

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

943M0541

HOUSE BILL NO. 1217

Introduced by: Representatives Hunt, Brunner, Davis, Deadrick, Dykstra, Glenski, Hackl, Heineman, Howie, Hunhoff, Jensen, Jerke, Koistinen, Kraus, Krebs, Lange, McCoy, Michels, Miles, Novstrup, Olson (Ryan), Peters, Rausch, Rave, Rhoden, Rounds, Tornow, Turbiville, Van Etten, Weems, Wick, and Willadsen and Senators Bartling, Duenwald, Earley, Greenfield, Kelly, Kloucek, Koskan, Lintz, Napoli, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to provide for the clarification of sexual abstinence
2 instruction and to condition the acceptance of federal funding contrary to the provisions of
3 this Act.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The Legislature finds that when character development instruction is provided by elementary
8 and secondary schools pursuant to § 13-33-6.1, there is a need to clarify what sexual abstinence
9 is and how it should be taught.

10 Section 2. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The provisions of this Act apply to any school district or system whose governing body
13 elects to instruct its students in a course, unit, class, series of classes, activity, or presentation



1 of sex education, sexual abstinence, or the biological, physical, emotion, psychological,
2 hygienic, economic or social aspects of human sexuality. In such instances, the school shall
3 instruct its students in sexual abstinence consistent with the provisions of this Act.

4 Section 3. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The instruction of sexual abstinence shall teach that abstinence from sexual activity is the
7 responsible and only effective method of eliminating the risk of unplanned or out-of-wedlock
8 pregnancy and sexually transmitted diseases or infections. The instruction shall also teach that
9 it is the expected standard for students to abstain from sexual activity until they are married.

10 The instruction of sexual abstinence may not include models of instruction based on risk
11 reduction encouraging, promoting, and providing instruction in the use of contraceptive drugs,
12 devices, or methods.

13 Section 4. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Materials and instruction in sexual abstinence shall recognize parents or legal guardians as
16 the primary sex educators of their children, be age-appropriate, medically referenced, as
17 appropriate, and shall do at least all of the following:

- 18 (1) Inform students that engaging in unlawful sexual activity may be a crime punishable
19 by law;
- 20 (2) Inform students concerning the biology of human sexuality as well as reproductive
21 physiology and anatomy;
- 22 (3) Emphasize to students the benefits of abstaining from sexual activity until marriage
23 as well as the benefits of ceasing sexual activity if a student is sexually active;
- 24 (4) Emphasize to students that the student has the power to control personal behavior.

1 Students should be taught to base their actions on reasoning, self-discipline, a sense
2 of responsibility, self-control, and ethical considerations such as respect for self and
3 others;

4 (5) Discuss with students the possible physical, emotional, economic, and legal
5 consequences of sexual activity and advise students of the laws pertaining to their
6 responsibility as parents to children born in and out of wedlock;

7 (6) Provide students with information pertaining to (A) the risks associated with sexual
8 activity that lead to the possible transmission and contraction of sexually transmitted
9 diseases or infections including HIV/AIDS; (B) pertaining to the recognition and
10 treatment of sexually transmitted diseases or infections; (C) that sexual abstinence
11 is the only means of eliminating these risks;

12 (7) Provide students with instruction relevant to recognizing and analyzing cultural
13 influences and skills associated with goal setting and decision making;

14 (8) Provide students with instruction on skills related to healthy dating relationships:
15 how to set limits, how to recognize a dangerous environment and exit the situation,
16 and how increased vulnerability to sexual activity is associated with alcohol and drug
17 use. Teach that it is wrong to take advantage of, harass, or exploit another person
18 sexually;

19 (9) Teach refusal skills and encourage students to resist pressures to engage in any sexual
20 activity; and

21 (10) Provide students with instruction regarding the importance of prenatal care for the
22 benefit of the mother and baby.

23 Section 5. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Materials and instruction used to instruct sexual abstinence may not be excessively graphic
2 or explicit and may not include any explicit description of sexual activity that encourages
3 sexually erotic, lewd, or obscene behavior. Instruction may not encourage, promote, or provide
4 instruction in the use of contraceptive drugs, devices, or methods.

5 Section 6. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The governing body of any school district or system offering instruction in sex education,
8 human sexuality, or sexual abstinence shall establish an advisory board specifically for the
9 evaluation and selection of curriculum and all related materials and methods of instruction. The
10 advisory board shall:

11 (1) Participate in the evaluation and selection of curriculum, materials, and methods of
12 instruction used, and make recommendations to the governing body of the school
13 district or system for implementation. The advisory board shall take into
14 consideration school needs, demographics, and trends, including rates of teenage
15 sexual activity, teenage pregnancy rates, sexually transmitted disease and infection
16 rates, and incidents of student sexual violence and harassment; and

17 (2) Participate in the evaluation and selection of all guest speakers and guest presenters
18 and their respective materials relating to sex education, human sexuality, or sexual
19 abstinence prior to their presentations.

20 Section 7. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The governing body of the school district or system shall determine terms of service for the
23 advisory board, the number of members to serve on the advisory board, and a membership
24 selection process that reasonably reflects the school population. The board shall appoint two co-

1 chairs for the advisory board, at least one of whom is a parent of a child attending a school
2 operated by the school district or system and is not employed by any school district or system.
3 At least one-half of the members of the advisory board shall be parents who have children
4 attending a school operated by the school district or system. A majority of these parent members
5 shall be persons who are not employed by any school district or system.

6 Section 8. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Before final adoption of any curriculum, materials, methods, or any revisions thereto, related
9 to sex education, human sexuality, or sexual abstinence used in instruction in accordance with
10 this Act, the governing body of the school district or system shall allow any parent, legal
11 guardian, or citizen, who is interested in viewing the materials, ready access to such materials,
12 and hold one or more open public hearings on the proposed curriculum, methods, materials, or
13 revisions.

14 Section 9. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 No student may be enrolled in a course or participate in a unit, class, series of classes,
17 activity, or presentation, in which the subjects of human sexuality, sex education, or sexual
18 abstinence are discussed, unless the student's parent or legal guardian is notified in advance in
19 writing. Notification shall include information regarding the content of the course, unit, class,
20 series of classes, activity, or presentation; the opportunity to review the materials and methods
21 to be used in the course; and the right of the parent or legal guardian to exempt the student from
22 being present for any instruction.

23 Upon the written request of a student's parent or legal guardian, the student shall be excused,
24 without academic penalty or other sanction from attending a course, unit, class, series of classes,

1 activity, or presentation pertaining to human sexuality, sex education, or sexual abstinence. Any
2 student who is excused from a course, unit, class, series of classes, activity, or presentation shall
3 be provided flexible instructional alternatives with agreement from both parent or legal guardian
4 and school officials.