

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2806 (Blanca Rubio) – As Amended April 18, 2022

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

SUBJECT: Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates

SUMMARY: Revises provisions related to the suspension and expulsion of children from the California State Preschool Program (CSPP), expands these provisions to other childcare programs, and increases the requirements for early childhood mental health consultation services. Specifically, **this bill:**

- 1) Adds to the definition of “early childhood mental health consultation” the following:
 - a) Support for providers, parents, legal guardians, and caregivers to create trauma-informed, proactive inclusive environments and to respond effectively to all children;
 - b) Aid to providers, parents, legal guardians, and caregivers, and encouragement and facilitation of collaboration and communication;
 - c) Face-to-face interactions or video-based platforms and other modes of communication that are compliant with the federal health privacy laws, such as the telephone; and
 - d) Group or individual consultations of any of the actions, as specified.

Early childhood mental health consultation service:

- 2) Requires that, in order for an agency to be reimbursed for early childhood mental health consultation service, the service be provided continuously throughout the program year, to significantly contribute to all of the following: improving interpersonal relationships and child outcomes; increasing the confidence, competence, and well-being of those consulted; and eliminating suspensions and expulsions.
- 3) Adds to the requirement that the licensed mental health professionals authorized to provide this service include a credentialed school psychologist and a credentialed school counselor, and requires that all authorized providers have at least three years of experience providing mental health services to children from 0 to 5 years of age, as well as training in infant, family, and early childhood mental health.
- 4) Authorizes certain mental health professionals eligible for licensure, as well as individuals holding a master’s degree in a field related to mental health or human services and who has at least two years of experience working with children 0 to 5 years of age, to provide service when they are supervised by a professional meeting all of the requirements of the program, and requires that any person providing mental health consultation services have a successful criminal background check.

- 5) Requires that the relationship-based model used to provide early childhood mental health consultation services include, but not be limited to, all of the following:
 - a) Conducting of early care and education setting-based mental health assessments at least twice per program year;
 - b) Recordkeeping that adequately documents all consultation activities; and
 - c) Conducts at least one screening of each enrolled child for adverse childhood experiences, with the consent of parents or legal guardians.
- 6) Requires that, within the first 30 days of the start of a consultation service, the provider agency ensures that the consultant is trained in all of the following:
 - a) California law, professional ethics, and confidentiality for early childhood mental health consultation;
 - b) Child abuse and neglect mandated reporting laws;
 - c) Best practices and foundations of early childhood mental health consultation; and
 - d) All relevant laws and regulations regarding state and federal childcare programs.
- 7) Requires that consultants and supervisors participate in continuing professional development and education for at least 18 hours of training per program year in relevant topics.

CSPP and FCCHEN:

- 8) Repeals the existing prohibition against expelling or unenrolling a child from a CSPP because of a child's behavior.
- 9) Prohibits a CSPP or a family childcare home education network (FCCHEN) provider that serves children from 0 to 5 years of age from expelling or unenrolling a child because of a child's behavior, or persuading or encouraging a child's parents to voluntarily unenroll from the program due to a child's behavior, other than as specified below.
- 10) Requires that if a child exhibits persistent and serious behaviors, the program must:
 - a) Expeditiously pursue and document reasonable steps to maintain the child's safe participation in the program, including, but not limited to, consulting with the child's parents and teacher, and if available, engaging an early childhood mental health consultant;
 - b) If a child has an individualized family service plan (IFSP) or an individualized education program (IEP), the program must contact the agency responsible for the IFSP or IEP to seek consultation on serving the child; and
 - c) Consider completing a comprehensive screening to identify the needs of the child, referring the child's parents to community resources, and implementing behavior supports within the program.

- 11) Authorizes a program to unenroll a child only if the program has completed the steps in (10) above, within 180 days, and it is determined that the child's continued enrollment would present a serious safety threat to the child or other enrolled children; and requires that the program refer the parents to other potentially appropriate placements through relevant referral services; and to the greatest extent possible, support direct transition to a more appropriate placement.
- 12) Prohibits a CSPP or FCCHEN provider serving children from 0-5 years of age from suspending a child due to a child's behavior, or encouraging or persuading a child's parents to pick up a child due to a child's behavior before the program day ends, other than under specified conditions as noted below.
- 13) Requires that suspension is only used as a last resort in extraordinary circumstances when there is a serious safety threat that cannot be reduced or eliminated without removal. Requires a program to ensure the full participation of enrolled children in all program activities to the greatest extent possible.
- 14) Requires that, before a suspension is deemed necessary, the program collaborate with the child's parents and use appropriate community resources, if necessary, to determine that no other reasonable option is appropriate and provide written notice to the parents within 24 hours.
- 15) Requires that, if suspension is deemed necessary, the program help the child return to full participation in all program activities as quickly as possible while ensuring child safety by continuing to engage with the parents; continuing to use appropriate community resources; developing a written plan to document the actions and supports needed; providing referrals to appropriate community services; and if the child has an IFSP or IEP, contacting the agency responsible to seek consultation on serving the child.
- 16) Requires the CDE to include the limitations on expulsion and suspension as outlined above in each CSPP program provider's contract, and to issue guidance for programs within their jurisdiction on implementing these requirements by July 1, 2023.
- 17) Requires each program, upon enrollment of a child, to notify the child's parents in writing of the limitations on disenrollment, including suspension and expulsion, and to include resources to submit a complaint or appeal a decision made by the program to expel or suspend a child.
- 18) Requires each program to maintain records, and the CDE to collect from all providers annually, the following information:
 - a) The number of times the provider took the specified actions to address a child's persistent and serious behaviors during the program year, and the outcomes of each reported instance;
 - b) The number of times the steps to avoid suspension were taken, as well as the number of times suspension was imposed, and how long a child was excluded from the program;

- c) Requires that for the data collected in (a) and (b) above, the information collected include the child's age, sex, race and ethnicity, foster status, home language, disability, and whether the child has an IFSP or IEP.
- 19) Requires the CDE, beginning January 1, 2025, to annually report aggregate data on the incidence of suspensions, expulsions, and disenrollments from programs disaggregated by student demographics, as well as the number of complaints the CDE received from parents regarding suspension and expulsion. Requires the data to be made available at a statewide and countywide level at a disaggregated level, subject to all federal and state privacy protections.
- 20) Requires the CDE to create guidelines for offering additional support and requiring additional staff training for programs reporting exceptionally high number of suspensions and expulsions.
- 21) Requires the CDE and the Child Care Providers United (CCPU), if CCPU elects to participate, to establish a Joint Labor-Management Committee, in consultation with the DSS, to discuss suspension and expulsion practices among family childcare providers serving children in the CSPP, and make recommendations for potential changes related to prohibiting the expulsion or suspension of a child by a family childcare provider including access to sufficient resources or training for providers and parents to work with children. Specifies that in doing so, the Joint Labor-Management Committee must consider the provisions added to both Education Code and the Welfare and Institutions Code.
- 22) Requires the CDE and the CCPU to jointly determine the size and composition of the Joint Labor-Management Committee, and requires the Committee to, at a minimum, include representatives of the state and the CCPU, and authorizes the inclusion of additional experts or stakeholders as deemed necessary and mutually agreed upon. Authorizes the Committee to publish a report of its findings and recommendations.
- 23) Authorizes a childcare provider to appeal a citation or civil penalty issued by the DSS related to the behavior of a child or the actions of the staff related to the behavior of a child, and requires the DSS to withdraw all citations or penalties, if the provider is in the process of complying with the requirements to take specified actions prior to suspending or expelling a child.

General childcare and development programs:

- 24) Places the requirements for early mental health consultation made in the Education Code, as noted above, into the Welfare and Institutions Code (WIC) for programs serving infants and toddlers of 0 to 36 months in a general childcare and development program, or a child who is 0 to 5 years of age served in a family childcare home education network funded by a general childcare and development program.
- 25) Authorizes alternative payment programs and agencies administering CalWORKs Stage 1, 2, or 3 programs, serving children from 0 to 5 years of age, to utilize administrative and support service funds to provide early childhood mental health consultation services, provided that the service meets the requirements, as specified.

- 26) Prohibits a general childcare and development program serving children from 0 to 5 years of age from expelling or unenrolling a child because of a child's behavior, or persuading a child's parents to voluntarily unenroll from the program due to a child's behavior.
- 27) Requires that if a child exhibits persistent and serious behaviors, the program must expeditiously pursue and document reasonable steps to maintain the child's safe participation in the program, including consulting with the child's parents and teacher; engaging an early childhood mental health consultant, if available; if the child has an IFSP or IEP, consulting with the responsible agency; considering completing a comprehensive screening to identify the needs of the child; referring the child's parents to community resources; and implementing behavior supports within the program.
- 28) Authorizes the disenrollment of the child from the program only if the provider has expeditiously pursued and documented reasonable steps to maintain the child's safe participation in the program, and in consultation with the child's parents and the local agency responsible for implementing the IDEA, has determined that the child's continued enrollment would present a serious safety threat to the child or other enrolled children; and requires that the program refer the parents to other potentially appropriate placements through available referral agencies, and to support direct transition to a more appropriate placement to the greatest extent possible.
- 29) Requires a program to complete the process described in (24) and (25) above within 180 days.
- 30) Prohibits a general childcare and development program serving children from 0 to 5 years of age from suspending a child due to a child's behavior, or encouraging or persuading a child's parents to pick up a child due to a child's behavior before the program day ends, other than under specified conditions.
- 31) Requires that suspension be used only as a last resort in extraordinary circumstances when there is a serious safety threat that cannot be reduced or eliminated without removal, and to the greatest extent possible, to ensure the full participation of enrolled children in all program activities.
- 32) Requires that, prior to determining that a suspension is necessary, the program collaborate with the child's parents and use appropriate community resources, as needed, to determine that no other reasonable option is appropriate; and requires the program to provide written notice to the child's parents within 24 hours.
- 33) Requires that, if suspension is deemed necessary, the program to help the child return to full participation in all program activities as quickly as possible while ensuring child safety by: continuing to engage with the parents; continuing to use appropriate community resources; developing a written plan to document the actions and supports needed; providing referrals to appropriate community resources; and, if the child has an IFSP or an IEP, seeking consultation with the responsible agency.
- 34) Requires the DSS to include the limitations on expulsion and suspension in each program's contract for service within their jurisdiction, and to issue guidance on implementing these requirements by July 1, 2023.

- 35) Requires providers to notify parents in writing of the limitations on disenrollment, including suspension and expulsion, upon a child's enrollment in a program, and to include resources to submit a complaint or appeal a decision to expel or suspend a child.
- 36) Requires the DSS to maintain records and annually collect data from providers on the number of times processes were undertaken to avoid disenrollment of children, as well as the number of suspensions and expulsions, and how long a child was excluded from the program. Requires this data to be disaggregated by age, sex, race and ethnicity, foster status, home language, disability, and whether the child has an IFSP or IEP.
- 37) Requires the DSS, beginning January 1, 2025, to annually report aggregate data on the incidence of suspensions, expulsions, and disenrollments from programs under their jurisdiction, disaggregated by student demographics, as well as the number of complaints the DSS received from parents regarding suspension and expulsion. Requires the data to be made available at a statewide and countywide level at a disaggregated level, subject to all federal and state privacy protections.
- 38) Requires the DSS and the Child Care Providers United (CCPU), if CCPU elects to participate, to establish a Joint Labor-Management Committee, in consultation with the CDE, to discuss suspension and expulsion practices among family childcare providers serving children in the CSPP and make recommendations for potential changes related to prohibiting the expulsion or suspension of a child by a family childcare provider including access to sufficient resources or training for providers and parents to work with children. Specifies that in doing so, the Joint Labor-Management Committee must consider the provisions added to both the Education Code and the Welfare and Institutions Code.
- 39) Requires the DSS and the CCPU to jointly determine the size and composition of the Joint Labor-Management Committee, and requires the Committee to, at a minimum, include representatives of the state and the CCPU, and authorizes the inclusion of additional experts or stakeholders as deemed necessary and mutually agreed upon. Authorizes the Committee to publish a report of its findings and recommendations.
- 40) Defines "expulsion" as the permanent dismissal of a child from a specified childcare program in response to a child's behavior.
- 41) Defines "suspension" as any removal of a child from all or part of the program day, or the prevention of a child from attending the program for one or more days in response to the child's behavior.
- 42) Defines "persistent and serious behaviors" as repeated patterns of behavior that interfere with learning or engagement in prosocial interactions with peers and adults and that are not responsive to the use of developmentally appropriate guidance procedures; including physical aggression, property destruction, and self-injury.

EXISTING LAW:

- 1) Prohibits a contracting agency, as part of the CSPP, from expelling or unenrolling a child because of the child's behavior, except as specified. Requires that if a child exhibits persistent and serious challenging behaviors, the agency must expeditiously pursue and

document reasonable steps, including consulting with the child's parents and teacher, to maintain the child's safe participation in the program. Requires that if the child has an individualized family service plan (IFSP) or individualized education program (IEP), the childcare provider, with written parental consent, must contact the agency responsible for the IFSP or IEP to seek consultation on serving the child. Requires the childcare agency to complete the process identified within 180 days. (Education Code (EC) 8222)

- 2) Establishes the federal "Individuals with Disabilities Education Act" (IDEA) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. (20 U.S. Code 1400 et seq.)
- 3) Prohibits the expulsion of a child with an IEP or IFSP if the challenging behavior has a direct and substantial relationship to the child's disability or is the result of a failure to implement the IEP. Requires a child's IEP/IFSP team be reconvened to consider special education supports and services if a child is suspended for more than 10 days. (Section 300.530 (e) Title 34 Code of Federal Regulations).
- 4) Prohibits, in federal regulations, a Head Start program from expelling or disenrolling a child from Head Start based on the child's behavior and requires a program to prohibit or severely limit the use of suspension due to a child's behavior, as specified. (45 CFR 1302.17)
- 5) Transfers, effective July 1, 2021, the responsibility for specified childcare programs, responsibilities, services, and systems from the CDE and the SPI to the DSS, including Alternative Payment Programs (APPs); Migrant APPs; California Work Opportunity and Responsibility to Kids (CalWORKs) Stage 2 and Stage 3 childcare; General childcare and development programs; Migrant childcare and development programs; and Childcare and development services for children with severe disabilities. (Welfare and Institutions Code (WIC) 10203)
- 6) Requires the State Superintendent of Public Instruction (SPI) to administer all CSPPs offered through childcare centers and FCCHEs, 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 8207)
- 7) Establishes the "California Child Daycare Facilities Act" to provide a comprehensive, quality system for licensing child daycare facilities to ensure that working families have access to healthy and safe childcare providers and that childcare programs contribute positively to a child's emotional, cognitive, and educational development, and are able to respond to, and provide for, the unique characteristics and needs of children. (Health and Safety Code (HSC) 1596.70 et seq.)
- 8) Defines "child daycare facility" as a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a

24-hour basis. Child daycare facility includes daycare centers, employer-sponsored childcare centers, and family daycare homes. (HSC 1596.750)

- 9) Defines “early childhood mental health consultation service” as a service benefiting a child who is served in a California state preschool program, an infant or toddler who is 0 to 36 months of age and is served in a general childcare and development program, or a child who is 0 to 5 years of age and is served in a family childcare home education network setting that includes:
 - a) Support to respond effectively to all children, with a focus on young children with disabilities, challenging behaviors, and other special needs;
 - b) Assistance through individual site consultations, provision of resources, formulation of training plans, referrals, and other methods that address the unique needs of programs and providers;
 - c) Aid to providers in developing the skills and tools needed to be successful as they support the development and early learning of all children, including observing environments, facilitating the development of action plans, and supporting site implementation of those plans;
 - d) The development of strategies for addressing prevalent child mental health concerns, including internalizing problems, such as appearing withdrawn, and externalizing problems, such as exhibiting challenging behaviors; and,
 - e) If a child exhibits persistent and serious challenging behaviors, support with the pursuit and documentation of reasonable steps to maintain the child’s safe participation in the program. (EC 8243 and WIC 10281)
- 10) Provides that the early childhood mental health consultation service is supervised and provided by a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, a licensed child and adolescent psychiatrist, or others, as determined by the CDE. (EC 8243 and WIC 10281)
- 11) Establishes adjustment factors to reimbursement rates for childcare and development services, applied by multiplying the applicable adjustment factor by the provider agency’s reported child days of enrollment for the child to whom the adjustment factor applies, in order to reflect the additional expense of serving children of specific ages and with certain needs including infants and toddlers served in child day care centers or family child care homes, children between the ages of 0 and 21 with exceptional needs or severe disabilities, children between the ages of 0 and 14 at risk of neglect abuse or exploitation, and limited-English-speaking and non-English-speaking children between 2 years of age and kindergarten age. (EC 8244 and WIC 10281.5)
- 12) Establishes the adjustment factor for specified programs where mental health consultation services are provided at 1.05 of the applicable reimbursement rate. (EC 8244 and WIC 10281.5)

FISCAL EFFECT: Unknown

COMMENTS:

This bill prohibits suspensions and expulsions from childcare settings unless specified actions are taken to minimize a child’s exclusion from a childcare program, and establishes additional requirements for early childhood mental health consultations.

Need for the bill. According to the author, “National data indicates that children are expelled, suspended, and counseled out of early learning and childcare programs at much higher rates than in K-12 education. African American and Latino children, especially boys, are disproportionately impacted by this detrimental practice. This begins in preschool and persists throughout their educational journey. When children are excluded from early learning classrooms, they miss out on the opportunity to develop key social, emotional, and academic skills. As a former teacher myself, I believe we need to ensure all our children are given a fair opportunity to succeed in their earliest school years. This bill helps address structural inequities in our early childhood education system by not only prohibiting suspensions and expulsions, but also by providing needed support to staff.”

Significant mental health problems occur in young children. Children can exhibit characteristics of anxiety disorders, attention-deficit/hyperactivity disorder, depression, post-traumatic stress disorder, and neurodevelopmental disabilities, such as autism, at an early age. Research suggests that approximately 9 to 14% of children from birth to 5-years-old experience emotional or behavioral disorders.

Factors such as persistent poverty, recurrent abuse or chronic neglect, exposure to domestic violence, parental mental health issues or substance abuse, as well as poor child care conditions increase the risk of serious mental health problems among young children.

Left untreated, early mental health disorders can impact every aspect of a child’s development, including physical, cognitive, communication, sensory, emotional, social, and motor skills. These negative impacts can affect a child’s ability to succeed in school and in life and increase the risk of poor educational outcomes, ill health, and juvenile delinquency later in life. (Harvard University, 2013).

Adverse childhood experiences (ACEs) have broad impact. ACEs are defined as including 10 traumatic experiences that can occur before age 18, including physical and emotional abuse, neglect, substance abuse, caregiver mental illness and household violence. Even prior to the pandemic, research demonstrates that 25% of children in California have at least one ACE, 8% have 2 ACEs, and 7% have 3-8 ACEs (Child Trends, 2016). Some families were particularly vulnerable to the COVID-19 crisis, including those already struggling to make ends meet, hourly workers and those with unstable employment, families of color (who faced inequities in health outcomes and access to care before the pandemic), and families with young children or children with special health care needs. The pandemic's effects on young people are of particular concern, as adverse childhood experiences, especially in early childhood, can have negative, long-term impacts on health and well-being (Sacks, 2018). The more traumatic events a child experiences, the more likely the impact will be substantial and long lasting.

It is generally accepted that to reduce ACEs the medical community must partner with other sectors to address the root causes of childhood trauma by promoting, safe, stable, nurturing relationships through equity in access to important resources like high quality childcare, education, and healthcare for all children and caregivers.

Early intervention is critical in addressing early mental health concerns. Research finds that early prevention and treatment of mental health disorders is considered more beneficial and cost-effective than attempting to treat emotional difficulties and their effects on learning and health after they become more serious. During the infant and toddler years, there are opportunities to treat mental health problems before they manifest into more severe problems later in life. It is critical to treat young children's mental health issues within the context of their families, homes, and communities. The emotional well-being of young children is directly connected to the functioning of their families and caregivers.

In October of 2021, The Children's Partnership and the First 5 Center for Children's Policy issued a report, *Addressing infant and early childhood mental health needs: opportunities for community solutions*. The report noted:

In community-based programs, care and support are delivered in spaces children and their families frequent and allow families to play an active role in their delivery. Community-based services are distinct from clinical mental health services, such as the new dyadic care Medi-Cal benefit, which, in addition to community-based services, are an essential part of the mental health system for young children. Services at the community level might look like facilitated playgroups, parenting support classes or mental health consultation for early care and education providers, among others. These programs are uniquely positioned to help families overcome barriers to mental health care access, and they can connect families and educators with more intensive health, mental health, or early intervention services as needed. Community-based programs are also most likely to reach families from historically marginalized communities, including immigrant and low-income families of color.

Among the recommendations of this report was the need to expand early childhood education providers' access to Infant and Early Childhood Mental Health consultation, an evidence-based model, through state contracts with early childhood education providers and additional technical assistance.

Federal Head Start Programs must meet mental health performance standards. Head Start and Early Head Start programs are governed by federal law and regulations and, unlike state-subsidized programs, require providers to adhere to a number of program standards, including those addressing early childhood mental health. In order to support a program-wide culture that promotes children's mental health, social and emotional well-being, and overall health, program providers are required to:

- Provide supports for effective classroom management and learning environments, supportive teacher practices, and strategies for supporting children with challenging behaviors and other social, emotional and mental health concerns;
- Secure mental health consultation services on a schedule of sufficient and consistent frequency to ensure a mental health consultant is available to partner with staff and families in a timely and effective manner;

- Obtain parental consent for mental health consultation services at enrollment; and
- Build community partnerships to facilitate access to additional mental health resources and services as needed.

Infant and Early Childhood Mental Health Consultation. According to the research organization, Zero to Three:

Infant and Early Mental Health Consultation (ECMHC) is a multi-level preventative intervention to improve children's social, emotional, and behavioral health and development. A mental health professional partners with an early childhood professional or program staff to infuse activities and interactions that promote health social and emotional development, prevent the development of problem behaviors, and intervene to reduce the occurrence of challenging behaviors. Sometimes consultation is focused on a specific child, helping the adults support the child's development more effectively. Other times, consultation is focused on systemic issues such as improving the classroom environment to provide predictable schedules, creating smooth transitions between activities, and offering spaces and support for children and staff to calm down in times of stress.

Empirical evidence has found that ECMHC is effective in increasing children's social skills, reducing children's challenging behavior, preventing preschool suspensions and expulsions, improving child-adult relationships, and identifying child concerns early, so that children get the supports they need as soon as possible. In addition, the model has been found effective in reducing teacher stress, burnout, and turnover. Preschool teacher stress and burnout have been previously associated with increased risk of expelling and suspending young children (Gilliam 2006).

California's ECMHC was established with the passage of AB 2698 (Rubio) in 2018. These services are available, but not required, for use by contracted providers within CSPPs, general childcare and development programs, and FCCHEs. The services are currently authorized to be provided only by specified professionals, including a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, a licensed child and adolescent psychiatrist, or others as determined by CDE. However, CDE has not added other individuals to the list of qualified service providers to date. This bill would significantly expand the list of authorized providers, as well as requiring years of experience providing mental health supports to young children, participation in certain continuing education requirements, and specified training and practices.

ECMHC funding. Currently, contracted early learning and care providers may choose to use a portion of their contract to fund ECMHC through use of an adjustment factor, which is set at 1.05. This is applied to the provider's reimbursement rate by multiplying the applicable adjustment factor by the provider agency's reported child days of enrollment for the children to whom the adjustment factor applies, in order to reflect the additional expense of providing ECMHC.

Research highlights the negative impacts of early suspension and expulsion. While evidence of the disproportionate suspension and expulsion of school-age students of color has been recorded and analyzed for some time, more recently, similar concerning trends have been observed in preschool and early learning populations. Preschoolers are expelled at three times the rate of K-12 students and boys and children of color are disproportionately affected. The U.S.

Department of Education's Civil Rights Data Collection for 2017-18, published in June 2021 identifies the following examples of disproportionate exclusions in early childhood settings nationally:

- Black preschool students accounted for 18.2% of total preschool enrollment, but received 43.3% of one or more out-of-school suspensions and 38.2% of expulsions;
- Multiracial preschool students accounted for 4.1% of total enrollment, but received 6.5% of one or more out-of-school suspensions;
- Preschool students with special needs, served under IDEA, accounted for 22.7% of preschool enrollment, but accounted for 56.9% of preschool expulsions; and
- Black preschool boys represented 9.6% of total preschool enrollment, but received 34.2% of suspensions and 30.4% of expulsions.

Suspensions and expulsions can have significantly negative, lasting impacts for children. In 2015, the U.S. Departments of Health and Human Services and Education released a Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings, which states:

Suspension and expulsion can influence a number of adverse outcomes across development, health, and education. Young students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who are not. While much of this research has focused on expulsion and suspension in elementary, middle, and high school settings, there is evidence that expulsion or suspension early in a child's education is associated with expulsion or suspension in later school grades.

The policy statement goes on to acknowledge that, suspensions and expulsions hold the potential to negatively impact social-emotional and behavioral development, but they also pull children out of the very settings that could benefit them the most: early learning environments. Suspended and expelled children then miss out on the benefits they could gain in those environments, but education professionals lose access to those children and thus, the opportunity to identify the underlying sources of their behavior and the ability to help those children address those underlying issues. Additionally, suspension and expulsion can add to family stresses and burdens. The policy statement contends:

In many cases, families of children who are expelled do not receive assistance in identifying an alternative placement, leaving the burden of finding another program entirely to the family. There may be challenges accessing another program, particularly an affordable high-quality program. Even in cases where assistance is offered, often there is a lapse in service which leaves families, especially working families, in difficult situations.

This bill would enforce strict limits on exclusionary practices across all settings and require specific protocols for contracted providers to use prior to suspending or expelling a child, and to provide assistance to the family in finding an alternate placement if a child is unenrolled from the program.

The Master Plan for Early Learning and Care addresses the need for equity. The 2019-20 Budget included \$5 million for a "long-term strategic plan to provide a roadmap to

comprehensive, quality, and affordable child care and preschool for children from birth through age twelve, with particular focus on early December 2020. The Master Plan, building on the work of the Assembly Blue Ribbon Commission, and other efforts, emphasizes the need for the equitable treatment of all children and the need to eliminate bias through practices and training. The report notes that while 75% of California's young children are nonwhite, 60% speak a home language other than English, and 13% receive special education supports, caregivers often lack the support they need to provide these children with culturally relevant experiences in both English and the child's home language.

The Master Plan further notes, "It is vital that our early learning and care environments proactively include and serve the diverse children and families of this state while not excluding any children, through inequitable disciplinary practices that punish children experiencing poverty, especially Black boys, at disproportionate rates. While California has made significant strides by adopting legislation prohibiting publicly supported preschool programs from expelling or disenrolling a child due to behavior, there is a need for greater accountability, as well as training for the workforce in bias prevention, mental health, and positive behavior supports."

California currently prohibits expulsions from CSPP. As of 2018, CSPP programs are prohibited from expelling or unenrolling a child because of the child's behavior, other than under specific circumstances. Operators of CSPP programs must pursue and document specific steps taken in response to a child's persistent and serious challenging behaviors, including consulting with the child's parents, teacher, and if the child has an IEP or IFSP, with the appropriate agency. This bill deletes this section and replaces it with a more comprehensive approach to addressing these issues.

Children with exceptional needs are protected from expulsion through federal law, which states that a child with an IEP or IFSP cannot be expelled if the challenging behavior has a direct and substantial relationship to the child's disability or is the result of a failure to implement the child's IEP or IFSP. In addition, a child cannot be suspended for more than 10 days without reconvening the IEP/IFSP team to consider special education supports and services.

Recommended Committee amendments. Committee staff recommends that the bill be amended to correct a technical error which references state preschool programs in the Welfare and Institutions Code relating to the Joint-Labor Management Committee with CCPU.

Arguments in support. Kidango, a sponsor of the bill states, "It is counterproductive for our state to allow early learning and care settings to exclude children at a time when they are most in need of support, care, and guidance. Expulsions in early childhood education occur at a higher rate than in K-12. Too often, preschoolers and toddlers of color are pushed out of early learning settings, negatively impacting their lives. According to a report from the U.S. Department of Education Office for Civil Rights (2014), African American children represent 18% of preschool enrollment, but 42% of the preschool children suspended once, and 48% of the preschool children suspended more than once. We know that inequitable access to, and exclusion from, developmentally appropriate, culturally and linguistically relevant, trauma-informed, anti-racist and inclusive environments for children in early learning and care programs significantly contributes to discriminatory and racist practices, the school readiness gap, the academic achievement gap and the graduation gap, and contributes to the school to prison pipeline. California cannot continue to allow harsh and racist disciplinary measures to continue."

Related legislation. AB 1361 (Rubio) of the 2021-22 Session would have required early learning and care programs to use suspension or expulsion only as a last resort in responding to a child's behavior, required specific actions to be taken prior to disenrolling or suspending a child due to a behavior issue, and provided additional funding and requirements for early childhood mental health consultations. This bill was held in the Assembly Appropriations Committee.

AB 568 (R. Rivas) of the 2021-22 Session would have required the DSS to develop and maintain an Early Learning and Care Dashboard to provide data on suspensions and expulsions in California's early learning and care programs, and established a grant program to offer anti-bias training to childcare providers, contingent upon funding being available for this purpose. This bill was held in the Assembly Appropriations Committee.

AB 2698 (Rubio), Chapter 946, Statutes of 2018, defines early childhood mental health consultation service; declares Legislative intent encouraging the provision of such services in CSPP, general child care and development programs, and family childcare home education networks; and requires under certain circumstances the application of a reimbursement rate adjustment factor for children served in programs where these services are provided.

AB 752 (Rubio), Chapter 708, Statutes of 2017, prohibits a contracting agency from expelling or disenrolling a child from a CSPP due to a child's behavior unless the contracting agency has expeditiously pursued and documented reasonable steps to maintain the child's safe participation in the program. Further, the bill requires the DSS to consider, in determining whether to issue a citation to or impose a civil penalty on a child daycare facility that contracts with the CDE, whether the child daycare facility is in the process of complying with the outlined procedure.

REGISTERED SUPPORT / OPPOSITION:

Support

Kidango (Co-sponsor)

State Superintendent of Public Instruction Tony Thurmond (Co-sponsor)

Association of California School Administrators

Bay Area Council

Black Men for Educational Equity

California State Parent Teacher Association

Crystal Stairs, INC.

Fight Crime: Invest in Kids

First 5 Association of California

First 5 California

Inland Empire Community Foundation

Kids Included Together

National Health Law Program

Peach - Partnerships for Education, Articulation and Coordination Through Higher Education

San Diego Unified School District

Santa Clara County Office of Education

Silicon Valley Community Foundation

Tandem, Partners in Early Learning

The Education Trust - West

United Ways of California (UWCA)

Opposition

None on file

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