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THIRD READING

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Bill No: SB 541  
Author: Menjivar (D), et al.  
Amended: 5/18/23  
Vote: 21

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SENATE EDUCATION COMMITTEE: 5-2, 3/29/23  
AYES: Newman, Cortese, Glazer, McGuire, Smallwood-Cuevas  
NOES: Ochoa Bogh, Wilk

SENATE HEALTH COMMITTEE: 10-1, 4/12/23  
AYES: Eggman, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio,  
Wahab, Wiener  
NOES: Nguyen  
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23  
AYES: Portantino, Ashby, Bradford, Wahab, Wiener  
NOES: Jones, Seyarto

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**SUBJECT:** Sexual health: contraceptives: immunization

**SOURCE:** Adolescent Health Working Group  
Black Women for Wellness Action Project  
Citizens for Choice  
Essential Access Health

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**DIGEST:** 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 between 12 and 18 years of age or younger.

**ANALYSIS:**

## Existing law:

- 1) 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. (EC § 51933)
- 2) Authorizes an LEA 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. (EC § 51936)
- 3) 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. (EC § 51934)
- 4) Establishes the Department of Health Care Services (DHCS) to administer the Family PACT program, which provides comprehensive clinical family planning services to low income persons. (WIC §14132, et seq.)

## This bill:

- 1) Requires the Family PACT program to provide coverage for immunization against HPV, as clinically indicated, to persons who are between 12 and 18 years of age or younger.
- 2) 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.
- 3) Requires public schools, on or before the start of the 2024–25 school year, to make internal and external condoms available free of charge to all pupils in grades 9 to 12, as specified.
- 4) Requires public schools to inform pupils through existing communication channels that free condoms are available, and where the condoms can be

obtained on school grounds, as specified. Requires schools to post at least one notice that includes, among other things, contact information for a designated individual responsible for maintaining the supply of condoms; information about abstinence from sexual activity and injection drug use being the only certain way to prevent HIV and other sexually transmitted infections (STIs), and that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy; information about how to use condoms properly; and, information on how to access local resources and pupils' legal rights to access those resources for sexual and reproductive health care, as well as local resources for assistance with sexual assault and intimate partner violence.

- 5) Requires public schools serving 7 to 12 grades to allow the distribution of condoms during the course of, or in connection with, educational or public health programs and initiatives, including, but not limited to, community organizations or other entities providing instruction for purposes of the California Healthy Youth; pupil peer health programs, clubs, or groups; pupil health fairs conducted on campus; or, school-based health center staff. Prohibits public schools serving any grades 7 to 12 from prohibiting a school-based health center from making condoms available and easily accessible to pupils.
- 6) Permits state agencies or public schools to accept gifts, grants, and donations from any source for the support of a public school carrying out the provisions of this bill, as specified.
- 7) Clarifies that a school can leverage government public health funding and community partnerships to obtain condoms for school campuses.

## Comments

- 1) *Author's statement.* According to the author, the COVID-19 public health emergency exacerbated STI rates in California and across the country that were already skyrocketing to crisis levels prior to the pandemic. Nearly 350,000 Californians were infected with syphilis, chlamydia, or gonorrhea in 2019. California youth – teens and young adults of color in particular – are disproportionately impacted. Statewide data indicate over half of all STIs in the state are experienced among young people ages 15 to 24 years old. This bill seeks to address the STI epidemic among California youth and improve equitable public health outcomes statewide by expanding teen access to condoms and the HPV vaccine.
- 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, Chapter 398, Statutes of 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.

- 3) *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.
- 4) *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: (a) essential health concepts; (b) analyzing health influences; (c) accessing valid health information; (d) interpersonal communication; (5) decision making; (e) goal setting; (f) practicing health-enhancing behaviors; and (g) health promotion in six content areas of health education, including sexual health.
- 5) *Inequities persist.* The STI crisis affects communities across the state, but California youth, people of color, and gay, bisexual, and transgender people are disproportionately impacted. Statewide data indicate over half of all STIs in the state are experienced among California youth ages 15 to 24 years old. African Americans are 500% more likely to contract gonorrhea and chlamydia than their white counterparts. CDC studies suggest a range of factors may contribute

to rising STD rates, including inequitable access to health care and culturally competent medical services, race, poverty, stigma, discrimination, and drug use.

- 6) *Costs of STIs.* The CDC estimates that STI infections acquired in 2018 totaled nearly \$16 billion in direct lifetime medical costs nationwide. Chlamydia, gonorrhea, and syphilis accounted for more than \$1 billion of the total cost. Sexually acquired HIV and HPV were the costliest due to lifetime treatment for HIV at \$13.7 billion and treatment for HPV-related cancers at \$755 million. Approximately \$1 billion is spent annually in California on health costs associated with STIs.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: Yes

According to the Senate Appropriations Committee, 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 Mandate Block Grant.

This 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 this bill's prohibition on retail establishments would be minor and absorbable within existing resources.

**SUPPORT:** (Verified 5/19/23)

Adolescent Health Working Group (co-source)  
 Black Women for Wellness Action Project (co-source)  
 Citizens for Choice (co-source)  
 Essential Access Health (co-source)  
 ACLU California Action  
 Aids Healthcare Foundation  
 American College of Obstetricians and Gynecologists District IX  
 California Coalition for Youth  
 California Federation of Teachers  
 California Nurse Midwives Association

California School-Based Health Alliance  
California Teachers Association  
California Women's Law Center  
CAPSLO the Center for Health & Prevention  
Coachman Moore and Associates  
Dpa  
Genders & Sexualities Alliance Network  
GENup  
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  
San Francisco Aids Foundation  
The L.A. Trust for Children's Health  
Training in Early Abortion for Comprehensive Health Care  
URGE California  
Women's Foundation of California, Dr. Beatriz Maria Solis Policy Institute

**OPPOSITION:** (Verified 5/19/23)

15 individuals

**ARGUMENTS IN SUPPORT:** According to Black Women for Wellness Action Project, Essential Access Health, GenUP, and URGE California “ In a survey conducted among teens on Instagram in 2021, 55% of respondents agreed that more sexually active teens would use condoms if they were easier to obtain, and 60% agreed that schools should make condoms available. Some schools in the state already distribute free condoms on campus, including schools in the Los Angeles and San Francisco Unified School Districts, leaving youth in other regions – including regions with some of the highest rates of STIs and pregnancies among youth – without equitable access to condoms and preventive health care. In 2020, Vermont became the first state in the country to require middle and high schools to make free condoms readily available to students. In 2021, the Chicago Public Schools Board of Education passed a new policy requiring all schools serving 5th grade and above to dispense condoms provided by the Chicago Department of Public Health. California youth need and deserve equitable access to condoms to protect their health and safety. To support youth health and wellness, and curb STI transmission, SB 541 will expand access to condoms by requiring public schools to provide free condoms to students in grades 7 through 12 in alignment with

requirements outlined in the California Healthy Youth Act. In addition, SB 541 seeks to prohibit pharmacies and retailers from asking for proof of age for condom purchases, and require the Family PACT program to cover the HPV vaccine for minors so they can access this potentially life-saving intervention from providers they know and trust to deliver confidential sexual and reproductive health services.”

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5/23/23 13:28:22

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