

- 4) Requires that the instruction and related instructional materials be, among other things:
 - a) Age appropriate.
 - b) Medically accurate and objective.
 - c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.
 - d) Made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.
 - e) Accessible to pupils with disabilities. (EDC § 51934)
- 5) Authorizes an LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade 7 using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EDC § 51933)
- 6) Requires LEAs to provide parents and guardians with a notice at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment the following:
 - a) About instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year.
 - b) Advise the parent or guardian that the educational materials used in sexual health education are available for inspection.
 - c) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by outside consultant, as provided.
 - d) Advise the parent or guardian that the parent or guardian has the right to excuse their child from comprehensive sexual health education and HIV prevention education and that in order to excuse their child they must state their request in writing to the LEA. (EDC § 51938)
- 7) Provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education, including related assessments, through a passive consent ("opt-out") process. (EDC § 51938)

ANALYSIS

This bill requires 1) all public schools, on or before the 2024–25 school year, to make condoms available to all pupils free of charge, as specified; 2) prohibits a retail establishment from refusing to furnish nonprescription contraception to a person solely

on the basis of age; and 3) requires the Family PACT program to provide medical coverage for immunization against HPV to persons who are 18 years of age or younger. Specifically this bill:

K-12 Schools

- 1) Requires, on or before the start of the 2024–25 school year, each public school to make condoms available to all pupils free of charge.
- 2) Specifies each public school shall distribute condoms in the following manner:
 - a) Condoms shall be placed in a minimum of two locations on school grounds where the condoms are easily accessible to pupils during school hours without requiring assistance or permission from school staff.
 - b) Condoms placed in unsupervised locations shall be stored in tamper-proof dispensers.
- 3) Requires, commencing the 2024-25 school year, each public school to post at least one notice regarding the requirements of this bill in a prominent and conspicuous location on the school campus with the text of this bill and contact information, including an email address and telephone number, for a designated individual responsible for maintaining the requisite supply of condoms.
- 4) Permits groups identified by the California Healthy Youth Act, school-sanctioned pupil peer health programs and fairs, and school-based health center staff, to distribute condoms to public schools serving grades 7 to 12, inclusive, during the course of, or in connection to, educational or public health programs and initiatives.
- 5) States that school-based health center sites located on school campuses maintaining any combination of classrooms from grades 7 to 12, inclusive, may not be prohibited from making internal and external condoms available and easily accessible at the school-based health center site to all pupils free of charge.
- 6) Defines “public school” as a school operated by a school district, a school operated by a county office of education, and a charter school.

Retail Establishments

- 7) Prohibits a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of age by means of any conduct, including, but not limited to, requiring the customer to present identification for purposes of demonstrating their age.
- 8) Clarifies that a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of age by means of any conduct, including, but not limited to, requiring the customer to present identification for purposes of demonstrating their age does not apply to the refusal to furnish nonprescription contraception on the basis of age if, under other provisions of federal or state law, the contraception is subject to restrictions on the basis of age.

- 9) Defines “retail establishment” means any vendor that, in the regular course of business, furnishes nonprescription contraception at retail directly to the public, including, but not limited to, a pharmacy, grocery store, or other retail store.

Family PACT Program

- 10) Requires the Family PACT to provide medical coverage for immunization against HPV to persons who are 18 years of age or younger, and clarifies that this does not prohibit the Department of Health Care Services (DHCS) from providing that coverage to persons who are over 18 years of age through the Family PACT Program.

Other Provisions

- 11) Makes finding and declarations relative to sexual health.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author “ By requiring free condoms in all California high schools, we are empowering the youth who decide to become sexually active to protect themselves and their partners from STIs, while also removing barriers that potentially shame them and lead to unsafe sex. Further, requiring the Family PACT program to cover HPV vaccinations for ages 12-18 will decrease instances of patients delaying vaccination or becoming discouraged after being turned away. These programs can instill safe sexual habits among youth, protecting themselves now and into adulthood.”
- 2) ***California Healthy Youth Act.*** The CHYA took effect in 2003 and was initially known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. Originally, the act LEAs to provide comprehensive sexual health education in any grade, including kindergarten, so long as it consisted of age-appropriate instruction and used instructors trained in the appropriate courses. Beginning in 2016 with AB 329 (Weber, 2015), the act was renamed the CHYA and, for the first time, required LEAs, excluding charter schools, to provide comprehensive sexual health education and HIV prevention education to all students at least once in middle school and at least once in high school. Charter schools must also provide that same instruction. From its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of a portion, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians can exercise this right by informing the LEA in writing of their decision.

The California Healthy Youth Act requires each school district to ensure that all pupils in grades 7 to 12 receive comprehensive sexual health education and HIV prevention education from instructors trained in the appropriate courses at least once in middle school and high school. The author may wish to consider aligning the grade range, in which each public school must provide condoms to students free of charge, with the California Healthy Youth Act.

3) **Author Amendment.**

- a) Narrows the scope of the bill to apply to public schools serving students in grades 9-12 in which public school must make condoms available on or before that start of the 2024-25 school year free of charge.

4) **Committee Amendment.** Staff recommends, and *the author has agreed, to take the following committee amendments:*

- a) Clarify that a public school must prominently and conspicuously display the notice, regarding condoms, on the school campus in appropriate areas that are accessible to, and commonly frequented by, pupils.
- b) Permits a state agency, CDE, or a public school may accept gifts, grants, and donations from any source for the support of a public school carrying out the provisions of this bill, including, but not limited to, the acceptance of condoms from a manufacturer or wholesaler.
- c) Clarify that a public school cannot prohibit a school-based health center from making internal and external condoms available and easily accessible to pupils.
- d) Makes technical changes.

As proposed to be amended (both author and committee amendments) the K-12 provision of this bill would do the following: Require public schools, serving students in grades 9-12, on or before the 2024-25 school year, to a) make condoms available to students in grades 9-12, free of charge, as specified; b) allow, in certain instances, for condoms to available to students in grades 7-12 free of charge, as specified; and c) prohibits a public school, serving any combination of pupils in grades 7-12, from prohibiting a school-based health center to distribute condoms to students at a school.

- 5) **Comprehensive sexual health education in lower grades.** Comprehensive sexual health education in lower grades has always been, and remains, optional. Under existing law, for grades 6 and below, an LEA must “opt-in” to offer that instruction to students. The LEA is then required by law to notify parents and guardians of their right to “opt-out” their child, whether in part or completely. All instruction and materials in grades K–6 must meet the instructional criteria or baseline requirements of the CHYA and the content that is required in grades 7–12 may be also be included in an age-appropriate way in earlier grades.
- 6) **2019 Revision of the Health Education Framework.** On May 8, 2019, the State Board of Education (SBE) officially adopted the 2019 Health Education Curriculum Framework for California Public Schools (the Health Education Framework) after over two years of development. The Health Education Framework is aligned to the 2008 California Health Education Content Standards, which support the development of knowledge, skills, and attitudes in eight overarching standards: (1) essential health concepts; (2) analyzing health influences; (3) accessing valid health information; (4) interpersonal communication; (5) decision making; (6) goal

setting; (7) practicing health-enhancing behaviors; and (8) health promotion in six content areas of health education, including sexual health.

7) **Family PACT Program.** The **Family PACT** Program is administered by the DHCS, the Office of Family Planning and has been operating since 1997 to provide family planning and reproductive health services at no cost to California's low-income (under 200% federal poverty level) residents of reproductive age. The program offers comprehensive family planning services, including contraception, pregnancy testing, and sterilization, as well as sexually transmitted infection testing and limited cancer screening services. **Family PACT** serves 1.1 million income-eligible men and women of childbearing age through a network of 2,400 public and private providers.

8) **Related Legislation.**

AB 329 (Weber), Chapter 398, Statutes 2016, made instruction in sexual health education mandatory, revises human immunodeficiency virus (HIV) prevention education content, expands topics covered in sexual health education, requires this instruction to be inclusive of different sexual orientations, and clarifies parental consent policy.

AB 367 (C.Garcia), Chapter 664, Statutes of 2021, requires all public schools serving students in grades 6 to 12 to stock specified restrooms with an adequate supply of free menstrual products, commencing in the 2022-23 school year; and requires the California State University (CSU) and each community college district, and encourages the Regents of the University of California (UC), independent institutions of higher education, and private postsecondary educational institutions, to stock an adequate supply of free menstrual products at no fewer than one designated and accessible central location on each campus.

AB 10 (C. Garcia,) Chapter 687, Statutes of 2017, requires a public school serving grades 6 to grade 12 that meets the 40% pupil poverty threshold required to operate a schoolwide Title 1 program to stock at least 50% of the school's restrooms with feminine hygiene products at all times.

SB 1165 (Mitchell), Chapter 713, Statutes of 2014, requires the Instructional Quality Commission to consider including in the next revision of the health framework, instruction on sexual abuse and sex trafficking prevention.

AB 2016 (Campos), Chapter 809, Statutes of 2014, requires the State Board of Education to consider including age-appropriate content on sexual abuse and sexual assault awareness and prevention in the next revision of the health content standards.

SUPPORT

Black Women for Wellness Action Project (Co-Sponsor)
Citizens for Choice (Co-Sponsor)
Essential Access Health (Co-Sponsor)
Generation Up (Co-Sponsor)

Urge (Co-Sponsor)

Adolescent Health Working Group

Aids Healthcare Foundation

American College of Obstetricians and Gynecologists District IX

California Coalition for Youth

California School-based Health Alliance

DPA Health

Genders & Sexualities Alliance Network

Naral Pro-choice California

National Center for Youth Law

National Harm Reduction Coalition

Planned Parenthood Affiliates of California

Radiant Health Centers

Realistic Education in Action Coalition to Foster Health (Reach LA)

San Francisco Aids Foundation

The Los Angeles Trust for Children's Health

Women's Foundation of California

OPPOSITION

13 individuals

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