

AMENDED IN SENATE APRIL 1, 2019

AMENDED IN SENATE MARCH 27, 2019

SENATE BILL

No. 673

Introduced by Senator Morrell

**(Coauthors: Senators Bates, Chang, ~~and Grove Grove, Jones,~~
Nielsen, and Stone)**

(Coauthor: Assembly Member Gallagher)

February 22, 2019

An act to amend Sections 51934 and 51938 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as amended, Morrell. Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education.

The California Healthy Youth Act requires school districts, defined to include county boards of education, county superintendents of schools, the California School for the Deaf, the California School for the Blind, and, commencing with the 2019–20 school year, charter schools, to ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education, as specified. The act authorizes a school district to provide that education earlier than grade 7 with age-appropriate and medically accurate information. The act provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education through a passive consent (“opt-out”) process and prohibits a school district from requiring active parental consent (“opt-in”) for that education.

This bill would require, for a pupil in a grade lower than grade 7, an active parental consent (“opt-in”) with a signature for sexual health education and HIV prevention education.

The act requires each school district to notify parents and guardians about its plan to provide sexual health education and HIV prevention instruction for the upcoming school year and to inform them, among other things, that written and audiovisual educational materials used in this instruction are available for inspection

This bill would require a school district to make those materials available for inspection before the date of instruction on the school district’s internet website and to translate those materials, as prescribed. By imposing additional duties on school districts, county boards of education, county superintendents of schools, and charter schools, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51934 of the Education Code is amended
- 2 to read:
- 3 51934. (a) Each school district shall ensure that all pupils in
- 4 grades 7 to 12, inclusive, receive comprehensive sexual health
- 5 education and HIV prevention education from instructors trained
- 6 in the appropriate courses. Each pupil shall receive this instruction
- 7 at least once in junior high or middle school and at least once in
- 8 high school. This instruction shall include all of the following:
- 9 (1) Information on the nature of HIV, as well as other sexually
- 10 transmitted infections, and their effects on the human body.
- 11 (2) Information on the manner in which HIV and other sexually
- 12 transmitted infections are and are not transmitted, including
- 13 information on the relative risk of infection according to specific
- 14 behaviors, including sexual activities and injection drug use.

(3) Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections and abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy. This instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.

(4) Information about the effectiveness and safety of all federal Food and Drug Administration- (FDA) approved methods that prevent or reduce the risk of contracting HIV and other sexually transmitted infections, including use of antiretroviral medication, consistent with the federal Centers for Disease Control and Prevention.

(5) Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing.

(6) Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others.

(7) Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and AIDS and people living with HIV. This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and the only way to know if one is HIV-positive is to get tested.

(8) Information about local resources, how to access local resources, and pupils' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence.

(9) Information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to, all of the following:

(A) Parenting, adoption, and abortion.

(B) Information on the law on surrendering physical custody of a minor child 72 hours of age or younger, pursuant to Section 1255.7 of the Health and Safety Code and Section 271.5 of the Penal Code.

(C) The importance of prenatal care.

(10) Information about sexual harassment, sexual assault, sexual abuse, and human trafficking. Information on human trafficking shall include both of the following:

(A) Information on the prevalence, nature, and strategies to reduce the risk of human trafficking, techniques to set healthy boundaries, and how to safely seek assistance.

(B) Information on how social media and mobile device applications are used for human trafficking.

(11) Information about adolescent relationship abuse and intimate partner violence, including the early warning signs thereof.

(b) A school district may provide optional instruction, as part of comprehensive sexual health education and HIV prevention education, regarding the potential risks and consequences of creating and sharing sexually suggestive or sexually explicit materials through cellular telephones, social networking internet websites, computer networks, or other digital media.

(c) A school district may provide comprehensive sexual health education or HIV prevention education consisting of age-appropriate instruction earlier than grade 7 using instructors trained in the appropriate courses, subject to paragraph (2) of subdivision (a) of Section 51938. A school district that elects to offer comprehensive sexual health education or HIV prevention education earlier than grade 7 shall provide age-appropriate and medically accurate information on any of the general topics contained in paragraphs (1) to (11), inclusive, of subdivision (a) that it chooses.

SEC. 2. Section 51938 of the Education Code is amended to read:

51938. (a) (1) A parent or guardian of a pupil in any of grades 7 to 12, inclusive, has the right to excuse their child from all or part of comprehensive sexual health education, HIV prevention education, and assessments related to that education through a passive consent (“opt-out”) process. A school district shall not require active parental consent (“opt-in”) for comprehensive sexual

1 health education and HIV prevention education for ~~such a pupil.~~
2 *a pupil in any of grades 7 to 12, inclusive.*

3 (2) For a pupil in a grade lower than grade 7, active parental
4 consent (“opt-in”) with a signature is required for any sexual health
5 education and HIV prevention education.

6 (b) At the beginning of each school year, or, for a pupil who
7 enrolls in a school after the beginning of the school year, at the
8 time of that pupil’s enrollment, each school district shall notify
9 the parent or guardian of each pupil about instruction in
10 comprehensive sexual health education and HIV prevention
11 education and research on pupil health behaviors and risks planned
12 for the coming year. The notice shall do all of the following:

13 (1) Advise the parent or guardian that written and audiovisual
14 educational materials used in comprehensive sexual health
15 education and HIV prevention education are available for
16 inspection before the date of instruction on the school district’s
17 internet website. Written and audiovisual educational materials
18 made available to parents and guardians shall be translated pursuant
19 to Section 48985. Written and audiovisual educational materials
20 include, but are not limited to, teacher scripts and lesson plans.

21 (2) Advise the parent or guardian whether the comprehensive
22 sexual health education or HIV prevention education will be taught
23 by school district personnel or by outside consultants. A school
24 district may provide comprehensive sexual health education or
25 HIV prevention education, to be taught by outside consultants,
26 and may hold an assembly to deliver comprehensive sexual health
27 education or HIV prevention education by guest speakers, but if
28 it elects to provide comprehensive sexual health education or HIV
29 prevention education in either of these manners, the notice shall
30 include the date of the instruction, the name of the organization
31 or affiliation of each guest speaker, and information stating the
32 right of the parent or guardian to request a copy of this section,
33 Section 51933, and Section 51934. If arrangements for this
34 instruction are made after the beginning of the school year, notice
35 shall be made by mail or another commonly used method of
36 notification, no fewer than 14 days before the instruction is
37 delivered.

38 (3) Include information explaining the parent’s or guardian’s
39 right to request a copy of this chapter.

1 (4) Advise the parent or guardian that the parent or guardian
2 has the right to excuse their child from comprehensive sexual
3 health education and HIV prevention education and that in order
4 to excuse their child they must state their request in writing to the
5 school district for a pupil in any of grades 7 to 12, inclusive.

6 (c) Notwithstanding Section 51513, anonymous, voluntary, and
7 confidential research and evaluation tools to measure pupils' health
8 behaviors and risks, including tests, questionnaires, and surveys
9 containing age-appropriate questions about the pupil's attitudes
10 concerning or practices relating to sex, may be administered to
11 any pupil in grades 7 to 12, inclusive. A parent or guardian has
12 the right to excuse their child from the test, questionnaire, or survey
13 through a passive consent ("opt-out") process. A school district
14 shall not require active parental consent ("opt-in") for these tests,
15 questionnaires, or surveys in grades 7 to 12, inclusive. Parents or
16 guardians shall be notified in writing that this test, questionnaire,
17 or survey is to be administered, given the opportunity to review
18 the test, questionnaire, or survey if they wish, notified of their right
19 to excuse their child from the test, questionnaire, or survey, and
20 informed that in order to excuse their child they must state their
21 request in writing to the school district.

22 (d) The use of outside consultants or guest speakers as described
23 in paragraph (2) of subdivision (b) is within the discretion of the
24 school district.

25 SEC. 3. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.