

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1560
Ways and Means

(Delegates Kelly and Morales)

Education, Health, and Environmental Affairs

Education - Family Life and Human Sexuality Curriculum - Consent

This bill requires a local board of education to provide age-appropriate instruction on consent as part of the Family Life and Human Sexuality curriculum in grades 5 and higher in public schools. For grades below grade 5, a local board may provide age appropriate instruction on consent as part of its Family Life and Human Sexuality curriculum. “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.

Fiscal Summary

State Effect: The Maryland State Department of Education can add the topic of consent to the health education framework using existing resources.

Local Effect: None. Local school systems can update and enhance the curriculums to teach consent as defined in the bill and share the information with health educators using existing resources.

Small Business Effect: None.

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, each local school system must provide 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.

Local Fiscal Effect: Local school systems can update and enhance the curriculums to teach consent as defined in the bill and share the information with health educators using existing resources. Local school systems advise that edits and updates can be done with existing resources as edits and updates to the local health curriculum take place on an ongoing basis.

Montgomery County Public Schools advises that affirmative consent is part of its 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 using existing resources.

Baltimore City Public Schools (BCPS) advises that consent is currently included within the comprehensive health education curriculum Family Life and Human Sexuality unit, beginning in grade 5. BCPS further advises that it has the authority to add the topic of consent to the Family Life and Human Sexuality unit in earlier grades without legislation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Harford and Montgomery counties; Maryland State Department of Education; Department of Legislative Services

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