

Date of Hearing: April 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION

Al Muratsuchi, Chair

AB 598 (Wicks) – As Amended March 9, 2023

**SUBJECT:** Sexual health education and human immunodeficiency virus (HIV) prevention education: school climate and safety: California Healthy Kids Survey

**SUMMARY:** Requires local educational agencies (LEAs) and charter schools to provide students participating in comprehensive sexual health education to receive a physical or digital resource detailing local resources for sexual and reproductive health, requires the California Healthy Kids Survey (CHKS) to be administered in specified grades, and requires the California Department of Education (CDE) to make sexual and reproductive health a core module of the CHKS. Specifically, **this bill:**

- 1) Adds the following to the information on local resources, how to access them, and students' legal rights to access them, that LEAs, charter schools and the State Special Schools for the Deaf and the Blind are required to provide to students during comprehensive sexual health education:
  - a) Preventative care and treatment (revised from “medical care”) for HIV and sexually transmitted infections (STIs);
  - b) Guidance regarding contraceptive methods and abortion; and
  - c) Assistance with medical care pertaining to sexual assault and intimate partner violence.
- 2) Requires that, upon completion of the instruction about these local resources, all students receive a physical or digital resource detailing the local resources.
- 3) Requires that students receive information about obtaining abortions during different stages of pregnancy, including informational resources, methods, and medical risks.
- 4) Requires this instruction to also include a discussion of the accessibility of, and community attitudes toward, reproductive care, with an emphasis on positive community tenets such as inclusivity and support in conversations surrounding abortion or contraception.
- 5) Requires the CDE to ensure that the CHKS includes questions about sexual and reproductive health care as a core module for students in grades 7, 9, and 11.
- 6) Requires each school district serving students in any of grades 5, 7, 9, or 11, after the CHKS is modified to include sexual and reproductive health as a core module, to administer the survey in those grades. Requires that questions about sexual and reproductive health shall only be included in the surveys administered to students in grades 7, 9, and 11.

**EXISTING LAW:**

- 1) The California Healthy Youth Act (CHYA) requires schools operated by school districts, charter schools, county boards of education, county superintendents of schools, and the

California Schools for the Deaf and for the Blind, 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. (Education Code (EC) 51934)

- 2) Requires that instruction on pregnancy 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) Surrendering physical custody of a minor child 72 hours of age or younger; and
  - c) The importance of prenatal care.
- 3) Requires that this instruction include information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception.
- 4) Requires that instruction include information about local resources, how to access local resources, and students' 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.
- 5) Requires that parents or guardians be given the right to excuse their child from all or part of comprehensive sexual health and HIV prevention instruction.
- 6) Requires that no test, questionnaire, survey, or examination containing any questions about the student's personal beliefs or practices in sex, family life, morality, and religion, or any questions about the student's parents' or guardians' beliefs and practices in sex, family life, morality, and religion, may be administered to any student in kindergarten through grade 12, inclusive, unless the parent or guardian of the student is notified in writing that this test, questionnaire, survey, or examination is to be administered and the parent or guardian of the student gives written permission for the student to take this test, questionnaire, survey, or examination. (EC 51513)
- 7) Permits anonymous, voluntary, and confidential research and evaluation tools to measure students' health behaviors and risks, including tests, questionnaires, and surveys containing age-appropriate questions about the student's attitudes concerning or practices relating to sex, to be administered to any student in grades 7 to 12. Provides that a parent or guardian has the right to excuse their child from the test, questionnaire, or survey through a passive consent ("opt-out") process. Prohibits a school district from requiring active parental consent ("opt-in") for these tests, questionnaires, or surveys in grades 7 to 12, inclusive. Requires that parents or guardians be notified in writing that this test, questionnaire, or survey is to be administered, given the opportunity to review the test, questionnaire, or survey if they wish, notified of their right to excuse their child from the test, questionnaire, or survey, and informed that in order to excuse their child they must state their request in writing to the school district. (EC 51938)

**FISCAL EFFECT:** This bill has been keyed a possible state-mandated local program by the Office of Legislative Counsel.

**COMMENTS:**

***Need for the bill.*** The author states, “Comprehensive sex education has a positive impact on young people’s sexual and reproductive health, enhancing their ability to make safe and informed decisions. But absent from most schools is curriculum ensuring that youth are connected to reproductive care for all pregnancy outcomes, even in states like California where abortion is legal.

Our cultural aversion to discussing abortion and educating our youth about comprehensive care diminishes their ability to make fully informed choices, and to exercise their right to legal, accessible abortion if they so choose.

We must ensure that all communities have access to medically accurate, honest, inclusive, and complete information about abortion services available in our state. Not only should California educate students about abortion, but it must ensure its students know how to access this care.

AB 598 updates sex education requirements in schools to include more information about reproductive care, including abortion, helps connect youth to local resources in their communities. To help inform policymakers and educators, it also requires school districts to participate in the California Healthy Kids Survey, with questions administered to grades 7, 9, and 11 about abortion and reproductive health.”

***Current requirement regarding instruction on pregnancy outcomes.*** Current law requires that LEAs and charter schools 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, and requires that this instruction include an objective discussion of all legally available pregnancy outcomes, including, but not limited to, all of the following:

- Parenting, adoption, and abortion;
- Surrendering physical custody of a minor child 72 hours of age or younger; and
- The importance of prenatal care.

***Challenges providing comprehensive sexual health education during COVID 19 school disruptions.*** According to the organization Sex Ed for Social Change:

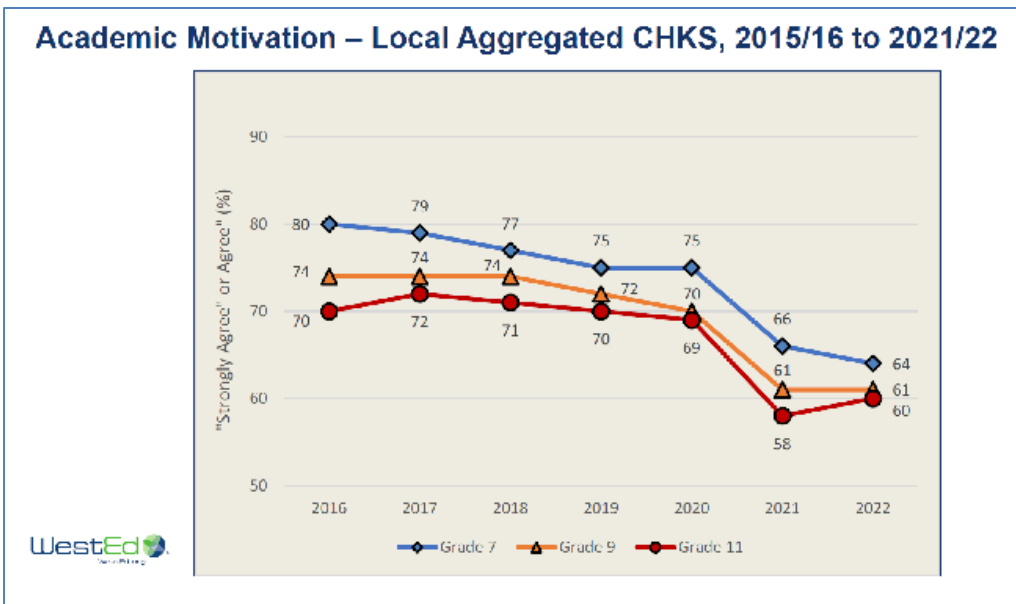
In 2020, the coronavirus pandemic presented unique challenges in ensuring young people receive comprehensive sex education across the state. Early in the pandemic, some districts temporarily suspended sex education instruction, but [resumed] with the support of educators and a comprehensive plan to deliver instruction. Some districts have also implemented additional training for educators teaching sex education virtually and have promoted online safety practices to staff, students, and parents. Despite this, there continue to be concerns regarding privacy as students receive instruction.

**California Healthy Kids Survey (CHKS).**

This bill requires the CDE to ensure that the CHKS includes questions about sexual and reproductive health care as a core module for students in grades 7, 9, and 11. It also requires each school district, after the CHKS is modified, to include sexual and reproductive health as a core module to

administer the survey in grades 5, 7, 9, or 11. It also requires that questions about sexual and reproductive health only be included in the surveys administered to students in grades 7, 9, and 11.

**Academic Motivation – Local Aggregated CHKS, 2015/16 to 2021/22**



The CHKS is an anonymous, confidential survey of school climate and safety, student wellness, and youth resiliency. With the exception of the requirement noted below, it is currently administered at local discretion.

The CHKS is administered to students at grades 5, 7, 9, and 11. It enables schools and communities to collect and analyze data regarding local youth health risks and behaviors, school connectedness, school climate, protective factors, and school violence. The CHKS is part of a comprehensive data-driven decision-making process on improving school climate and the student learning environment for overall school improvements. The CHKS also provides indicators to support meeting Local Control and Accountability Plan (LCAP) requirements.

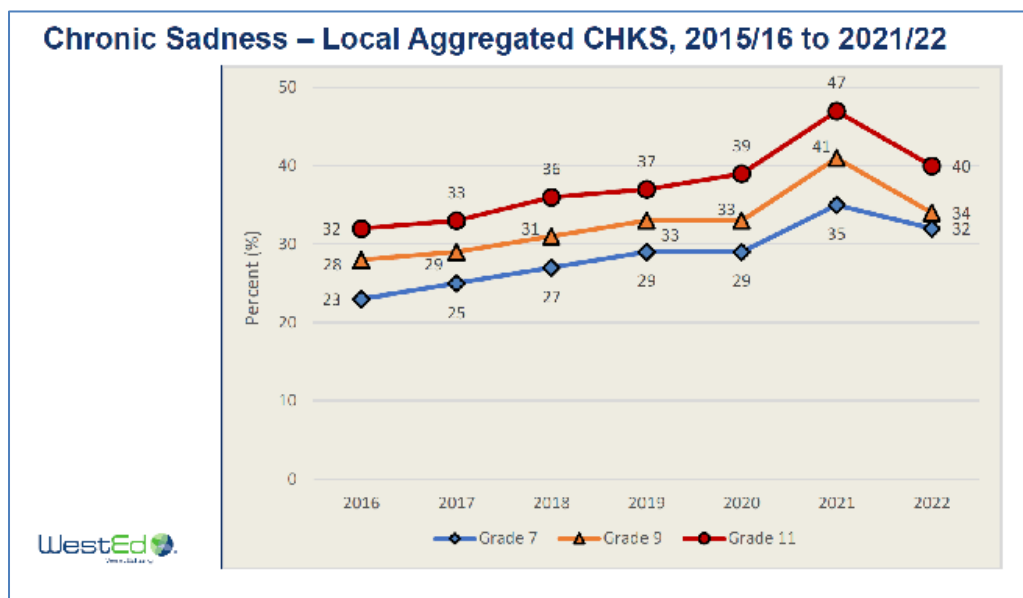
LEAs receiving Tobacco-Use Prevention Education (TUPE) funding are required to conduct the CHKS at least once every two years with a representative sample of students in grades 7, 9, and 11. CDE also encourages school districts to also use the CHKS as data for their School Climate indicator in preparing their LCAPs.

According to WestEd, in the two year cycle in 2020-21 and 2021-22, 694 school districts administered the CHKS in 5,227 schools, with 1,204,375 respondents. 296 districts administered the survey both of those years.

The CHKS offers core and supplementary modules. The core module assesses student attitudes, behaviors, and experiences related to:

- School;
- Academic and social-emotional learning;
- Positive development; and
- Overall health and well-being.

Supplementary CHKS modules at the secondary school level ask detailed questions on specific topics on school climate; resiliency and youth development; social emotional health and learning; mental health; tobacco use; alcohol and other drug use; safety/violence;



physical health; sexual behavior; after school activities; gang awareness; lesbian, gay, bisexual, and transgender school experiences; and questions specific to military connected schools. Districts can also customize their questions in a custom module targeting topics of local interest.

**CHKS sexual behavior module.** The CHKS supplementary module on sexual behavior, derived from the Youth Risk Behavior Survey administered by the federal Centers for Disease Control and Prevention (CDC), assesses:

- Sexual experience;
- Attitudes about sexual behavior;
- Pregnancy history; and
- HIV-related risk behaviors.

This includes the number of partners (a main HIV risk factor), perception of peer behavioral norms, use of contraception, alcohol and other drug use before sexual intercourse, family discussion, and exposure to HIV/AIDS education.

**Parents' rights to opt their children out of CHKS.** This bill requires each school district serving students in any of grades 5, 7, 9, or 11 to administer the CHKS in those grades, once the CHKS includes questions about sexual and reproductive health care as a core module. It also requires that questions about sexual and reproductive health only be included in the surveys administered to students in grades 7, 9, and 11.

As noted above, current law requires, for students in grades 7 through 12, that parents have the right to excuse their children from a survey through a passive consent (“opt-out”) process. School districts are prohibited from requiring an active parental consent (“opt-in”) process for surveys in grades 7 through 12. Current law also requires that parents or guardians be notified in writing that a survey is to be administered, given the opportunity to review the survey if they wish, notified of their right to excuse their child from the survey, and informed that in order to excuse their child they must state their request in writing to the school district. (EC 51938)

For students in kindergarten through grade 6, current law requires that no survey containing any questions about the student's personal beliefs or practices in sex, family life, morality, and religion, or any questions about those of their parents, may be given unless the parent or guardian is notified in writing that this survey is to be administered, and they provide written permission ("opt in," or active parental consent) for the student to take it. (EC 51513)

***Recommended Committee amendments.*** Staff recommends that the bill be amended to remove the proposed paragraph (10) from Section 51934(a), as information about abortion is already required to be provided as part of instruction on all legally available pregnancy outcomes.

***Arguments in support.*** GenUp writes, "AB 598 would empower students with the knowledge and ability to seek care for their reproductive and sexual health, including seeking abortions, contraception, support for domestic, sexual, or intimate partner violence, care for sexually transmitted infections, and much more, while ensuring that we are collecting data on the progress of sexual health education to continue to fill in gaps and keep our students informed."

***Arguments in opposition.*** Several individuals expressed opposition to this bill, stating that reproductive health content, including abortion, should be discussed between parents and students and not in schools, and stating that the bill does not make it clear whether parents can opt their children out of the CHKS.

***Related legislation.*** AB 2601 (Weber), Chapter 495, Statutes of 2018, extends to charter schools the requirement to provide instruction on comprehensive sexual health and HIV prevention.

AB 1868 (Cunningham), Chapter 428, Statutes of 2018, authorizes school districts to provide instruction, as part of the CHYA, on the potential risks and consequences of creating and sharing sexually-suggestive or explicit materials through cell phones, social networking sites, computer networks, or other digital media.

AB 1861 (Rodriguez) of the 2017-18 Session requires school districts to educate students and parents on how social media and mobile device applications are used to facilitate human trafficking.

AB 1227 (Bonta) Chapter 588, Statutes of 2017, requires schools to provide training on human trafficking, and makes changes to the Commercially Sexually Exploited Children Program by, among other things, including educational entities among the groups with whom a county must collaborate.

SB 1435 (Jackson) Chapter 633, Statutes of 2016, requires, when the health curriculum framework is next revised after January 1, 2017, the Instructional Quality Commission (IQC) to consider including comprehensive information for kindergarten and grades 1 to 8, inclusive, on the development of healthy relationships, as specified.

AB 329 (Weber), Chapter 398, Statutes of 2015, requires schools to provide comprehensive sexual health education in grades 7-12, and modified the content of instruction on sexual health education and HIV prevention.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Health Professional Student Alliance  
Feminist Majority Foundation  
Genup (generation Up)  
Ignite  
Training in Early Abortion for Comprehensive Health Care  
Youth Power Project

**Opposition**

4 individuals

**Analysis Prepared by:** Tanya Lieberman / ED. / (916) 319-2087