

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2626 (Mullin) – As Amended April 17, 2018

[Note: This bill was doubled referred to the Assembly Human Services Committee and was heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Child care services

SUMMARY: Makes a number of statewide changes to subsidized child care and development programs, including raising the income eligibility threshold for families; changing the age restrictions for California State Preschool Programs (CSPP); providing opportunities for staff training; and increasing flexibility in the use of contracted funds. Specifically, **this bill:**

- 1) Changes, for purposes of determining CSPP eligibility, the date by which a child must have his or her third or fourth birthday from September 1 to December 1 of the fiscal year of enrollment. Further, stipulates that children who have their third birthday on or after December 2 may be enrolled in a CSPP after their third birthday.
- 2) Requires any child less than four years of age to be served in a CSPP facility, licensed in accordance with state community care licensing regulations.
- 3) Deletes the requirement that CSPPs operating with funding initially allocated in a prior fiscal year must have at least one-half of enrollment made up of four-year-olds.
- 4) Requires, with regards to CSPP, the California Department of Education (CDE) to promote full utilization of child care and development funds and to match available unused funds with identified service needs.
- 5) Requires CDE to arrange intra-agency adjustments between CSPP contracts and general child care contracts for the same agency and funding allocation and to establish timelines for intra-agency contract transfers. Further, permits CDE to implement and administer these adjustments through the issuance of guidance or other written directives, as specified.
- 6) States that a family that establishes initial or ongoing eligibility on the basis of seeking employment or experiencing homelessness and is receiving services on these bases shall receive those services no more than five days per week at six and one-half hours per day for no less than 12 months.
- 7) Changes the definition of “income eligible,” for purposes of establishing initial income eligibility for subsidized child care services, to mean that a family’s adjusted monthly income is at or below 85% of the state median income, versus 70% as in current law.
- 8) Authorizes a center-based child care agency that contracts with CDE to schedule up to two days of staff training per contract period using state reimbursement funding, on the following topics relating to child development programs:

- a) Procedures for emergencies.
 - b) Licensing regulations.
 - c) Recognition and reporting of suspected abuse of children.
 - d) Managing challenging behaviors and preventing expulsion of children.
 - e) Addressing items on the program's Quality Rating and Improvement System quality plan.
- 9) Makes technical changes.

EXISTING LAW:

- 1) Establishes the Child Care and Development Services Act to provide child care and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents including a full range of supervision, health, and support services through full- and part-time programs (Education Code (EC) 8200 *et seq.*).
- 2) Defines "child care and development services" to mean services designed to meet a wide variety of children's and families' needs while parents and guardians are working, in training, seeking employment, incapacitated, or in need of respite (EC 8208).
- 3) States the intent of the Legislature that all families have access to child care and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children, and enhancing their parenting skills through participation in child care and development programs (EC 8202).
- 4) Requires the Superintendent of Public Instruction (SPI) to administer general child care and development programs to include, among other things as specified, age- and developmentally-appropriate activities, supervision, parenting education and involvement, and nutrition. Further allows such programs to be designed to meet child-related needs identified by parents or guardians (EC 8240 and 8241).
- 5) Requires families to meet certain criteria in order to be eligible for federal and state subsidized child development services, including that a family must be either a current aid recipient, income eligible, homeless, or one whose children are recipients of protective services or have been identified as being abused, or neglected (EC 8263).
- 6) Defines "income eligible," for purposes of establishing initial income eligibility for subsidized child care services to mean that a family's adjusted monthly income is at or below 70% of the state median income (SMI), adjusted for family size (EC 8263.1).
- 7) Defines "ongoing income eligible" to mean that a family's adjusted monthly income is at or below 85% of the SMI, adjusted for family size (EC 8263.1).

- 8) States that, with certain exceptions, once a family has established initial or ongoing eligibility, they are considered to meet all eligibility and need requirements, receive services, and not be required to report income or other changes for at least 12 months (EC 8263).
- 9) Requires a family that establishes initial or ongoing eligibility on the basis of seeking employment to be eligible to receive services for no less than six months (EC 8263).
- 10) Requires CDE to promote full utilization of child care and development funds and match available unused funds with identified service needs and, further, requires CDE to arrange interagency adjustments between different contractors with the same type of contract when both agencies mutually agree to a temporary transfer of funds for the balance of the fiscal year (EC 8275.5).
- 11) Defines “California State Preschool Program” (CSPP) to mean part-day and full-day educational programs for low-income or otherwise disadvantaged three- and four-year olds, and includes the CSPP under the definition of child care and development programs which offer a full range of services for children from 0 to 13 years of age (EC 8208).
- 12) Requires the SPI to administer all CSPPs, which include, but are not limited to, part-day age- and developmentally appropriate programs designed to facilitate the transition to kindergarten for three- and four-year-old children in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development (EC 8235).
- 13) Defines “three-year-old children” and “four-year-old children” to mean children who will have their third birthday or fourth birthday, respectively, on or before September 1 of the fiscal year in which they are enrolled in a CSPP (EC 8208).
- 14) Requires, for CSPPs operating with funding that was initially allocated in a prior fiscal year, at least half of the children enrolled at a preschool site to be four years old, with certain exceptions (EC 8236).
- 15) Authorizes a part-day CSPP to provide services to children in families with incomes up to 15% above the income eligibility threshold, as specified, provided all other eligible three- and four-year-olds have been enrolled. Further specifies that no more than 10% of the children enrolled under a provider’s entire contract can be children in families above the income eligibility threshold (EC 8235).
- 16) Authorizes a part-day CSPP to, after all otherwise eligible children have been enrolled, provide services to three- and four-year old children whose families earn incomes above the eligibility threshold if the children have been identified as “children with exceptional needs” and specifies that these children not be counted toward the cap in (15) above (EC 8235).
- 17) Requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates for child care and development services, to vary by length of program year and hours of service, and establishes amounts for, and provides for an annual cost-of-living adjustment to, the standard reimbursement rate (EC 8265).

- 18) Authorizes individualized child care subsidy plans in each of 11 counties – Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Clara, Santa Cruz, Solano, and Sonoma – as pilot projects to allow for greater flexibility in subsidized child care programs to ensure that subsidies received by these counties are used to address local needs, conditions, and priorities of working families in their respective communities (EC 8332-8332.8).
- 19) Authorizes an individualized county child care subsidy plan for each of the City and County of San Francisco and San Mateo County to allow for greater flexibility in subsidized child care programs to ensure that subsidies received by these counties are used to address local needs, conditions, and priorities of working families in their respective communities (EC 8335-8335.6, 8347-8347.5).

FISCAL EFFECT: Unknown

COMMENTS: *Need for the bill.* According to the author:

“Recent legislation has allowed 13 counties to set exceptions to statewide requirements for early care and education subsidized programs and added flexibility. The unintended consequence of these changes is an inequity in service across the state. Families in neighboring counties may have different or enhanced services or benefits. These policies are also causing inequities for providers as reimbursement rates may differ from county to county.

Providers are finding it increasingly difficult to earn their contract funds due to low income eligibility thresholds, age restrictions of children they can enroll, program quality requirements, and low reimbursement rates.

AB 2626 will apply current early care and education subsidized program exceptions afforded in 13 counties to families and providers throughout the state. This will support increased access to subsidized early care and education for all families and maximize the efficient use of subsidized funding.”

Background. The main state and/or federally funded early care and education programs serving children and families in California include, but are not limited to, the following:

- General Child Care and Development Programs include center-based or family child care home care, provide part or full-time care for children from 0-5 years and out of school care for school age children up to age 13 from income eligible families who have a need for care.
- Alternative Payment (AP) Programs provide voucher-based child care subsidies to low-income parents to access child care through a wide range of providers. Includes vouchers offered through California’s state welfare program, California Work Opportunity and Responsibility to Kids (CalWORKs), those for working families, as well as programs specifically for migrant children.
- California State Preschool Program (CSPP) provides center-based preschool for three and four year old children from income eligible families.

- Head Start and Early Head Start are federally funded preschool and child development programs serving children from families with incomes below the federal poverty level, and offer education, child care, extensive family engagement, and wraparound services.
- Transitional Kindergarten (TK) is a school-based program for children just below the age cut-off for kindergarten and is not based on income eligibility.

In Fiscal Year 2017-18, there are approximately 187,000 subsidized child care slots offered across the various programs, as well as over 165,000 CSPP (101,000 part-day and 65,000 full-day) and 83,000 Transitional Kindergarten slots.

California State Preschool Programs (CSPP) serve three and four-year old children. CSPP is available on either a part-day or full-day basis, and provides services to eligible three- and four-year-olds that include developmentally appropriate curriculum, parent education, meals and snacks, and referral to social and health services for families. CSPP can be offered in a number of different settings, including child care centers, family child care network homes, school districts, or county offices of education. CSPP teachers are required to have a Child Development Teacher Permit, including 24 units in early childhood education and/or child development and 16 general education units.

The eligibility standards for CSPP parallel those for other programs within the subsidized child care system in California. However, some differences do exist between CSPP and other subsidized child care. CSPP currently prioritizes four-year-olds for enrollment, and then serves three-year-olds if slots remain after enrolling all eligible four-year-olds. Also, while other subsidized child care programs require parents to be working (or meeting related criteria) in order for their children to be eligible, this is not required for CSPP. CSPP also may allow up to 10 percent of children served to be from families whose incomes exceed the eligibility cut-off by up to 15 percent. Additionally, language adopted in the 2017 school finance education omnibus trailer bill authorizes CSPP providers to enroll children with exceptional needs who do not meet income qualifications if space is available after all qualifying low-income children are served.

In recent years, the availability of transitional kindergarten (TK), among other factors has meant that there are fewer four-year olds eligible for CSPP. Providers have been, in some cases, unable to fill available spaces. ***This bill***, through changing the age eligibility thresholds and removing the requirement that 50 percent of enrollment must be four-year olds, providers will have the opportunity to enroll more three-year old children and meet their program capacity.

Individualized county child care subsidy plans: Income eligibility thresholds for subsidized child care services and the standard reimbursement rate (SRR) for providers, as established, apply statewide and do not account for any regional variance in cost of living. Over the years, this lack of programmatic sensitivity to the differing economic contexts that face working families and child care providers across California, along with an overall need for greater supply of and access to subsidized child care services, has led to a number of counties (now totaling 13) establishing their own individualized county child care subsidy plans.

In 2003, San Mateo was the first county to establish an individualized county child care subsidy plan pilot project, followed by San Francisco. Both of these pilots were developed, in large part, to address two significant issues facing subsidized child care in high-cost counties. The first issue was that, by earning just enough to be able to afford housing in a high-cost area, some

relatively low-income families were deemed to have too high of an income to qualify for assistance with child care by statewide eligibility standards. The second issue was that the SRR paid to contracted child care centers and family child care homes was often not sufficient to cover program costs and overhead, particularly in high-cost areas. Both counties would see a portion of their child care subsidy funds go unused as low-income families failed to qualify for eligibility by uniform statewide criteria, and as provider reimbursement rates made offering subsidized care untenable for some providers.

San Mateo County's and San Francisco's individualized county child care subsidy plans are still in operation today, although both no longer operate as pilots. These plans offer the counties limited local flexibility to revise eligibility rules and adjust provider rates and family fees within the context of local evaluation and assessment and heightened state oversight. Thus, the counties are able to reinvest otherwise-unused funds through increased reimbursement rates.

In recent years, beginning with Alameda County in 2015, 11 other counties established their own individualized county child care subsidy plan pilot projects. Santa Clara County established its pilot project in 2016, and the following counties did so in 2017: Fresno, Monterey, San Benito, and Santa Cruz, San Diego, Solano, Contra Costa, Marin, and Sonoma. Action taken in the 2018 Budget process in this session, among other things, consolidated the statute authorizing the 11 most recent individualized county subsidy child care plans, and adopted administrative and clarifying changes for all 13 plans.

This bill would provide a similar level of flexibility to child care contractors statewide as is available to contractors in the 13 counties with individualized county child care subsidy plans to increase the effective utilization of available child care funds.

The bill also increases eligibility for child care services among low income families by increasing the initial income eligibility threshold to 85 percent of the most recent SMI, rather than 70 percent as is the case in current law.

In line with recent changes regarding ongoing eligibility for child care services, this bill adds families seeking employment or experiencing homelessness to those eligible for service for twelve months, without having to seek recertification. ***Committee staff recommend*** the bill be amended to remove the provision that those establishing initial or ongoing eligibility on the basis of seeking employment or experiencing homelessness shall receive services for no less than 12 months. As all eligible families are granted services for no less than 12 months, there is no need to call out these two categories of eligibility.

The bill also authorizes child care centers to provide two days of staff training, using their contracted child care funds, to ensure staff is up-to-date on critical issues.

Similar legislation. AB 2292 (Aguiar-Curry) of this Session establishes a program to recruit, train and support new family child care providers; adjusts the reimbursement rate for infant and toddler care; and increases access to inclusive early care and education environments by providing grants for one-time infrastructure costs. This bill is pending before this committee.

Prior legislation. AB 47 (McCarty) of the 2015-16 Session would have established the Preschool for All Act of 2015 and required, on or before June 30, 2018, all eligible children who are not enrolled in transitional kindergarten to have access to the California State Preschool Program (CSPP) the year before they enter kindergarten, if their parents wish to enroll them and

contingent upon the appropriation of sufficient funding in the annual Budget Act for this purpose. This bill was vetoed by the Governor.

AB 108 (Assembly Committee on Budget) Chapter 7, Statutes of 2018, among other things, consolidated statute authorizing child care pilot programs relating to the counties of Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Clara, Santa Cruz, Solano, and Sonoma, and adopted administrative and clarifying changes for these 11 plans and those of San Mateo County and San Francisco City and County.

AB 99 (Assembly Budget on Committee) Chapter 15, Statutes of 2017, among a number of other things, established 12-month continuous eligibility for subsidized child care services, and required income thresholds for initial eligibility to be at or below 70% of the most recent SMI, adjusted for family size, and income thresholds for ongoing eligibility to be at or below 85% of the most recent SMI, adjusted for family size.

AB 258 (Arambula) Chapter 697, Statutes of 2017, authorized Fresno County to establish an individualized county child care subsidy plan pilot project, to sunset on January 1, 2023.

AB 300 (Caballero) Chapter 699, Statutes of 2017, among other things, authorized the counties of Monterey, San Benito, and Santa Cruz to each establish an individualized county child care subsidy plan pilot project, to sunset on January 1, 2023.

AB 377 (Frazier) Chapter 701, Statutes of 2017, authorized the counties of San Diego and Solano to each establish an individualized county child care subsidy plan pilot project, to sunset on January 1, 2023.

AB 435 (Thurmond) Chapter 703, Statutes of 2017, among other things, authorized the counties of Contra Costa, Marin, and Sonoma to each establish an individualized county child care subsidy plan pilot project, to sunset on January 1, 2023.

AB 2368 (Gordon) Chapter 574, Statutes of 2016, established the Santa Clara County individualized county child care subsidy plan pilot project, to sunset in 2022.

AB 104 (Budget Committee), Chapter 13, Statutes of 2015, eliminated the sunset on the San Francisco individualized county child care subsidy pilot program and removed language referring to the San Francisco plan as a pilot project.

AB 833 (Bonta), Chapter 563, Statutes of 2015, established the Alameda County individualized county child care subsidy plan pilot project, to sunset in 2021.

SB 103 (Budget and Fiscal Review Committee) Chapter 324, Statutes of 2015, eliminated the sunset of the San Mateo County child care subsidy plan and related reporting requirements and removed language referring to the San Mateo plan as a pilot project.

AB 86 (Budget Committee) Chapter 48, Statutes of 2013, extended the sunset date of the San Francisco individualized county child care subsidy plan to 2015.

AB 260 (Gordon) Chapter 731, Statutes of 2013, extended the sunset dates of the San Francisco and San Mateo County individualized county child care subsidy plans to 2016 and 2018, respectively.

SB 1016 (Budget and Fiscal Review Committee) Chapter 38, Statutes of 2012, extended the sunset date of the San Francisco individualized county child care subsidy plan to 2014.

AB 1610 (Budget Committee) Chapter 724, Statutes of 2010, extended the sunset date of the San Francisco individualized county child care subsidy plan to 2013.

SB 1225 (Yee) of 2010, would have extended the sunset date of the San Francisco individualized county child care subsidy plan to 2016. This bill was held in the Senate Appropriations Committee.

AB 1304 (Simitian) Chapter 61, Statutes of 2008, extended the sunset data of the San Mateo County individualized county child care subsidy plan to 2014.

SB 701 (Migden) Chapter 725, Statutes of 2005, established the San Francisco individualized county child care subsidy plan pilot project, to sunset in 2011.

AB 1326 (Simitian) Chapter 691, Statutes of 2003, established the San Mateo County individualized county child care subsidy plan pilot project, to sunset in 2009.

REGISTERED SUPPORT / OPPOSITION:

Support

Superintendent of Public Instruction Tom Torlakson (Sponsor)
Advancement Project California
California Alternative Payment Program Association
Child Care Alliance of Los Angeles
Child Care Law Center
Children NOW
Early Edge California
First 5 California
First 5 LA
National Association of Social Workers-California Chapter
Santa Cruz County Childhood Advisory Council

Opposition

None on file

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