Conference of State Legislators; The Affirmative Consent Project; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2017  
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