

**ASSEMBLY BILL**

**No. 60**

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**Introduced by Assembly Members Santiago and Gonzalez**

December 7, 2016

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An act to amend Sections 8263, 8263.1, and 8273.1 of the Education Code, and to amend Section 11323.2 of the Welfare and Institutions Code, relating to child care and development services.

LEGISLATIVE COUNSEL'S DIGEST

AB 60, as introduced, Santiago. Subsidized child care and development services: eligibility periods.

Existing law, the Child Care and Development Services Act, requires the Superintendent of Public Instruction to administer child care and development programs that offer a full range of services for eligible children from infancy to 13 years of age. Existing law requires the Superintendent to adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement the act. The act, and regulations adopted pursuant to the act, set forth eligibility requirements for families to receive federal and state subsidized child development services and impose various time limits for receipt of services and recertification for continued services.

This bill would require that a family, upon establishing initial eligibility or ongoing eligibility for services under the act, be considered to meet all eligibility requirements for those services for not less than 12 months, receive those services for not less than 12 months before having its eligibility redetermined, and not be required to report changes to income or other changes for at least 12 months, except as provided. The bill would revise the definition of “income eligible” and provide that the definition applies for purposes of establishing initial income

eligibility for services under the act, and would add a definition of “ongoing income eligible” for purposes of establishing ongoing income eligibility for services under the act.

The bill would, except as provided, prohibit a payment made by a child development program for a child, during the period between a family’s most recent eligibility determination or redetermination and its next eligibility redetermination, from being considered an error or an improper payment due to a change in the family’s circumstances during that same period. The bill would, notwithstanding specified law, authorize the State Department of Education to implement this provision through management bulletins or similar letters of instruction until regulations are filed with the Secretary of State to implement the provision. The bill would require the department to initiate a rulemaking action to implement the provision on or before December 31, 2018. The bill would require the department, before initiating this rulemaking action, to convene a workgroup of parents, advocates, department staff, child development program representatives, and other stakeholders to develop recommendations regarding implementing the provision.

The bill would repeal certain provisions that impose time limits for services under the act and a provision that authorizes the Superintendent to grant an extension of services, as specified. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8263 of the Education Code is amended  
2 to read:  
3 8263. (a) (1) The Superintendent shall adopt rules and  
4 regulations on eligibility, enrollment, and priority of services  
5 needed to implement this chapter. In order to be eligible for federal  
6 and state subsidized child development services, families shall  
7 meet at least one requirement in each of the following areas:  
8 (A) A family is (i) a current aid recipient, (ii) income eligible,  
9 (iii) homeless, or (iv) one whose children are recipients of  
10 protective services, or whose children have been identified as being  
11 abused, neglected, or exploited, or at risk of being abused,  
12 neglected, or exploited.

1 (B) A family needs the child care services (i) because the child  
2 is identified by a legal, medical, or social services agency, a local  
3 educational agency liaison for homeless children and youths  
4 designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of  
5 the United States Code, a Head Start program, or an emergency  
6 or transitional shelter as (I) a recipient of protective services, (II)  
7 being neglected, abused, or exploited, or at risk of neglect, abuse,  
8 or exploitation, or (III) being homeless or (ii) because the parents  
9 are (I) engaged in vocational training leading directly to a  
10 recognized trade, paraprofession, or profession, (II) employed or  
11 seeking employment, (III) seeking permanent housing for family  
12 stability, or (IV) incapacitated.

13 (2) If only one parent has signed an application for enrollment  
14 in child care services, as required by this chapter or regulations  
15 adopted to implement this chapter, and the information provided  
16 on the application indicates that there is a second parent who has  
17 not signed the application, the parent who has signed the  
18 application shall self-certify the presence or absence of the second  
19 parent under penalty of perjury. The parent who has signed the  
20 application shall not be required to submit additional information  
21 documenting the presence or absence of the second parent.

22 (b) Except as provided in Article 15.5 (commencing with Section  
23 8350), priority for federal and state subsidized child development  
24 services is as follows:

25 (1) ~~(A)~~ First priority shall be given to neglected or abused  
26 children who are recipients of child protective services, or children  
27 who are at risk of being neglected or abused, upon written referral  
28 from a legal, medical, or social services agency. If an agency is  
29 unable to enroll a child in the first priority category, the agency  
30 shall refer the family to local resource and referral services to  
31 locate services for the child.

32 ~~(B) A family who is receiving child care on the basis of being~~  
33 ~~a child at risk of abuse, neglect, or exploitation, as defined in~~  
34 ~~subdivision (k) of Section 8208, is eligible to receive services~~  
35 ~~pursuant to subparagraph (A) for up to three months, unless the~~  
36 ~~family becomes eligible pursuant to subparagraph (C).~~

37 ~~(C) A family may receive child care services for up to 12 months~~  
38 ~~on the basis of a certification by the county child welfare agency~~  
39 ~~that child care services continue to be necessary or, if the child is~~  
40 ~~receiving child protective services during that period of time, and~~

1 ~~the family requires child care and remains otherwise eligible. This~~  
2 ~~time limit does not apply if the family's child care referral is~~  
3 ~~recertified by the county child welfare agency.~~

4 (2) Second priority shall be given equally to eligible families,  
5 regardless of the number of parents in the home, who are income  
6 eligible. Within this priority, families with the lowest gross monthly  
7 income in relation to family size, as determined by a schedule  
8 adopted by the Superintendent, shall be admitted first. If two or  
9 more families are in the same priority in relation to income, the  
10 family that has a child with exceptional needs shall be admitted  
11 first. If there is no family of the same priority with a child with  
12 exceptional needs, the same priority family that has been on the  
13 waiting list for the longest time shall be admitted first. For purposes  
14 of determining order of admission, the grants of public assistance  
15 recipients shall be counted as income.

16 (3) The Superintendent shall set criteria for, and may grant  
17 specific waivers of, the priorities established in this subdivision  
18 for agencies that wish to serve specific populations, including  
19 children with exceptional needs or children of prisoners. These  
20 new waivers shall not include proposals to avoid appropriate fee  
21 schedules or admit ineligible families, but may include proposals  
22 to accept members of special populations in other than strict income  
23 order, as long as appropriate fees are paid.

24 (c) Notwithstanding any other law, in order to promote  
25 continuity of services, a family enrolled in a state or federally  
26 funded child care and development program whose services would  
27 otherwise be terminated because the family no longer meets the  
28 program income, eligibility, or need criteria may continue to  
29 receive child development services in another state or federally  
30 funded child care and development program if the contractor is  
31 able to transfer the family's enrollment to another program for  
32 which the family is eligible before the date of termination of  
33 services or to exchange the family's existing enrollment with the  
34 enrollment of a family in another program, provided that both  
35 families satisfy the eligibility requirements for the program in  
36 which they are being enrolled. The transfer of enrollment may be  
37 to another program within the same administrative agency or to  
38 another agency that administers state or federally funded child  
39 care and development programs.

1 ~~(d) In order to promote continuity of services, the Superintendent~~  
2 ~~may extend the 60-working-day period specified in subdivision~~  
3 ~~(a) of Section 18086.5 of Title 5 of the California Code of~~  
4 ~~Regulations for an additional 60 working days if he or she~~  
5 ~~determines that opportunities for employment have diminished to~~  
6 ~~the degree that one or both parents cannot reasonably be expected~~  
7 ~~to find employment within 60 working days and granting the~~  
8 ~~extension is in the public interest. The scope of extensions granted~~  
9 ~~pursuant to this subdivision shall be limited to the necessary~~  
10 ~~geographic areas and affected persons, which shall be described~~  
11 ~~in the Superintendent's order granting the extension. It is the intent~~  
12 ~~of the Legislature that extensions granted pursuant to this~~  
13 ~~subdivision improve services in areas with high unemployment~~  
14 ~~rates and areas with disproportionately high numbers of seasonal~~  
15 ~~agricultural jobs.~~

16 ~~(e)~~

17 ~~(d) A physical examination and evaluation, including~~  
18 ~~age-appropriate immunization, shall be required before, or within~~  
19 ~~six weeks of, enrollment. A standard, rule, or regulation shall not~~  
20 ~~require medical examination or immunization for admission to a~~  
21 ~~child care and development program of a child whose parent or~~  
22 ~~guardian files a letter with the governing board of the child care~~  
23 ~~and development program stating that the medical examination or~~  
24 ~~immunization is contrary to his or her religious beliefs, or provide~~  
25 ~~for the exclusion of a child from the program because of a parent~~  
26 ~~or guardian having filed the letter. However, if there is good cause~~  
27 ~~to believe that a child is suffering from a recognized contagious~~  
28 ~~or infectious disease, the child shall be temporarily excluded from~~  
29 ~~the program until the governing board of the child care and~~  
30 ~~development program is satisfied that the child is not suffering~~  
31 ~~from that contagious or infectious disease.~~

32 ~~(f)~~

33 ~~(e) Regulations formulated and promulgated pursuant to this~~  
34 ~~section shall include the recommendations of the State Department~~  
35 ~~of Health Care Services relative to health care screening and the~~  
36 ~~provision of health care services. The Superintendent shall seek~~  
37 ~~the advice and assistance of these health authorities in situations~~  
38 ~~where service under this chapter includes or requires care of~~  
39 ~~children who are ill or children with exceptional needs.~~

40 ~~(g)~~

1 (f) The Superintendent shall establish guidelines for the  
2 collection of employer-sponsored child care benefit payments from  
3 a parent whose child receives subsidized child care and  
4 development services. These guidelines shall provide for the  
5 collection of the full amount of the benefit payment, but not to  
6 exceed the actual cost of child care and development services  
7 provided, notwithstanding the applicable fee based on the fee  
8 schedule.

9 ~~(h)~~

10 (g) The Superintendent shall establish guidelines according to  
11 which the director or a duly authorized representative of the child  
12 care and development program will certify children as eligible for  
13 state reimbursement pursuant to this section.

14 (h) (1) *Except as provided in paragraphs (2) to (4), inclusive,*  
15 *upon establishing initial eligibility or ongoing eligibility for*  
16 *services under this chapter, a family shall be considered to meet*  
17 *all eligibility requirements for those services for not less than 12*  
18 *months, shall receive those services for not less than 12 months*  
19 *before having their eligibility redetermined, and shall not be*  
20 *required to report changes to income or other changes for at least*  
21 *12 months.*

22 (2) *A family shall report increases in income that exceed the*  
23 *threshold for ongoing income eligibility as described in subdivision*  
24 *(b) of Section 8263.1, and the family's ongoing eligibility for*  
25 *services shall at that time be redetermined.*

26 (3) *A family that establishes initial eligibility or ongoing*  
27 *eligibility on the basis of seeking employment shall receive services*  
28 *under this chapter as follows:*

29 (A) *If seeking employment is the basis for initial eligibility, the*  
30 *family shall receive services under this chapter for not less than*  
31 *six months.*

32 (B) *If seeking employment is the only basis for ongoing eligibility*  
33 *at the time of redetermination, the family shall receive services*  
34 *under this chapter for six additional months unless the family*  
35 *becomes eligible on another basis pursuant to subparagraph (B)*  
36 *of paragraph (1) of subdivision (a).*

37 (4) *A family may at any time voluntarily report income or other*  
38 *changes. This information shall be used, as applicable, to reduce*  
39 *the family's fees, increase the family's subsidy, or extend the period*  
40 *of the family's eligibility before redetermination.*

1 (i) (1) *Because a family that meets eligibility requirements at*  
2 *its most recent eligibility determination or redetermination is*  
3 *considered eligible until the next redetermination, as provided in*  
4 *subdivision (h), a payment made by a child development program*  
5 *for a child during this period shall not be considered an error or*  
6 *an improper payment due to a change in the family’s circumstances*  
7 *during that same period.*

8 (2) *Notwithstanding paragraph (1), the state or its designated*  
9 *agent may seek to recover payments that are the result of fraud.*

10 (j) (1) *Notwithstanding the rulemaking provisions of the*  
11 *Administrative Procedure Act (Chapter 3.5 (commencing with*  
12 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
13 *Code) and Section 33308.5 of this code, until regulations are filed*  
14 *with the Secretary of State to implement subdivision (h), the*  
15 *department may implement this section through management*  
16 *bulletins or similar letters of instruction.*

17 (2) *The department shall initiate a rulemaking action to*  
18 *implement subdivision (h) on or before December 31, 2018. Before*  
19 *initiating a rulemaking action pursuant to this paragraph, the*  
20 *department shall convene a workgroup of parents, advocates,*  
21 *department staff, child development program representatives, and*  
22 *other stakeholders to develop recommendations regarding*  
23 *implementing subdivision (h).*

24 (i)

25 (k) *Public funds shall not be paid directly or indirectly to an*  
26 *agency that does not pay at least the minimum wage to each of its*  
27 *employees.*

28 SEC. 2. Section 8263.1 of the Education Code is amended to  
29 read:

30 8263.1. (a) For purposes of *establishing initial income*  
31 *eligibility for services under this chapter, “income eligible” means*  
32 *that a family’s adjusted monthly income is at or below 70 percent*  
33 *of the state median income, adjusted for family size, and adjusted*  
34 *annually based on the most recent data on state median income*  
35 *published by the United States Census Bureau, for a family of the*  
36 *same size.*

37 (b) ~~Notwithstanding any other law, for the 2011–12 fiscal year,~~  
38 ~~the income eligibility limits that were in effect for the 2007–08~~  
39 ~~fiscal year shall be reduced to 70 percent of the state median~~

1 income that was in use for the 2007–08 fiscal year, adjusted for  
 2 family size, effective July 1, 2011.

3 ~~(e) Notwithstanding any other law, for the 2012–13, 2013–14,~~  
 4 ~~2014–15, 2015–16, and 2016–17 fiscal years, the income eligibility~~  
 5 ~~limits shall be 70 percent of the state median income that was in~~  
 6 ~~use for the 2007–08 fiscal year, adjusted for family size.~~

7 *(b) For purposes of establishing ongoing income eligibility*  
 8 *under this chapter, “ongoing income eligible” means that a*  
 9 *family’s adjusted monthly income is at or below 85 percent of the*  
 10 *state median income, based on the most recent data on state median*  
 11 *income published by the United States Census Bureau, for a family*  
 12 *of the same size.*

13 ~~(d)~~

14 *(c) The income of a recipient of federal supplemental security*  
 15 *income benefits pursuant to Title XVI of the federal Social Security*  
 16 *Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program*  
 17 *benefits pursuant to Title XVI of the federal Social Security Act*  
 18 *and Chapter 3 (commencing with Section 12000) of Part 3 of*  
 19 *Division 9 of the Welfare and Institutions Code shall not be*  
 20 *included as income for purposes of determining eligibility for child*  
 21 *care under this chapter.*

22 SEC. 3. Section 8273.1 of the Education Code is amended to  
 23 read:

24 8273.1. ~~(a) Families receiving services pursuant to~~  
 25 ~~subparagraph (B) of paragraph (1) of subdivision (b) of Section~~  
 26 ~~8263 may be exempt from family fees for up to three months.~~

27 ~~(b) Families receiving~~

28 *(a) A family that receives services pursuant to subparagraph (C)*  
 29 *of paragraph (1) of subdivision (b) of Section 8263 may be exempt*  
 30 *from family fees for up to 12 months.*

31 ~~(e) The cumulative period of time of exemption from family~~  
 32 ~~fees for families receiving services pursuant to paragraph (1) of~~  
 33 ~~subdivision (b) of Section 8263 shall not exceed 12 months.~~

34 ~~(d)~~

35 *(b) Notwithstanding any other law, a family receiving*  
 36 *CalWORKs cash aid shall not be charged a family fee.*

37 ~~(e)~~

38 *(c) Notwithstanding any other law, commencing with the*  
 39 *2014–15 fiscal year, family fees shall not be assessed for the*  
 40 *part-day California preschool program to income eligible families*



1 whose children are enrolled in that program pursuant to Article 7  
2 (commencing with Section 8235).

3 SEC. 4. Section 11323.2 of the Welfare and Institutions Code  
4 is amended to read:

5 11323.2. (a) Necessary supportive services shall be available  
6 to every participant in order to participate in the program activity  
7 to which he or she is assigned or to accept employment or the  
8 participant shall have good cause for not participating under  
9 subdivision (f) of Section 11320.3. As provided in the  
10 welfare-to-work plan entered into between the county and  
11 participant pursuant to this article, supportive services shall include  
12 all of the following:

13 (1) Child care.

14 (A) Paid child care shall be available to every participant with  
15 a dependent child in the assistance unit who needs paid child care  
16 if the child is 10 years of age or under, or requires child care or  
17 supervision due to a physical, mental, or developmental disability  
18 or other similar condition as verified by the county welfare  
19 department, or who is under court supervision.

20 (B) To the extent funds are ~~available~~ available, paid child care  
21 shall be available to a participant with a dependent child in the  
22 assistance unit who needs paid child care if the child is 11 or 12  
23 years of age.

24 (C) Necessary child care services shall be available to every  
25 former recipient for up to two years, pursuant to Article 15.5  
26 (commencing with Section 8350) of Chapter 2 of Part 6 of Division  
27 1 of Title 1 of the Education Code.

28 (D) A child in foster care receiving benefits under Title IV-E  
29 of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) or  
30 a child who would become a dependent child except for the receipt  
31 of federal Supplemental Security Income benefits pursuant to Title  
32 XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et  
33 seq.) shall be deemed to be a dependent child for the purposes of  
34 this paragraph.

35 (E) The provision of care and payment rates under this paragraph  
36 shall be governed by Article 15.5 (commencing with Section 8350)  
37 of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education  
38 Code. Parent fees shall be governed by ~~subdivisions (g) and (h)~~  
39 ~~of~~ Section 8263 of the Education Code.

- 1 (2) Transportation costs, which shall be governed by regional  
2 market rates as determined in accordance with regulations  
3 established by the department.
- 4 (3) Ancillary expenses, which shall include the cost of books,  
5 tools, clothing specifically required for the job, fees, and other  
6 necessary costs.
- 7 (4) Personal counseling. A participant who has personal or  
8 family problems that would affect the outcome of the  
9 welfare-to-work plan entered into pursuant to this article shall, to  
10 the extent available, receive necessary counseling or therapy to  
11 help him or her and his or her family adjust to his or her job or  
12 training assignment.
- 13 (b) If provided in a county plan, the county may continue to  
14 provide case management and supportive services under this  
15 section to former participants who become employed. The county  
16 may provide these services for up to the first 12 months of  
17 employment to the extent they are not available from other sources  
18 and are needed for the individual to retain the employment.