

Date of Hearing: May 7, 2020

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 2581 (Reyes) – As Introduced February 20, 2020

SUBJECT: Department of Early Childhood Development

SUMMARY: Establishes the Department of Early Child Development (DECD), and consolidates various early learning and care programs within the new department. Specifically, **this bill:**

- 1) Makes legislative findings and declarations related to California’s early childcare system including:
 - a) Improving service delivery for young children, families, and providers, while reducing administrative duplication, creating greater efficiencies, and expanding access to children and families;
 - b) Ensuring streamlined monitoring processes and data system operations among the DECD, the California Department of Education (CDE), and all other relevant departments with the California Health and Human Services Agency (CHHS);
 - c) Strengthening early childhood systems integration in order to improve access to quality early learning and care programs and services for California’s young children and families through the DECD; and,
 - d) Ensuring that, during the transition and consolidation of programs to the DECD, there is no disruption of services or contracts to children, families, and providers by allowing for a memoranda of understanding (MOU) or other form of interagency agreements among the CHHS, CDE, the Department of Social Services (CDSS), and any other agency necessary to support continuous operations, provide child care services, enhance the system of early learning and care, increase program coordination, and improve service delivery.
- 2) Establishes, within CHHS, the DECD to consolidate leadership on programs and issues relating to the administration of early learning and care.
- 3) Requires DECD to be under the control of an executive officer known as the Director of Early Child Development.
- 4) Requires DECD to centralize and build a coherent and whole person early learning and care system to improve service delivery for children, families, and providers by maximizing federal, state, and local resources.
- 5) Requires DECD to ensure coordination of services, as outlined by the Assembly Blue Ribbon Commission (BRC) Report on Early Childhood Education Final Report, that does all of the following:
 - a) Results in increased access to early learning and care services with prioritization for low-income children and families;

- b) Prioritizes the coordination of services that best result in increased access to health assessments and follow-up diagnostic treatment services for low-income children and families; and,
 - c) Is family centered and has community- and evidence-based systems of coordinated care for children.
- 6) Requires the transfer of duties, powers, functions, jurisdiction, and responsibilities from the following programs and entities:
- a) The Master Plan on Early Learning and Care;
 - b) The Early Childhood Policy Council;
 - c) Childcare for recipients of the California Work Opportunity and Responsibility to Kids (CalWORKs) program;
 - d) Emergency Child Care Bridge for Foster Children;
 - e) Migrant alternative payment programs;
 - f) General childcare and development;
 - g) Migrant childcare and development programs;
 - h) California State Program for Severely Handicapped Program;
 - i) California Head Start State Collaboration Office;
 - j) Early Head Start-Child Care Partnership Grant from the United States Department of Health and Human Services;
 - k) Child care and development fund (CCDF) quality improvement projects; and,
 - l) Integrated Early Childhood Data System.
- 7) Requires DECD to establish an interagency workgroup that includes Director of Early Childhood Development, the Deputy Superintendent of Public Instruction (Superintendent), and representatives from the California Department of Public Health (CDPH), the Department of Health Care Services (DHCS), Department of Developmental Services, and CDSS.
- 8) Requires the interagency workgroup to do all of the following:
- a) Establish a memorandum of understanding between the represented departments that outlines the joint authority for the promulgation of regulations for the coordination of services;
 - b) Identify administrative needs for implementation by each respective entity to improve the overall coordination of services provided to children and families in early learning and care programs;

- c) Coordinate with the Early Childhood Policy Council and with the executive director of the Early Childhood Policy Council;
- d) Annually submit a report on its work to the Governor, the Superintendent, and relevant budget and policy committees of the Legislature; and,
- e) Build on the work of the 2019 final report of the Assembly Blue Ribbon Commission on Early Childhood Education Final Report, the strategic plan for the Preschool Development Grant, and the state's master plan for early learning and care.

EXISTING LAW:

- 1) Establishes the Child Care and Development Services Act to provide childcare and development services as part of a coordinated, comprehensive, and cost-effective system serving children (from birth to 13 years old) and their parents, and including a full range of supervision, health, and support services through full- and part-time programs. (Education Code Section [EDC] 8200 et seq.)
- 2) 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. (EDC 8202)
- 3) Requires the Community Care Licensing Division of the CDSS to regulate child care licensees. Specifies that all child care regulatory functions of the licensing division, including the adoption and interpretation of regulations, staff training, monitoring and enforcement functions, administrative support functions, and child care advocacy responsibilities is to be carried out by the child care licensing branch. (Health and Safety Code Section [HSC] 1596.816)
- 4) Establishes the federal CCDF to, among other things, allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that State. (45 Code of Federal Regulations (CFR) Section 98.1)
- 5) Designates CDE as the state agency responsible for the promotion, development, and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties. Requires CDE to administer the federal CCDF. (EDC 8206)
- 6) Requires the lead state agency in administering the CCDF funds to:
 - a) Maximize parental choice of safe, healthy and nurturing child care settings through the use of certificates, through grants and contracts, and by providing parents with information about child care programs.
 - b) Include in their programs a broad range of child care providers, including center-based care, family child care, in-home care, care provided by relatives, and sectarian child care providers.

- c) Improve the quality and supply of child care and before- and after-school care services that meet applicable requirements and promote healthy child development and learning and family economic stability.
 - d) Coordinate planning and delivery of services at all levels, including Federal, State, Tribal, and local.
 - e) Design flexible programs that provide for the changing needs of recipient families and engage families in their children's development and learning.
 - f) Administer the CCDF responsibly to ensure that statutory requirements are met and that adequate information regarding the use of public funds is provided.
 - g) Design programs that provide uninterrupted service to families and providers, to the extent allowed under the statute, to support parental education, training, and employment and continuity of care that minimizes disruptions to children's learning and development.
 - h) Provide a progression of training and professional development opportunities for caregivers, teachers, and directors to increase their effectiveness in supporting children's development and learning and strengthen and retain (including through financial incentives and compensation improvements) the child care workforce. (45 CFR Sec.98.1)
- 7) Requires the Superintendent 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, as specified. (EDC 8240 and 8241)
- 8) Authorizes the operation of Alternative Payment Programs (APPs) and provision of alternative payments and support services to parents and child care providers by local government agencies or non-profit organizations that contract with CDE. (EDC 8220)
- 9) Establishes three stages of CalWORKs child care services, and requires the county welfare department to manage Stage One, to begin upon entry of a parent into the CalWORKs program, and during which a family shall receive a child care subsidy for any legal care chosen by the parent. Stipulates that the second stage of child care begins when the county determines that the recipient's work or approved work activity is stable or when a recipient is transitioning off of aid and child care is available through a local Stage Two program, and states that Stage Three CalWORKs child care begins when a funded space is available. Further provides that, as families' childcare needs are met by county welfare departments and later by other local childcare and development contractors, it is the intent of the Legislature that families experience no break in their childcare services due to a transition between the three stages of childcare services. Establishes requirements related to the three stages of CalWORKs child care, as specified. (EDC 8350 *et seq.*)
- 10) Requires the Superintendent to administer all migrant child care and development programs and to support and encourage the state-level coordination of all agencies that offer services to migrant children and their families. (EDC 8230)

- 11) Requires the Superintendent to ensure that eligible children with exceptional needs are given equal access to all child care and development programs. Further, to provide children with exceptional needs with additional access to child care and development programs, requires the Superintendent to establish alternate appropriate placements, such as self-contained programs and innovative programs using the least restrictive environment. (EDC 8250)
- 12) Establishes the Emergency Child Care Bridge Program for Foster Children which authorizes counties to provide a time-limited payment or voucher for child care following the child's placement, or for a child whose parent is in foster care, and by providing the family with a child care navigator to assist the family in accessing long-term subsidized child care. (Welfare and Institutions Code [WIC] 11461.6)
- 13) Requires the Secretary of CHHS, in concurrence with the executive director of the State Board of Education, and in consultation with the Superintendent, to prepare a report, or series of reports, on or before October 1, 2020, to be used to develop a Master Plan for Early Learning and Care to ensure comprehensive, quality, and affordable childcare and universal preschool for children from birth to school age. (EDC 8207)
- 14) Establishes an Early Childhood Policy Council to advise the Governor, the Legislature, and the Superintendent on statewide early learning and care policy, including the planning for, and the implementation and evaluation of, the state's Master Plan for Early Learning and Care and the 2019 California Assembly Blue Ribbon Commission on Early Childhood Education Final Report. (EDC 8286)

FISCAL EFFECT: Unknown

COMMENTS:

Governance of early childhood education (ECE) programs in California. The health, well-being, and education of young children are coordinated across multiple state agencies in California.

California Department of Education: CDE is the lead agency for purposes of administering the federal CCDF grant program, which accounted for \$857 million in 2018-19. The total child care and preschool budget in 2018-19 was \$3.81 billion (excluding Transitional Kindergarten), the bulk of which is administered through CDE, including the following programs:

- CalWORKs child care Stages 2 & 3
- General Child Care
- Alternative Payment Program (voucher-based)
- California State Preschool Programs
- Other child care support programs

California Department of Social Services: CDSS is the lead agency for licensing and inspecting child care facilities. CDSS also administers the CalWORKs Stage 1 child care program, Foster Care Bridge Program, and other support programs.

California Department of Health Care Services: Children's Medical Services (CMS) Branch within DHCS provides a comprehensive system of health care for children through preventive screening, diagnostic, treatment, rehabilitation, and follow-up services. The CMS Branch carries out this mission through a variety of programs meeting specific health care needs of targeted populations.

California Department of Public Health: CDPH administers the Women, Infants, & Children Program (WIC), which assists families by providing nutrition education, breastfeeding support, vouchers for healthy foods, and referrals to healthcare and other community services. The Immunization Branch of CDPH provides leadership and support to public and private sector efforts to protect the population against vaccine-preventable diseases, including child care centers.

Assembly Blue Ribbon Commission on Early Childhood Education. The BRC on Early Childhood Education (ECE) was established with the intent to “plan an early learning system that works for/meets the needs of children, families, and providers.” The BRC, consisting of members appointed from the Assembly and the Community, began its work in early 2017, holding quarterly hearings and establishing subcommittees on workforce retention and development, expanded access to early learning programs, financing and the economic impact of ECE, and engaging and meeting the needs of families. The BRC was dedicated to the development of strategic solutions to improve outcomes for young learners in California. Among their guiding principles, the BRC notes “effective partnerships are key to successful outcomes. In April 2019, the Final Report for the BRC was released including several recommendations; one such recommendation, under *Governance and Administration*, was to “Establish an augmented Division or Office for Early Childhood Education in CDE with sufficient resources and staff to implement recommendations.”

Budget Proposals: The 2019–20 budget included \$5 million in funding to help the state start working on a Master Plan for Early Learning and Care that aims to establish a path to universal pre-K for four-year-olds and expanded paid family leave, among other goals. Findings and recommendations from the Master Plan are scheduled to be submitted by October 1, 2020. Governor Newsom created the Early Childhood Action Research Team to develop a Master Plan for Early Learning and Care, which is tasked with developing a comprehensive roadmap for California to achieve the Governor’s goal of providing universal preschool and action steps to increase access to affordable, high-quality child care that embraces the strengths and meets the needs of parents and young children.

The Governor’s 2020-21 proposed budget included a proposal to establish the Department of Early Childhood Development under CHHS. The budget includes \$6.8 million non-Proposition 98 General Fund monies for 26 new positions in 2020-21 to support first-year transition efforts. In February 2020, the Legislative Analyst’s Office (LAO) released *2020-21 Budget: Early Education Analysis*. The report notes that the proposed budget trailer legislation to implement the reorganization indicates that one potential benefit of greater collaboration would be improved eligibility processes across various health and human services programs. It also notes that data from child care and development programs would be folded into the agency’s overall data

integration efforts and that the new department would support a comprehensive strategy related to prevention and early intervention.

Need for this bill: According to the author, “The first five years of life are the most important for a child’s brain development. Providing quality early development programs during these crucial years enhances a child’s opportunity to succeed in the K-12 system, and ultimately, in higher education and the workforce. Access to high quality developmental programs dramatically improves the chances of socio-economic mobility for low-income households both in the short- and long-term. However, currently, our early childhood development programs are governed by a bifurcated system amongst multiple agencies and departments. This hurts not only the providers who are working with the departments, but also the children and families they serve, due to inefficiencies in governance. [This bill] establishes the California Department of Early Childhood Development (DECD) as funded by the Governor’s budget proposal to create a singular streamlined governance system for early childhood development programs. With a better system of governance, these programs can increase their access to families in need, better support providers, and assist with the development of more quality programming.”

Double-Referral: This bill was originally double-referred with the Assembly Education Committee; however, due to the Legislature’s unanticipated recess in response to the COVID-19 pandemic and the truncated timeframe in which committees may hear bills, this bill has been single-referred to the Human Services Committee. Below is a statement provided by the Assembly Education Committee in response to the provisions of this bill:

Proposal could increase administrative workload and costs. The Assembly Education Committee concurs with the importance of the stated purpose of the new Department of Early Childhood Development, to “centralize and build a coherent and whole person early learning and care system to improve service delivery for children, families, and providers by maximizing federal, state, and local resources.” However, we fail to see how the proposal outlined in AB 2581 accomplishes these laudable goals.

The prime responsibilities for California’s early care and education system currently resides in two departments, CDE and CDSS. Under the proposal, as outlined, CDSS would retain responsibility for all issues relating to the licensing of childcare providers, and CDE would retain responsibility for the California State Preschool Program. Therefore, instead of two departments, most providers would be required to deal with three state departments. Rather than streamlining, this would appear to be increasing bureaucracy and duplicating overhead expenditures.

The LAO’s report, *The 2020-21 Budget: Early Education Analysis*, in response to the proposal in the Governor’s January budget, notes, “We find that the state’s current structure for administering child care programs is more cost-effective than the new structure proposed by the Governor. Currently, the state is able to benefit from economies of scale by using systems within larger departments to administer child care programs. For example, CDE is able to use its legal and human resources teams for employees that work on child care and other K-12 education issues. Under the Governor’s proposal, the new DECD would require additional staff and other resources to perform these functions. In fact, all of the additional funding requested for the new department in 2020-21 is associated with this increased overhead—meaning not for increased or improved services to children and families.” Given the current dire fiscal situation facing the state, it is unclear why a significant expenditure of state funds for this purpose is warranted, particularly when it fails to provide any critically needed additional childcare direct services.

Fragmentation of the early childhood system. The LAO report also suggests the potential for greater fragmentation in the childcare system, rather than less, “the proposal could actually create new fragmentations between General Child Care and State Preschool. Currently, CDE’s administration for these programs is very similar. The programs use the same contract processes, have similar program standards, and are monitored by CDE in the same manner. At the local level, providers commonly have both a State Preschool and a General Child Care contract. In 2018-19, virtually all General Child Care providers also had State Preschool contracts. If the programs are offered on the same site, children will regularly move seamlessly between General Child Care as an infant and toddler to State Preschool. Providers that have both contracts can also transfer funds between programs to address unanticipated changes in enrollment. For example, a provider could shift some General Child Care funding to State Preschool if they had unexpectedly high demand from four-year olds. This flexibility allows providers to more effectively meet the enrollment needs of their communities. It is unclear if the programs would continue to have these benefits if they were administered by different departments as proposed by the Governor.”

Limited capacity due to COVID-19 crisis. Finally, the current COVID-19 crisis has had a significant impact on California’s early learning and care system, at both the local and state level. CDE and CDSS are facing major challenges in responding to the needs of California’s children, families, as well as educational and social services programs. These efforts will continue through the ongoing crisis, and beyond as there will be a need to deal with recovery from the multitude of impacts of the crisis on childcare, education, and other critical programs and services. This proposal would require significant effort by staff of both agencies, beginning January 1, 2021, when the bill would take effect, to form a workgroup to undertake all of the administrative steps necessary to form the new DECD, among other duties. We question whether the two agencies have the capacity to undertake this significant workload given all they are coping with at this time, and whether this is a well-advised diversion of their energies.

Staff Comments: The ECE landscape in California is complex and multifaceted, involving a number of state and local agencies and entities. All child care programs must meet licensing requirements established in Title 22 of the California Code of Regulations and overseen by CDSS, while subsidized child care centers must also meet requirements established in Title 5 of the California Code of Regulations and overseen by CDE. Stage 1 of CalWORKs child care is administered by CDSS, while all other subsidized child care programs (including Stages 2 and 3 of CalWORKs) are administered by CDE. Subsidized child care programs available to families range widely from vouchers used to access care from license-exempt family, friends, and neighbors, or from licensed family child care homes and child care centers, to contracted child care centers, to state preschool. There are also specialized programs for migrant child care and care for children with severe disabilities.

All of these ECE programs are situated within an even broader and more complicated context entailing the variety of health and social services that children and their families often rely on or could benefit from if properly connected. This bill would streamline many components of the ECE system that are currently fragmented across departments by creating a single department to coordinate, provide leadership for, and support the breadth of traditional ECE and ECE-related programs serving and available to children and their families. Defragmenting the current ECE system and housing the associated programs within DECD aims to improve access to families in need.

While the Governor has proposed the establishment of a DECD and associated funding for the department to be included in the 2020-21 Budget, this bill differs in a number of ways from the Governor's proposal. For instance, this bill establishes an interagency workgroup amongst relevant State entities to, among other things, identify the administrative needs for implementation of the department. Additionally, acknowledging that the Master Plan for Early Learning and Care is scheduled to be released by October 2020, this bill requires the interagency workgroup to build on the work developed by the Master Plan. *Should this bill move forward, the author may wish to consider how best to balance the concerns discussed by the Assembly Human Services and Education Committees with the overall goal of creating a centralized department for ECE programs in order to facilitate greater access to childcare among California's families.*

RELATED AND PRIOR LEGISLATION:

AB 6 (Reyes) of 2019 creates the "Early Childhood Education Branch" within the California Department of Education, and tasks it with responsibilities related to the coordinated provision of high-quality early childhood education and related services. AB 6 is on the inactive file on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

Early Edge California (Sponsor)
Kidango (Sponsor)
The Children's Partnership

Opposition

California Right to Life Committee

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