

Measles outbreak: California bill would end all vaccination loopholes except medical

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SACRAMENTO -- In a move that could give California one of the nation's toughest vaccine laws, two state senators Thursday introduced legislation that would eliminate most exemptions that allow parents to avoid requirements to vaccinate their children.

If enacted, California would join only two other states -- Mississippi and West Virginia -- that permit only medical exemptions as legitimate reasons to sidestep vaccinations.

The clamor around the elimination of the "personal belief exemption" has been growing in California since a measles outbreak started in mid-December, when 39 people who visited or worked at Disneyland contracted the virus.

Currently, California is one of 19 states that allow exemptions based purely on parents' personal or religious beliefs.



In this Thursday, Jan. 29, 2015 photo, a pediatrician holds a dose of the measles-mumps-rubella (MMR) vaccine at his practice in Northridge, Calif. (AP)

Senate Bill 277 does not specifically address the religious exemption. But if passed as now drafted, the bill would end all "personal belief exemptions," including religious exemptions, said Sen. Richard Pan, a Sacramento Democrat and pediatrician who co-authored the bill with Sen. Ben Allen, D-Redondo Beach.

"There is no religious exemption in the statute," Pan told this newspaper Thursday. But he indicated that might change as the debate over the legislation plays out over the next several months. "I'm certainly open to the discussion about the necessity and the nature of any proposed religious exemption."

That could come through "the legislative process or the governor himself, if he wishes to be engaged early on," Pan said. "It's up to him."

When Pan, then an assemblyman, carried a bill in 2012 aimed at tightening vaccine policy, Gov. Jerry Brown signed it. But he directed state health officials to maintain the ease of religious exemptions.

Asked if Brown believes that the issue of religious exemptions needs to be revisited, Jim Evans, a spokesman for the governor, would only say that "the governor believes that vaccinations are profoundly important and a major public health benefit and any bill that reaches his desk will be closely considered."

The highly infectious measles virus -- once virtually eliminated in the U.S. -- has now infected 162 people in 17 states, including at least 119 Californians.

The current struggles over vaccine policy have raised tensions between advocates of public health and individual liberty. The Association of American Physicians and Surgeons, an Arizona-based libertarian doctors' group, says that compulsory vaccination overrides the rights of parents.

Keith Howe, 59, a San Jose chiropractor, has long opposed efforts to impose vaccination requirements. He said when Pan introduced his legislation in 2012, "I sent him a scathing letter saying this is not Communist China and he is not Mao Zedong. He is violating the Constitution and the Bill of Rights."

But Dorit Reiss, a professor and vaccine law expert at UC's Hastings College of the Law in San Francisco, said eliminating both religious and personal belief exemptions "would be a dramatic improvement over what we have now."

Courts, she said, have established the right of a state to compel individuals to receive a vaccination -- and they've also upheld local government mandates that require vaccinations as a prerequisite for enrolling in school, she said.

Lawyers and vaccine experts caution against preserving the religious exemption while eliminating personal belief exemptions.

"It would be a terrible mistake," Reiss said. "We don't allow religions to put children at risk for other reasons."

She added that courts have also ruled that there is no constitutional right to offer exemptions based on religious grounds. Indeed, Reiss added, lower courts have ruled that such exemptions may be constitutionally suspect if they discriminate against people who have nonestablished religious beliefs against vaccination.

Critics of religious exemptions to vaccination also argue that parents could easily transform their secular anti-vaccination sentiment into a religious belief. They note that numerous websites offer relevant biblical quotations to include in letters of petition for exemption. Others offer mail-order religious groups, such as the Congregation of Universal Wisdom, headquartered in New Jersey.

Both Pan and Allen said they are aware of the potential to abuse a religious exemption. Pan said there is no major religion that "actually explicitly prohibits vaccination that we are aware of," although he said some leave the decision to individual ministers.

The call to consider eliminating the religious exemption has also been pushed by California's two U.S. senators, Dianne Feinstein and Barbara Boxer.

Along with other colleagues, they recently introduced legislation to ensure that all children in Head Start and Early Head Start programs nationwide are fully vaccinated unless they have been exempted for medical reasons.

Vaccine exemptions have been available since 1961, when California first required all public school teachers and students to be inoculated against polio. But there has been a surge in their popularity in recent years. From 2000 to 2014, the rate of parents seeking exemptions tripled, from 0.77 percent to 2.5 percent -- or one in every 40 kids.

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