

Date of Hearing: August 23, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Chris Holden, Chair  
SB 541 (Menjivar) – As Amended June 30, 2023

|                   |           |       |        |
|-------------------|-----------|-------|--------|
| Policy Committee: | Education | Vote: | 5 - 1  |
|                   | Health    |       | 12 - 3 |

Urgency: No      State Mandated Local Program: Yes      Reimbursable: Yes

**SUMMARY:**

This bill requires schools to make condoms available free of charge to all students in grades nine through 12. The bill also bill prohibits retailers from requiring customers to present proof of age to purchase condoms. Lastly, the bill requires the Family Planning Access Care Treatment (FPACT) program to provide coverage for immunization against human papilloma virus (HPV) to persons 18 years of age or younger.

Specifically, this bill:

- 1) Requires, by the start of the 2024-25 school year, each public school to make internal and external condoms available to all pupils in grades nine to 12 free of charge. The bill requires schools to place condoms at 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. The bill requires condoms placed in locations not regularly supervised by school staff to be stored in tamper-proof dispensers.
- 2) Requires these public schools to inform students through existing school communication channels that free condoms are available and where the condoms can be obtained on school grounds at the beginning of each school year. The bill also requires a public school to post at least one notice regarding these requirements. The notice also must include other information, including the contact information for a designated individual responsible for maintaining the requisite supply of condoms and information about how to use condoms properly.
- 3) Requires each public school serving any of grades seven to 12 to allow the distribution of condoms during the course of, or in connection with, educational or public health programs and initiatives. The bill also prohibits a school maintaining any combination of classrooms from grades seven to 12 from prohibiting a school-based health center from making internal and external condoms available and easily accessible to students at the school-based health center site.
- 4) Prohibits a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of their age by means of any conduct, including requiring the customer to present identification for purposes of demonstrating their age.
- 5) Requires FPACT programs that are not enrolled in the federally funded Vaccines for Children Program to provide coverage for HPV vaccinations to persons between 12 and 18.

**FISCAL EFFECT:**

- 1) Ongoing Proposition 98 General Fund costs, of an unknown amount but potentially in the low millions of dollar annually, to schools to purchase condoms and inform students of the condoms' availability annually. One-time costs, of an unknown amount, to buy and install tamper-proof dispensers in certain situations and to post a notice with certain information. Costs ultimately would depend on how many condoms schools make available and the number of schools installing tamper-proof dispensers.

According to the California Department of Education, 1.9 million students enrolled in grades nine through 12 in over 4,000 schools in the 2022-23 school year. According to Planned Parenthood, external condoms usually cost less than \$1 each if bought in packs of 12 or more on the private market. Internal condoms cost significantly more. The California Department of Public Health (CDPH) provides discounted rates to certain entities of external condoms, which are \$100 per 1,000, and internal condoms, which are \$730 per 500. Tamper-proof condom dispensers tend to cost in the low hundreds of dollars each. If each school serving students in grades nine through 12 provided 1,000 external condoms and 500 internal condoms at the CDPH rates, and one tamper-proof dispenser, costs would total \$4 million statewide. Costs could be less or more depending on the number of condoms provided, the cost of those condoms, and the locations of those condoms.

If the Commission on State Mandates (CSM) determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs to local educational agencies or provide funding through the K-12 Mandate Block Grant. State law requiring schools to provide free menstrual products recently was determined by the CSM to be a state mandated cost and the cost of the mandate was added to the K-12 Mandate Block Grant.

- 2) Ongoing General Fund costs of an unknown amount, potentially in the low tens of millions of dollars, for FPACT programs to provide coverage for immunization against HPV to certain individuals. Costs would ultimately depend on the number of individuals accessing the benefit. If FPACT programs applied to the federal Vaccines for Children program, these costs would be largely offset by a 90% federal match.

**COMMENTS:**

- 1) **Purpose.** 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 sexually transmitted infections (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) **Background.**

***Sexual Health Education.*** AB 329 (Weber), Chapter 398, Statutes of 2016, required local educational agencies 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. Parents may opt their child out of a portion, or all, of the instruction and schools are required to notify parents of this right.

***HPV Vaccines.*** The Center for Disease Control recommends all children between 11 and 12 years old should get two shots of the HPV vaccine six to 12 months apart. Teens and young adults who start the series later, between 15 and 26 years old, need three doses of the HPV vaccine.

FPACT is a program that provides comprehensive clinical family planning and family planning-related services, including office visits, procedures, and contraceptives, to qualified individuals with incomes below 200% federal poverty line.

The 2022 Budget Act expanded coverage of the HPV vaccine to FPACTs. However, the expansion only applied to patients 19 and older. The rationale for not providing the benefit to younger patients is that younger patients may already obtain the HPV vaccine through the federal “Vaccines for Children” program. However, about 10% of FPACTs, including some clinics like Planned Parenthood, do not participate in the Vaccines for Children program, typically due to burdensome program requirements.

This bill would require all FPACTs to cover HPV vaccines for patients age 12 to 18.

- 3) **Related Legislation.** AB 659 (Aguiar-Curry) implements the same FPACT coverage provision as this bill, among other provisions. AB 659 is pending in the Senate Appropriations Committee.
- 4) **Prior Legislation.** AB 367 (C. Garcia), Chapter 664, Statutes of 2021, requires all public schools serving students in grades six to 12 to stock specified restrooms with an adequate supply of free menstrual products, commencing in the 2022-23 school year.

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