

AMENDED IN ASSEMBLY MARCH 18, 2010

AMENDED IN ASSEMBLY JULY 8, 2009

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE MAY 4, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 244

**Introduced by Senator Wright
(Coauthors: Senators Alquist, Hancock, and Liu)**

February 24, 2009

An act to amend Sections 8236 and 8263 of the Education Code, relating to children's services.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Wright. Children's services: high-risk children.

Existing law requires the Superintendent of Public Instruction to administer child care and development programs, including California state preschool programs, and requires applicants and contracting agencies to give first priority to children who meet specified criteria, including 3- or 4-year-old neglected or abused children who are the recipients of child protective services.

This bill would also give first priority to neglected or abused children who are in family maintenance, family preservation, and unification, and to certain other high-risk children who meet specified criteria. The bill would give certain high-risk children the right to continuous enrollment in a state preschool program or a child care and

development program that is licensed or is operated by a local educational agency if the child's residence or placement changes.

Under existing law, a family is required to meet certain requirements to be eligible for federal and state subsidized child development programs, and requires certain children to be given first priority for those services.

This bill would expand the eligibility requirements to include certain other high-risk children, and would also require first priority to be given to children from birth to 5 years of age who meet specified other requirements. The bill would require each county operating a state-funded child care and development program to annually inform the State Department of Education if the county does not provide information on child care and development programs, as specified.

By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law establishes the Early Learning Quality Improvement System Advisory Committee, and requires the committee to submit a report containing recommendations for the creation of an Early Learning Quality Improvement System, as specified, to the Legislature and the Governor by December 31, 2010.~~

~~This bill would require the State Department of Education to conduct a study regarding the feasibility of providing priority enrollment in high-quality child care and development programs for children from birth to 5 years of age who are in the foster care system, in relative care or reunification, or were formerly in the foster care system, who are at risk of abuse, neglect, or exploitation, are homeless, or have a custodial parent who meets specified criteria. The department would be required to report its findings to the Governor and to appropriate fiscal and policy committees of the Legislature by December 31, 2010.~~

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

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

1 **SECTION 1.** *Section 8236 of the Education Code is amended*
2 *to read:*

3 8236. (a) (1) Each applicant or contracting agency funded
4 pursuant to Section 8235 shall give first priority to three- or
5 four-year-old neglected or abused children who are recipients of
6 child protective services, *which includes neglected or abused*
7 *children who are in family maintenance, family preservation, and*
8 *unification*, or who are at risk of being neglected, abused, or
9 exploited upon written referral from a legal, medical, or social
10 service agency, *or who were in protective services and are now*
11 *in permanent placement with an income-eligible caregiver, or who*
12 *are the children of youth currently in foster care.* If an agency is
13 unable to enroll a child in this first priority category, the agency
14 shall refer the child's parent or guardian to local resource and
15 referral services so that services for the child can be located.

16 (2) Notwithstanding Section 8263, after children in the first
17 priority category set forth in paragraph (1) are enrolled, each
18 agency funded pursuant to Section 8235 shall give priority to
19 eligible four-year-old children prior to enrolling eligible
20 three-year-old children. Each agency shall certify to the
21 Superintendent that enrollment priority is being given to eligible
22 four-year-old children.

23 (b) For California state preschool programs operating with
24 funding that was initially allocated in a prior fiscal year, at least
25 one-half of the children enrolled at a preschool site shall be
26 four-year-old children. Any exception to this requirement shall be
27 approved by the Superintendent. The Superintendent shall inform
28 the Secretary for Education and the Department of Finance of any
29 exceptions that have been granted and the reasons for granting the
30 exceptions.

31 (c) The following provisions apply to the award of new funding
32 for the expansion of the California state preschool program that is
33 appropriated by the Legislature for that purpose in any fiscal year:

34 (1) In an application for those expansion funds, an agency shall
35 furnish the Superintendent with an estimate of the number of
36 four-year-old and three-year-old children that it plans to serve in
37 the following fiscal year with those expansion funds. The agency

1 also shall furnish documentation that indicates the basis of those
2 estimates.

3 (2) In awarding contracts for expansion pursuant to this
4 subdivision, the Superintendent, after taking into account the
5 geographic criteria established pursuant to Section 8279.3, and the
6 headquarters preferences and eligibility criteria relating to fiscal
7 or programmatic noncompliance established pursuant to Section
8 8261, shall give priority to applicant agencies that, in expending
9 the expansion funds, will be serving the highest percentage of
10 four-year-old children.

11 (d) Nothing in this section shall be deemed to preclude a local
12 educational agency from subcontracting with an appropriate public
13 or private agency to operate a California state preschool program
14 and to apply for funds made available for the purposes of this
15 section. If a school district chooses not to operate or subcontract
16 for a California state preschool program, the Superintendent shall
17 work with the county office of education and other eligible agencies
18 to explore possible opportunities in contracting or alternative
19 subcontracting to provide a California state preschool program.

20 (e) Nothing in this section shall prevent eligible children who
21 are currently receiving services from continuing to receive those
22 services in future years pursuant to this chapter.

23 (f) *In order to promote continuity of services, the following*
24 *children have the right to continuous enrollment in a state*
25 *preschool program for the remainder of the school year if the*
26 *child's residence or placement changes:*

27 (1) *Neglected or abused children who are recipients of child*
28 *protective services.*

29 (2) *Children who are at risk of being neglected or abused.*

30 (3) *Children of youth in foster care.*

31 SEC. 2. Section 8263 of the Education Code is amended to
32 read:

33 8263. (a) The Superintendent shall adopt rules and regulations
34 on eligibility, enrollment, and priority of services needed to
35 implement this chapter. In order to be eligible for federal and state
36 subsidized child development services, families shall meet at least
37 one requirement in each of the following areas:

38 (1) A family is (A) a current aid recipient, (B) income eligible,
39 (C) homeless, or (D) one whose children are recipients of protective
40 services, *which includes neglected or abused children who are in*

1 *family maintenance, family preservation, and reunification, or*
2 *whose children have been identified as being abused, neglected,*
3 *or exploited, or at risk of being abused, neglected, or exploited,*
4 *or who were in protective services, are between birth and five*
5 *years of age, are now in permanent placement with an*
6 *income-eligible caregiver, or who are the children of youth*
7 *currently in foster care.*

8 (2) A family needs the child care services (A) because the child
9 is identified by a legal, medical, social services agency, or
10 emergency shelter as (i) a recipient of protective services or (ii)
11 being neglected, abused, or exploited, or at risk of neglect, abuse,
12 or exploitation, or (B) because the parents are (i) engaged in
13 vocational training leading directly to a recognized trade,
14 paraprofession, or profession, (ii) employed or seeking
15 employment, (iii) seeking permanent housing for family stability,
16 ~~or~~ (iv) incapacitated, *or (v) foster youth attending high school or*
17 *an alternative program aimed at completing requirements for a*
18 *high school diploma or passing the General Education*
19 *Development (GED) test.*

20 (b) Except as provided in Article 15.5 (commencing with Section
21 8350), priority for state and federally subsidized child development
22 services is as follows:

23 (1) (A) First priority shall be given to neglected or abused
24 children who are recipients of child protective services, or children
25 who are at risk of being neglected or abused, upon written referral
26 from a legal, medical, or social services agency, *or children from*
27 *birth to five years of age enrolling in a child care and development*
28 *program that is licensed or is operated by a local educational*
29 *agency who are either children of foster youth or children in*
30 *permanent placement with income-eligible caregivers. If an agency*
31 *is unable to enroll a child in the first priority category, the agency*
32 *shall refer the family to local resource and referral services to*
33 *locate services for the child.*

34 (B) A family who is receiving child care on the basis of being
35 a child at risk of abuse, neglect, or exploitation, as defined in
36 subdivision (k) of Section 8208, is eligible to receive services
37 pursuant to subparagraph (A) for up to three months, unless the
38 family becomes eligible pursuant to subparagraph (C) *or for up to*
39 *12 months for children from birth to five years of age who are*

1 *enrolled in a child care and development program that is licensed*
2 *or is operated by a local educational agency.*

3 (C) A family may receive child care services for up to 12 months
4 on the basis of a certification by the county child welfare agency
5 that child care services continue to be necessary or, if the child is
6 receiving child protective services during that period of time, and
7 the family requires child care and remains otherwise eligible. This
8 time limit does not apply if the family’s child care referral is
9 recertified by the county child welfare agency.

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

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

30 (c) Notwithstanding any other provision of law, in order to
31 promote continuity of services, a family enrolled in a state or
32 federally funded child care and development program whose
33 services would otherwise be terminated because the family no
34 longer meets the program income, eligibility, or need criteria may
35 continue to receive child development services in another state or
36 federally funded child care and development program if the
37 contractor is able to transfer the family’s enrollment to another
38 program for which the family is eligible prior to the date of
39 termination of services or to exchange the family’s existing
40 enrollment with the enrollment of a family in another program,

1 provided that both families satisfy the eligibility requirements for
2 the program in which they are being enrolled. The transfer of
3 enrollment may be to another program within the same
4 administrative agency or to another agency that administers state
5 or federally funded child care and development programs.

6 (d) In order to promote continuity of services, the Superintendent
7 may extend the 60-working-day period specified in subdivision
8 (a) of Section 18101 of Title 5 of the California Code of
9 Regulations for an additional 60 working days if he or she
10 determines that opportunities for employment have diminished to
11 the degree that one or both parents cannot reasonably be expected
12 to find employment within 60 working days and granting the
13 extension is in the public interest. The scope of extensions granted
14 pursuant to this subdivision shall be limited to the necessary
15 geographic areas and affected persons, which shall be described
16 in the Superintendent's order granting the extension. It is the intent
17 of the Legislature that extensions granted pursuant to this
18 subdivision improve services in areas with high unemployment
19 rates and areas with disproportionately high numbers of seasonal
20 agricultural jobs.

21 (e) *In order to promote continuity of services, the following*
22 *children from birth to five years of age shall have the right to*
23 *continuous enrollment in a child care and development program*
24 *that is licensed or is operated by a local educational agency if the*
25 *child's residence or placement changes:*

26 (1) *Children who are neglected or abused who are recipients*
27 *of child protective services.*

28 (2) *Children who are at risk of abuse, neglect, or exploitation.*

29 (3) *Children of youth in foster care.*

30 ~~(e)~~

31 (f) A physical examination and evaluation, including
32 age-appropriate immunization, shall be required prior to, or within
33 six weeks of, enrollment. A standard, rule, or regulation shall not
34 require medical examination or immunization for admission to a
35 child care and development program of a child whose parent or
36 guardian files a letter with the governing board of the child care
37 and development program stating that the medical examination or
38 immunization is contrary to his or her religious beliefs, or provide
39 for the exclusion of a child from the program because of a parent
40 or guardian having filed the letter. However, if there is good cause

1 to believe that a child is suffering from a recognized contagious
2 or infectious disease, the child shall be temporarily excluded from
3 the program until the governing board of the child care and
4 development program is satisfied that the child is not suffering
5 from that contagious or infectious disease.

6 ~~(f)~~

7 (g) Regulations formulated and promulgated pursuant to this
8 section shall include the recommendations of the State Department
9 of Health Care Services relative to health care screening and the
10 provision of health care services. The Superintendent shall seek
11 the advice and assistance of these health authorities in situations
12 where service under this chapter includes or requires care of
13 children who are ill or children with exceptional needs.

14 ~~(g)~~

15 (h) (1) The Superintendent shall establish a fee schedule for
16 families utilizing child care and development services pursuant to
17 this chapter, including families receiving services under paragraph
18 (1) of subdivision (b). Families receiving services under
19 subparagraph (B) of paragraph (1) of subdivision (b) may be
20 exempt from these fees for up to three months. Families receiving
21 services under subparagraph (C) of paragraph (1) of subdivision
22 (b) may be exempt from these fees for up to 12 months. The
23 cumulative period of time of exemption from these fees for families
24 receiving services under paragraph (1) of subdivision (b) shall not
25 exceed 12 months.

26 (2) The income of a recipient of federal supplemental security
27 income benefits pursuant to Title XVI of the federal Social Security
28 Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program
29 benefits pursuant to Title XVI of the federal Social Security Act
30 and Chapter 3 (commencing with Section 12000) of Part 3 of
31 Division 9 of the Welfare and Institutions Code shall not be
32 included as income for the purposes of determining the amount of
33 the family fee.

34 ~~(h)~~

35 (i) The family fee schedule shall include, but not be limited to,
36 the following restrictions:

37 (1) Fees shall not be assessed for families whose children are
38 enrolled in the state preschool program.

39 (2) A contractor or provider may require parents to provide
40 diapers. A contractor or provider offering field trips either may

1 include the cost of the field trips within the service rate charged
2 to the parent or may charge parents an additional fee. Federal or
3 state money shall not be used to reimburse parents for the costs of
4 field trips if those costs are charged as an additional fee. A
5 contractor or provider that charges parents an additional fee for
6 field trips shall inform parents, prior to enrolling the child, that a
7 fee may be charged and that no reimbursement will be available.
8 A contractor or provider may charge parents for field trips or
9 require parents to provide diapers only under the following
10 circumstances:

11 (A) The provider has a written policy that is adopted by the
12 agency's governing board that includes parents in the
13 decisionmaking process regarding both of the following:

14 (i) Whether or not, and how much, to charge for field trip
15 expenses.

16 (ii) Whether or not to require parents to provide diapers.

17 (B) The maximum total of charges per child in a contract year
18 does not exceed twenty-five dollars (\$25).

19 (C) A child shall not be denied participation in a field trip due
20 to the parent's inability or refusal to pay the charge. Adverse action
21 shall not be taken against a parent for that inability or refusal.

22 Each contractor or provider shall establish a payment system
23 that prevents the identification of children based on whether or
24 not their parents have paid a field trip charge.

25 Expenses incurred and income received for field trips pursuant
26 to this section shall be reported to the department. The income
27 received for field trips shall be reported specifically as restricted
28 income.

29 (i)

30 (j) The Superintendent shall establish guidelines for the
31 collection of employer-sponsored child care benefit payments from
32 a parent whose child receives subsidized child care and
33 development services. These guidelines shall provide for the
34 collection of the full amount of the benefit payment, but not to
35 exceed the actual cost of child care and development services
36 provided, notwithstanding the applicable fee based on the fee
37 schedule.

38 (j)

39 (k) The Superintendent shall establish guidelines according to
40 which the director or a duly authorized representative of the child

1 care and development program will certify children as eligible for
2 state reimbursement pursuant to this section.

3 ~~(k)~~

4 (l) Public funds shall not be paid directly or indirectly to an
5 agency that does not pay at least the minimum wage to each of its
6 employees.

7 (m) A county operating a state-funded child care and
8 development program shall annually inform the department if the
9 county does not provide information on child care and development
10 programs, including state preschool programs, and how to select
11 a high-quality program to parents and caregivers of children from
12 birth to five years of age who are in child protective services and
13 to foster youth who have young children.

14 SEC. 3. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

19 SECTION 1. ~~(a) The State Department of Education shall
20 conduct a study regarding the feasibility of providing priority
21 enrollment in high-quality child care and development programs
22 for children from birth to five years of age who are in the foster
23 care system, in relative care or reunification, or were formerly in
24 the foster care system, who are at risk of abuse, neglect, or
25 exploitation, are homeless, or have a custodial parent in the foster
26 care system, on probation or parole, or in a correctional or
27 residential treatment facility.~~

28 ~~(b) The department shall report the findings of the study required
29 in subdivision (a) to the Governor and to appropriate fiscal and
30 policy committees of the Legislature by December 31, 2010.~~