
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 541 (Menjivar) - Sexual health: contraceptives: immunization

Version: March 30, 2023

Urgency: No

Hearing Date: April 24, 2023

Policy Vote: ED. 5 - 2, HEALTH 10 - 1

Mandate: Yes

Consultant: Lenin Del Castillo

Bill Summary: This bill requires schools, on or before the start of the 2024-25 school year, to make internal and external condoms available for free to all students in grades 9 through 12. This bill also requires the existing Family Planning Access Care Treatment (PACT) program to provide coverage for immunization against human papilloma virus (HPV) to persons 18 years of age or younger.

Fiscal Impact:

- By requiring schools to provide condoms for free to students in grades 9 through 12, this bill could result in a reimbursable state mandate. The magnitude of the costs is unknown but could be in the high hundreds of thousands to low millions of dollars in Proposition 98 General Fund each year. To the extent that school districts elect not to file mandate claims for these activities, this could place additional cost pressure on the K-12 Mandates Block Grant.
- The bill's requirement to provide coverage for immunization against HPV could result in increased program costs potentially in the low tens of millions of dollars each year. A precise amount will largely depend on the actual take up rate of eligible Medi-Cal recipients.
- The Department of Public Health indicates that any costs to the department related to the bill's prohibition on retail establishments would be minor and absorbable within existing resources.

Background: Existing law establishes the California Healthy Youth Act (CHYA), which requires local educational agencies (LEAs) to provide comprehensive sexual health and HIV prevention instruction to all students in grades 7 to 12, at least once in middle school and once in high school. LEAs are authorized to contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health education and HIV prevention education or to provide training for school district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and have knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction.

Existing law requires that pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school, as specified. LEAs are authorized 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.

The Family PACT Program is administered by the Department of Health Care Services (DHCS) 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. The program serves 1.1 million income-eligible men and women of childbearing age through a network of 2,400 public and private providers.

Proposed Law: This bill 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. The bill specifies that each public school shall distribute condoms in the following manner:

1. 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.
2. Condoms placed in unsupervised locations shall be stored in tamper-proof dispensers.

This bill requires, commencing the 2024-25 school year, each public school to post at least one notice regarding the bill's requirements and shall prominently and conspicuously display the notice on the school campus in appropriate areas that are accessible to, and commonly frequented by students, as specified.

This bill 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.

This bill 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.

This bill 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, as specified.

This bill requires the Family PACT Program 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 DHCS from providing that coverage to persons who are over 18 years of age through the Family PACT Program.

Related Legislation: 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 CSU and each community college district, and encourages the 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 percent of the school's restrooms with feminine hygiene products at all times.

Staff Comments: By requiring schools to provide condoms for free to students in grades 9 to 12, the Commission on State Mandates is likely to determine the requirement to be a higher level of service and therefore a reimbursable state mandate. The associated costs could be significant, potentially in the high hundreds of thousands to low millions to low millions of dollars each year. Alternatively, there could be pressure for the state to provide an increase to the K-12 Mandates Block grant. The amount of funding provided through the block grant is tied to the mandates that the Commission has approved as well as the costs for those mandates. School districts that choose to participate in the block grant receive a per-student amount to cover the cost of the various state mandated activities in lieu of submitting mandate claims for reimbursement. Charter schools may participate in the block grant, but are not eligible to submit mandate claims nor receive reimbursement from the state. The 2022 Budget Act includes \$242.3 million for the K-12 Mandates Block Grant.

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