

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 2723 (Irwin) – As Amended April 11, 2024

[Note: This bill was double referred to the Assembly Committee on Higher Education and was heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: The California Cradle-to-Career Data System Act

SUMMARY: Makes several changes and updates to The California Cradle-to-Career Data System Act. Specifically, **this bill:**

- 1) Requires The California Cradle-to-Career Data System Workgroup (workgroup) to remain operative only until the first meeting of The California Cradle-to-Career Data System Governing Board (governing board). Repeals the requirement for the workgroup on the January 1st immediately following the first meeting of the governing board.
- 2) Defines “P20W data set” to mean the data set adopted by the governing board and requested from the data providers, including, but not limited to, the data points described in the report to the Department of Finance (DOF) and the Legislature, as specified, and as adjusted by the governing board. Authorizes the governing board to add or remove requested data points based on changes in the usage of the element. Requires, as required by the Information Practices Act of 1977 and the federal Family Educational Rights and Privacy Act (FERPA), data providers to retain sole control over their source data and authorizes data providers to reject, add, or remove data elements contributed to the P20W data set, as reflected in its participation agreement with the managing entity.
- 3) Requires institutions represented on the governing board to be data providers, with the exception of:
 - a) The President of the Association of Independent California Colleges and Universities or the president’s designee;
 - b) Four public members, to be appointed by the Governor (two elementary and secondary education practitioners to serve as a representative of elementary and secondary educators, counselors, and administrators, and two members of the public, as specified);
 - c) Four members of the public, to be appointed by the Legislature (two members of the public to be appointed by the Speaker of the Assembly, and two members of the public to be appointed by the President Pro Tempore of the Senate, as specified);
 - d) One Senator appointed by the President Prop Tempore of the Senate, or the Senator’s designee;
 - e) One Assembly Member appointed by the Speaker of the Assembly, or the Assembly Member’s designee; and

- f) The Chief Operations Officer of California School Information Services.
- 4) States that The California Cradle-to-Career Data System (data system) is intended to reduce redundancy, improve efficiency and transparency, and provide students, parents, and counselors with an easy to use, and simple to understand, one-stop automated process to provide all of the following by July 27, 2026:
- a) Clear, concise, and consistent messaging and tools to increase and monitor student readiness for college admission and attendance;
 - b) A single point of entry to submit California college and university applications and applications for student financial aid, including the Free Application for Student Financial Aid (FAFSA) and the California Dream Act Application (CDAA);
 - c) Other technological efficiencies that shift the burden away from students and families and to the institutions serving them; and
 - d) Requires operational tools, as specified, to be provided by the data system for use by both of the following:
 - i) Public schools offering any of grades 6 to 12, inclusive, to facilitate college readiness and transition; and
 - ii) Institutions of higher education in the state, to facilitate streamlined application, admissions, assessments, and placements.

EXISTING LAW:

- 1) Establishes The California Cradle-to-Career Data System Act in order to do all of the following:
- a) Build a data system to enable partner entities to share information in a manner that promotes data privacy and security;
 - b) Design a data system that minimizes the need for new infrastructure, is adaptable, and is flexible to meet future needs;
 - c) Serve students and families by doing all of the following:
 - i) Identifying and tracking predictive indicators to enable parents, teachers, health and human services providers, and policymakers to provide appropriate interventions and supports to address disparities in opportunities and improve outcomes for all students;
 - ii) Creating direct support tools for teachers, parents, advisors, and students;
 - iii) Enabling agencies to plan for and optimize educational, workforce, and health and human services programs;
 - iv) Enabling and streamlining the administration of student financial aid; and

- v) Advancing academic and governmental research on improving policies from birth through career.
 - d) Improve the quality and reliability of data reported, and ensure consistency of key data definitions; and
 - e) Identify additional data points and metrics that can be developed and integrated into the data system to support the goals of The California Cradle-to-Career Data System. (Education Code (EC) 10850 and 10852)
- 2) Establishes the workgroup to assess and recommend data system structural components, processes, and options for expansion and enhancement of data system functionality, and advise ongoing efforts to develop, administer, and enhance the data system. Requires meetings of the workgroup to be subject to the Bagley-Keene Open Meeting Act. (EC 10853)
 - 3) Establishes The California Cradle-to-Career Data System for the purpose of connecting individuals and organizations to trusted information and resources. Requires the data system to be considered a source for actionable data and research on education, economic, and health outcomes for individuals, families, and communities, and provide for expanded access to tools and services that support the navigation of the education-to-employment pipeline. Requires the data system to be used to provide access to data and information necessary to provide insights into critical milestones in the education-to-employment pipeline, including insight regarding early learning and care to grade 12, inclusive, and into higher education, skills training opportunities, and employment to better enable individuals to maximize their educational and career opportunities, and to foster evidence-based decision-making to help the state build a more equitable future. (EC 10861)
 - 4) Requires the data system comply with applicable federal and state laws to protect individual privacy at all times. (EC 10861)
 - 5) Creates the Office of Cradle-to-Career Data (Office) within the California Government Operations Agency (GovOps), as the managing entity. (EC 10862)
 - 6) Requires the data system to be governed by a governing board composed of 21 specified members. (EC 10864)
 - 7) Requires the governing board to appoint an executive officer to oversee the managing entity. (EC 10866)
 - 8) States that the data system is intended to reduce redundancy, improve efficiency and transparency, and provide students, parents, and counselors with an easy to use, and simple to understand, one-stop automated process to provide all of the following within five years of enactment:
 - a) Clear, concise, and consistent messaging and tools to increase and monitor student readiness for college admission and attendance;

- b) A single point of entry to submit California college and university applications and applications for student financial aid, including the FAFSA and the CDAA;
 - c) Other technological efficiencies that shift the burden away from students and families and to the institutions serving them; and
 - d) Operational tools, as specified, to be provided by the data system for use by both of the following:
 - i) Public schools offering any of grades 6 to 12, inclusive, to facilitate college readiness and transition; and
 - ii) Institutions of higher education in the state, to facilitate streamlined application, admissions, assessments, and placements. (EC 10870)
- 9) Requires data providers, as defined in Section 10861, to contribute to the data system, at least annually, the data points contained in the P20W data set that each data provider agrees to contribute under the terms of its participation agreement with the managing entity. (EC 10871)
- 10) Defines the following:
- a) “Data providers” to mean entities that submit the individual, educational, academic, training, employment, social service, health, and other information used to create the data system;” and
 - b) “P20W data set” to mean the data set adopted by the governing board and requested from the data providers, including, but not limited to, the approximately 160 data points described in the report to the DOF and the Legislature required, as specified, and as adjusted by the governing board. Authorizes the governing board to add or remove requested data points based on changes in the usage of the element. Requires, as required by the Information Practices Act (IPA) of 1977 and the federal FERPA, data providers to retain sole control over their source data and may reject, add, or remove data elements contributed to the P20W data set, as reflected in its participation agreement with the managing entity. (EC 10861)
- 11) Requires, under the Information Practices Act (IPA) of 1977, that any agency, as defined, that owns or licenses computerized data that includes personal information, as defined, to disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California (a) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or (b) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the agency that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. Sets forth how the notice is to be provided. (Civil Code 1798.29)

12) Protects the privacy of student education records in federal law with the FERPA. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. (20 U.S.C. 1232g; 34 CFR Part 99)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “As the Cradle to Career Data System continues to build out its capabilities, it is important to clean up its related code sections. We have come a long way from the first meeting of the workgroup to envision the Data System, with the first ingestion of data from data providers last fall, and analytical dashboards slated for release in the coming months. As Californians continue to watch and participate in the development of this Data System, it is important that feedback is directed to the Office and Governing Board.”

Key provisions of the bill. This bill proposes to update several provisions of the original California Cradle-to-Career Data System Act in order to reflect the needs of the data system going forward including removing the requirement for the workgroup now that the governing board is in place, expand the definition of the P20W data set to include additional data points, clarify which members of the governing board are required to be data providers, and establish a deadline for many of the required activities in creating the data system of July 27, 2026. As a current member representing the Assembly of the governing board, the author is working with the California Cradle-to-Career Data System on the content of this bill.

The California Cradle-to-Career Data System. According to the Cradle-to-Career Data System, the data system is a statewide longitudinal data system that provides tools to help students reach their goals and delivers information on education and workforce outcomes.

Prior to the creation of the data system in 2019, according to an Education Commission of the States fact sheet, *50-State Comparison Statewide Longitudinal Data System*, California was one of nine states that did not have a longitudinal data system in 2019. SB 75 (Committee on Budget and Fiscal Review), Chapter 51, Statutes of 2019, called for the establishment of a statewide, longitudinal data system for California. Over the course of 2020 and the first half of 2021, more than 200 people from 15 state agencies and many educational institutions, research and policy organizations, and community groups worked together to design a blueprint for the data system.

The planning included multiple subcommittees that considered various aspects of data system development, including technology and security, legal frameworks, data definitions, and community engagement. A workgroup composed of entities that will provide information and state agencies with expertise in data considered the findings of these subcommittees and advice from two advisory groups made up of community members. AB 132 (Committee on Budget), Chapter 144, Statutes of 2021, authorized funding for the California Cradle-to-Career Data System. The data system is housed within and is implemented by the GovOps.

The planning phase concluded by phasing in regular meetings of the governing board, and appointment of an executive officer. The governing board adopted a five-year implementation plan, see figure to the right, based on the recommendations of the planning process.



The creation of the data system includes a three-pronged approach of 1) community engagement to inform development, interpretation, and awareness building about available information, 2) tools to support college planning and transition, and 3) an analytical data set on education, well-being, and job outcomes.

Once fully implemented, the data system will provide public access to a comprehensive state longitudinal data system, linking existing education, workforce, financial aid, and social service information to address disparities in opportunities and improve outcomes for all communities throughout California. The data system will be a suite of resources focused on early learning through K-12 and higher education and providing financial aid and social services to help students reach their goals.

Since its inception, the C2C has accomplished several major milestones:

- 2021: Governing board selected executive director
- 2022: Legal agreements signed between Cradle-to-Career and 15 data providers to make data available to the public through the data system.
- 2023: Over 1 billion data points were transmitted from data providers to the data system for integration.
- 2024: The first data dashboard is planned to be available to the public.

Information Practices Act. According to the Assembly Committee on Privacy and Consumer Protection, “The IPA of 1977 (Civil Code Section 1798, et seq.), modeled after the Federal Privacy Act of 1974, is the primary privacy scheme governing the collection, maintenance, and disclosure of personal information by state agencies. Generally, the IPA places several conditions and restrictions on the collection, maintenance, and disclosure of the personal information (PI) of Californians held by state agencies, including a prohibition on the disclosure of an individual’s PI without the individual’s consent except under one of several specified circumstances, and a requirement that along with any form requesting PI from an individual, an agency must provide notice of information pertaining to the individual’s rights with respect to their PI, the *principal* purpose or purposes for which the information is to be used, and any foreseeable disclosures of that PI. The IPA also provides individuals with certain rights to be

informed of what PI an agency holds relating to that individual, to access and inspect that PI, and to request corrections to that PI, subject to specified exceptions. In addition, when state agencies contract with private entities for services, the contractors are typically governed by the IPA, with few additional privacy protections generally stipulated in the contracts themselves.”

Data minimization. According to the Assembly Committee on Privacy and Consumer Protection, “Existing law provides that each agency shall maintain in its records only PI that is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute or mandated by the federal government. While these provisions provide some information to Californians with respect to permissible government uses for their information, they are neither abundantly clear nor particularly limiting. So long as the *principal* purpose for which the PI will be used is disclosed to the individual, that information can be used for any number of secondary purposes that may fall within the agency's authority but are wholly unrelated to the reason that information was initially collected.

The information shared with the Office of Cradle-to-Career Data (Office) falls under a secondary rather than primary purpose, which means there is no requirement for consent, notice to inspect, or amend personal information in the data system. Additionally, the records or source data from the P20W data set is comprised of information collected and managed by various data providers. As a result, since the Office "maintains" the P20W data set, they are unable to make changes to the data. To clarify this role, proposed amendments exempt the IPA provisions that require consent, notice to inspect, or amend personal information in the data system from applying to records or source data from the P20W data sets.”

Amending data. According to the Assembly Committee on Privacy and Consumer Protection, “To exercise the right to amend data held within the P20W data set, a person must reach out to the provider of record. However, there is no information explaining that a person will need to reach out to the provider of record. The proposed amendments require this notice and a link so parents, guardians, and students know which entity to contact. Additional discussions are needed to determine how best to provide the notice and instructions on how to amend P20W records and source data.”

Data breach. According to the Assembly Committee on Privacy and Consumer Protection, “The IPA requires a state agency to notify California residents whose encrypted or unencrypted personal information was acquired, or reasonably believed to have been acquired, by an unauthorized person. The amendments clarify that the Office is subject to the data breach provisions of the IPA.”

Recommended Committee Amendments. *Staff recommends that the bill be amended as follows:*

- Clarify that the data system *maintains* personal information, rather than *manages* personal information. The Office states that these changes are needed to clarify that the data system only maintains information supplied by data providers in the P20W data set.
- Clarify that the following provisions in the Information Practices Act of 1977 do not apply to records or source data from the P20W data set, that are maintained by the data system:

- The individual right to inquire and be notified as to whether the data system maintains a record about that individual;
- The individual right to inspect personal information in any record maintained in the data system; and
- The individual right to amend any record maintained in the data system.

In the case of students enrolled in K-12 public schools, the responsibilities above in the bulleted list belong to local educational agencies in their role as data providers via the California Department of Education.

- Require, in the event of a “security incident,” as defined in the participation agreement, the managing entity to comply with the requirements of the IPA (Civil Code Section 1798.29).
- Clarify that these requirements do not affect an individual’s right to amend a record maintained by a data provider of record. Require, to assist individuals who wish to exercise such rights, the managing entity to include on its website, a notice to contact the data provider and a link to the data provider, as applicable.
- Require, in fulfilling their roles, all governing board members, advisory board members, and managing entity employees to comply with the Federal Privacy Act of 1974 (Public Law 93-579, as amended).
- Remove a requirement that any data collected pursuant to the data system be treated as personal information, as defined in section 2798.3 of the Civil Code, and be deidentified unless otherwise specified. The Office is requesting this amendment alongside the amendment to clarify that the data system maintains rather than manages personal information.

Related legislation. AB 132 (Committee on Budget), Chapter 144, Statutes of 2021, established and authorized funding for the California Cradle-to-Career Data System. This bill established the governing board and advisory boards.

SB 169 (Committee on Budget and Fiscal Review), Chapter 262 of 2021, requires any data managed under the Cradle-to-Career Data System that meets the definition of personal information not to be used or disclosed except for purposes consistent with the act and would require all data to be deidentified before being released to the public.

SB 75 (Committee on Budget and Fiscal Review), Chapter 51, Statutes of 2019, established the workgroup, composed of representatives of specified entities, to provide assessment, recommendations, and advice about statewide data infrastructure that integrates data from state entities responsible for elementary and secondary education data, entities responsible for early learning data, segments of public higher education, private colleges and universities, state entities responsible for student financial aid, childcare providers, state labor and workforce development agencies, and state departments administering health and human services programs. This bill appropriated \$10 million to the Office of Planning and Research for these purposes.

Arguments in support. The California Chamber of Commerce writes, “The California Chamber of Commerce is pleased to SUPPORT AB 2723 (Irwin) as amended April 11, 2024, because it would continue California’s implementation of our Cradle-to-Career data system in important ways. First, it would delete outdated provisions related to the Cradle-to-Career Data System Workgroup, which are no longer relevant. Second, it clarifies who among the governing board members will be considered “data providers” for purposes of the system. Though these changes are minor – they are important in the state’s ongoing effort to gather data surrounding (and eventually improve) the pipeline for our students into their careers.”

REGISTERED SUPPORT / OPPOSITION:

Support

California Chamber of Commerce

Opposition

None on file

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