

Date of Hearing: March 12, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 283 (Chu) – As Introduced January 28, 2019

SUBJECT: CalWORKs: immunizations: truancy

SUMMARY: Deletes California Work Opportunity and Responsibility to Kids (CalWORKs) school attendance and immunization requirements from current law. Specifically, **this bill:**

- 1) States a number of Legislative findings and declarations related to the importance of access to public health and educational interventions, the barriers families living in deep poverty can face in facilitating their children's ability to benefit from public health interventions, and the lack of evidence indicating that denial of cash assistance for basic needs increases receipt of public health or educational services, as specified.
- 2) Declares Legislative intent to improve public health and the health and educational outcomes of young children living in homes that receive CalWORKs assistance.
- 3) Removes the CalWORKs "truancy penalty" by deleting provisions of current law that, as specified:
 - a) State that all children in a CalWORKs assistance unit for whom school attendance is compulsory, with certain exceptions, shall be required to attend school, and further, state that a child is to be presumed to be attending school unless they have been deemed a chronic truant, defined as being absent from school without a valid excuse for 10% or more of the school days in one school year.
 - b) Prohibit the needs of a child in a CalWORKs assistance unit who is 16 years old or older from being considered in calculating the family's CalWORKs grant, thereby reducing that family's cash grant, for any month in which the county is informed that the child was deemed a chronic truant unless certain conditions exist, including, among others: the county being provided with evidence that the child has been attending school; good cause exists for school nonparticipation; or any member of the household is eligible for CalWORKs family stabilization services.
 - c) Stipulate that a child whose needs have not been considered in calculating their family's CalWORKs cash grant must remain eligible for services that may lead to attendance in school.
 - d) State that a family, if it is determined by the county that a child in the CalWORKs assistance unit is not attending school, may be informed about how to enroll the child in a continuation school and may be screened to determine eligibility for family stabilization services.
 - e) Require CalWORKs applicants and recipients to be informed of the attendance requirement and require the attendance requirement to be included in a recipient's welfare-to-work plan.

- f) Require a CalWORKs recipient to cooperate in providing documentation of school attendance to the county when the county determines this to be appropriate, unless good cause exists related to the recipient's inability to secure such documentation.
- 4) Removes the CalWORKs immunization penalty by deleting provisions of current law that, as specified:
- a) Require all CalWORKs applicants and recipients, within 30 to 45 days depending on the circumstances, with an additional 30 days when good cause is determined to exist, to provide documentation that all children in the assistance unit who are not required to be enrolled in school have received all age-appropriate immunizations unless: it has been medically determined that an immunization for a child is not appropriate, or the applicant or recipient has filed an affidavit with the county welfare department attesting that the immunizations are contrary to their beliefs.
 - b) Prohibit the needs of all parents or caretaker relatives in an assistance unit from being considered in determining the assistance unit's CalWORKs grant, thereby reducing the family's cash grant, until the required immunization documentation is provided and further, require the California Department of Social Services (CDSS) to track and maintain information concerning the number of such penalties applied.
 - c) Require all CalWORKs applicants and recipients, at the time of application for or redetermination of eligibility, to be given notice regarding the immunization requirement, to contain certain immunization schedules, a description of how to obtain immunizations through specified low- or no-cost providers, and a statement regarding the availability of a personal belief exemption to the immunization requirement.
- 5) Requires CDSS to implement the provisions of this bill through an all-county letter or similar instruction, as specified, by July 1, 2020.
- 6) Stipulates that no continuous appropriation, as specified, shall be made for purposes of implementing the provisions of this bill.

EXISTING LAW:

- 1) Establishes in federal law the Temporary Assistance for Needy Families (TANF) program, which provides block grants to states to develop and implement their own state welfare-to-work programs designed to provide cash assistance and other supports and services to low-income families. (42 United States Code Section 601 *et seq.*)
- 2) Establishes the state's TANF program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program. CalWORKs provides cash assistance and other supports and services to low-income families and is administered by the counties. (Welfare and Institutions Code Section [WIC] 11200 *et seq.*)
- 3) Establishes income, asset, and real property limits used to determine eligibility for the CalWORKs program, and CalWORKs grant amounts, based on family size and county of residence. (WIC 11150 to 11160, 11450 *et seq.*)

- 4) Requires any CalWORKs recipient who is required to participate in welfare-to-work activities to enter into a written welfare-to-work plan with the county welfare department, requires the welfare-to-work plan to include the activities and services which will move the recipient into employment, and establishes additional requirements related to the plan, as specified. (WIC 11325.21)
- 5) Deems a CalWORKs recipient eligible to participate in family stabilization if it is determined that their family is experiencing a situation or crisis, such as homelessness or domestic violence, that is destabilizing the family and would interfere with participation in welfare-to-work activities and services, as specified. Further, states Legislative intent that family stabilization be voluntary, requires family stabilization to include intensive case management and services designed to support the family in overcoming the situation or crisis, and establishes other requirements related to family stabilization. (WIC 11325.24)
- 6) Requires all children in a CalWORKs assistance unit for whom school attendance is compulsory to attend school, with specified exceptions. States that a child shall be presumed to be attending school unless they have been deemed a chronic truant, as specified, and prohibits, unless specified conditions exist, the consideration of the needs of a child in an assistance unit who is 16 years old or older from being considered in the calculation of the family's CalWORKs cash grant in any month in which the county is informed that the child did not attend school. (WIC 11253.5)
- 7) Deems a student subject to compulsory education a "chronic truant" if they are absent from school without a valid excuse for 10% or more of the school days in one school year, as specified. (Education Code Section 48263.6)
- 8) Provides that a parent or guardian of a pupil six years of age or older and in kindergarten or any of grades 1 through 8, whose child is a chronic truant, and who has failed to reasonably supervise and encourage the pupil's school attendance, is guilty of a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment. (Penal Code Section 270.1)
- 9) Requires CalWORKs applicants and recipients to provide documentation showing that all children in the assistance unit who are not required to be enrolled in school have received all age appropriate immunizations within 30 to 45 days, as specified. Provides exemptions in cases where it has been determined that immunizations are not medically appropriate, or when an affidavit attesting that immunizations are contrary to the applicant's or recipient's beliefs has been filed with the county welfare department. (WIC 11265.8)
- 10) Prohibits an aid payment for any parents or caretaker relatives in the assistance unit if required documentation of immunization is not provided within the specified time period. (WIC 11265.8)
- 11) Directs the Department of Public Health, in consultation with the Department of Education, to adopt and enforce regulations to carry out the stated legislative intent to fully immunize appropriate age groups against certain childhood diseases, including diphtheria, measles, mumps, and others, as specified. Allows for certain medical exemptions to immunization requirements, provided documentation is supplied, as specified. (Health and Safety Code Section 120325 *et seq.*)

FISCAL EFFECT: Unknown

COMMENTS:

CalWORKs: CalWORKs is the state's TANF program, providing eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. CalWORKs is administered at the county level; it is funded largely through the federal TANF block grant and state maintenance-of-effort contributions. Families participating in CalWORKs have access to a range of services that can include child care and services aimed at addressing mental health needs, substance use disorders, experiences of domestic violence, and learning disabilities, among other issues. Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a welfare-to-work plan. CalWORKs-approved welfare-to-work activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance abuse, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment.

A number of changes to the CalWORKs program were adopted with the passage of SB 1041 (Senate Committee on Budget and Fiscal Review), Chapter 47, Statutes of 2012. These changes included the establishment of the 24-month time clock. Unless exempted per CalWORKs rules, an adult recipient is expected to participate in welfare-to-work activities during the up to 48 months for which they may receive assistance. For 24 of those 48 months, welfare-to-work participation requirements can include a broad range of activities, such as employment, training, education, and mental health, domestic violence, and substance abuse services. Once this 24-month time clock "runs out," CalWORKs welfare-to-work participants must meet the more stringent federal TANF requirements in order to maintain their eligibility for aid. If a CalWORKs recipient does not meet the requirements of their welfare-to-work plan and does not have a permissible exemption or exception to those requirements, they are subject to sanction; sanction results in an individual's portion of the family's grant being subtracted from the total grant amount provided to the family to meet basic needs.

Additional changes to CalWORKs were adopted by AB 74 (Assembly Committee on Budget), Chapter 21, Statutes of 2013. Among these changes was the establishment of a family stabilization component of the CalWORKs program. Family stabilization offers intensive case management services to families who are experiencing an identified situation or crisis such as homelessness or domestic violence. Services received through the family stabilization program can be received prior to or alongside participation in welfare-to-work activities, and are intended to help recipients transition to welfare-to-work activities that will contribute to their success in the CalWORKs program. Counties have flexibility to determine individual program components and what family stabilization services they will provide in order to best meet the needs of that county's recipients; each participating county submits family stabilization plan to CDSS outlining their family stabilization program. A point-in-time count from June 2017 indicated that, across California: 3,901 family stabilization cases were open; 5,123 individuals received domestic violence services, mental health services, substance use services, and/or other services; and 1,058 cases received support and/or services related to homelessness.

The current maximum CalWORKs grant for a family of three living in a high-cost county, if the family has no other income, is \$714 per month. On April 1st of this year, maximum grants will increase by 10% pursuant to changes adopted in the 2018 Human Services Trailer Bill, AB 1811 (Assembly Committee on Budget), Chapter 35, Statutes of 2018. This 10% increase will raise the maximum CalWORKs grant for a family of three living in a high-cost county to \$785 per month. However, many families earn some income and do not qualify for the maximum grant amount. For Fiscal Year (FY) 2018-19, the average monthly CalWORKs cash grant is estimated to be \$568 per household. In FY 2017-18, the average monthly CalWORKs caseload was 423,121 households.

TANF “individual responsibility plans”: The federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193) adopted the Temporary Assistance for Needy Families (TANF) program. TANF provides block grants (to be supplemented by state maintenance-of-effort funds) to states to design their own welfare programs that meet federal requirements, including the establishment of work requirements and imposition of a lifetime limit of no more than five years on receipt of TANF benefits. Among many other provisions, PRWORA authorized states to create “individual responsibility plans” for program participants, whereby states could opt to establish a number of obligations related to receipt of TANF benefits, including requiring school attendance, health screenings, and immunizations.

CalWORKs requirement regarding school attendance: AB 1542 (Ducheny), Chapter 270, Statutes of 1997, created the CalWORKs program, California’s implementation of TANF. AB 1542 adopted a requirement that that all children in a CalWORKs assistance unit for whom school attendance is compulsory (with certain exceptions) attend school. Initially, two types of penalties for noncompliance with this requirement were adopted: 1) if any child *under* the age of 16 was determined by the county to not be regularly attending school as required, the needs of all adults in the assistance unit would not be considered in calculating the family’s CalWORKs grant; and 2) if any child 16 years old or older was determined by the county to not be attending school as required, or participating pursuant to a welfare-to-work plan, the needs of that child would not be considered in calculating the family’s CalWORKs grant. (In both instances, if the county found that good cause existed for not complying with the school attendance requirement, the penalty would not be applied.)

SB 1317 (Leno), Chapter 647, Statutes of 2010, created a new misdemeanor related to school attendance, punishable with a fine of up to \$2,000, imprisonment in a county jail for up to one year, or both. A parent or guardian of a child in kindergarten through the 8th grade who is subject to compulsory full-time education could be found guilty of this misdemeanor if the child is chronically truant, and the parent or guardian has failed to reasonably supervise and encourage the student’s school attendance.

In response to the “double penalty” for truancy that the combination of CalWORKs school attendance requirements and the enactment of SB 1317 created, AB 2382 (Bradford), Chapter 905, Statutes of 2014, was adopted. Among other changes adopted related to the CalWORKs school attendance requirement, AB 2382 deleted the requirement that any adults in an assistance unit lose aid due to a child in the assistance unit under age 16 not meeting the CalWORKs school attendance requirement. Today, however, families can still be penalized when a child 16 years old or older is determined by a county to not be meeting the school attendance requirement; this child’s needs are not considered in calculating the family’s CalWORKs grant, which has the

overall impact of reducing that family's cash aid. Specific data on the number of these penalties applied are not readily available from CDSS.

CalWORKs immunization requirements: AB 1542, the bill which implemented TANF in California by creating the CalWORKs program, also added WIC Section 11265.8; this section requires that all applicants for and recipients of CalWORKs benefits provide documentation that any children in the assistance unit under the age of 6 not required to be enrolled in school have received all age-appropriate immunizations. Applicants and recipients can secure an exemption from this requirement if they file an affidavit with the county stating that immunizations are against their beliefs, or if they supply documentation stating that it has been medically determined that immunizations are inappropriate. Counties are required to give individuals applying for or receiving CalWORKs aid a notice regarding their obligation to provide proof of immunization; these individuals must also be provided information on, among other things, the relevant childhood immunization schedules and how to obtain immunizations using Medi-Cal or through a county public health clinic or other available sources.

Adults applying for CalWORKs must supply the required proof of immunization within 30 days of approval for Medi-Cal, unless they are already getting Medi-Cal – in those instances, they have 45 days to submit documentation. Parents and caretaker relatives who are already receiving CalWORKs have 45 days after redetermination of CalWORKs eligibility to submit immunization documentation. An additional 30 days may be granted if the county finds that good cause exists for a CalWORKs applicant or recipient failing to submit verification in the timeframe allowed. AB 557 (Rubio), Chapter 691, Statutes of 2017, established that a circumstance that shall constitute good cause includes the applicant or recipient not having reasonable access to immunization services due to a situation of domestic violence. If a parent or caretaker relative does not submit the required documentation by the specified deadline, their needs will not be considered in determining the family's grant amount until such documentation is supplied. Specific data on penalties applied for failure to provide timely verification of immunization are not readily available from CDSS.

Need for this bill: The many positive impacts of regular school attendance and immunization against preventable diseases on a child's health and well-being – in both the near- and long-term – are well-documented. Support for and facilitation of children's access to consistent education and preventative health care are important policy goals.

However, the effect of the current CalWORKs school attendance and immunization requirements may go in the opposite direction of achieving these goals. Poverty can create barriers to regularly attending school and accessing health care. A September 2018 report from the Johns Hopkins School of Education's Everyone Graduates Center and the national nonprofit group Attendance Works found that poverty remains the driving factor behind chronic absenteeism. Families living in poverty can face barriers that contribute to children missing school, including: lack of access to transportation to and from school, lack of a stable housing or living situation, or a parent living with an illness or disability that can make it difficult for children to get to school, among others. Similarly, it is well-documented that poverty can create strong and persistent barriers to accessing childhood immunizations. Notable, too, is the difference between being "unvaccinated" (missing all routine vaccinations) and "undervaccinated" (missing one or more routine vaccinations). A 2004 article in the journal *Pediatrics* cited results of a nationally representative study of over 150,000 children that indicated that undervaccinated children tended to: be Black; have a young, unmarried mother who did not have a college degree; live in a

household near the poverty level; and live in a central city. The study found the unvaccinated children, however, tended to: be white; have a mother who was married and had a college degree; live in a household with an income over \$75,000; and have parents who expressed concerns about vaccines. These results may support an argument that some families living in poverty may wish to access immunizations for their children, but lack the resources to do so to the extent recommended. Regardless, research provides clear evidence that experiences of poverty can contribute to lower rates of school attendance and childhood immunization.

According to the Western Center on Law and Poverty, the Children’s Defense Fund – California, and the California Coalition of Welfare Rights Organizations, the sponsors of this bill, “This bill will remove harmful sanctions to the incomes [of] families who turn to the California Work Opportunity and Responsibility to Kids (CalWORKs) program for help...CalWORKs programs are vital for the wellbeing of children in these families. The regressive financial penalties were intended to achieve worthwhile goals, but their effect is pushing these families further into poverty while not improving vaccination rates or school attendance. CalWORKs families need support to meet policy goals, not punishment.”

According to the author, “Financially penalizing CalWORKs families is counterproductive and pushes them further into poverty. Research shows that depriving families of resources makes them less able to comply with desired and worthwhile policy goals. Financially penalizing CalWORKs families is also morally wrong; it singles them out and treats them differently from other families. Imagine if your paycheck were to be garnished by the government if your child was truant at school. Now imagine that your paycheck was only \$577 per month and 38% was taken away.”

PRIOR LEGISLATION:

AB 1992 (Chu) of 2018 would have made a number of changes to the processes and requirements regarding the mandated verification of immunization for children in CalWORKs assistance units who are not required to be enrolled in school by, among other things, directing the county to first consult the California Immunization Registry (CAIR) prior to requiring a household to submit documentation. AB 1992 was vetoed by the Governor.

AB 557 (Rubio), Chapter 691, Statutes of 2017, among other things, specified that an applicant or recipient not having reasonable access to immunization services due to a situation of domestic violence shall constitute good cause for not providing required immunization documentation for a child in a CalWORKs assistance unit within mandated timeframes.

AB 376 (Lopez) of 2015 would have permitted counties to access CAIR to verify, when possible, immunization of children under the age of six in CalWORKs. AB 376 was vetoed by the Governor.

AB 2382 (Bradford), Chapter 905, Statutes of 2014, made a number of changes to the CalWORKs school attendance requirement, including deletion of the requirement that any adults in an assistance unit lose aid due to a child in the assistance unit under age 16 not meeting the CalWORKs school attendance requirement.

SB 1317 (Leno), Chapter 647, Statutes of 2010, enacted a new misdemeanor when a parent or guardian of a child in kindergarten through the 8th grade, who is subject to compulsory full-time

education, is chronically truant, and when the parent or guardian has failed to reasonably supervise and encourage the student's school attendance.

REGISTERED SUPPORT / OPPOSITION:

Support

California Coalition of Welfare Rights Advocates (Sponsor)

Children's Defense Fund – California (Sponsor)

Western Center on Law & Poverty, Inc. (Sponsor)

Building Opportunity for Self-Sufficiency

California Association of Food Banks

Educate. Advocate.

Empower Family California

Opposition

None on file

Analysis Prepared by: Daphne Hunt / HUM. S. / (916) 319-2089