

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1712

Introduced by Assembly Member Obernolte

January 26, 2016

An act to amend ~~Sections 8227.5 and~~ *Section* 8262.1 of the Education Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1712, as amended, Obernolte. Child care: *contractors*: digital signatures.

The Child Care and Development Services Act, administered by the State Department of Education, provides that children from infancy to 13 years of age are eligible, with certain requirements, for child care and development services. ~~The act requires the department to contract with local contracting agencies to provide for alternative payment programs, and authorizes alternative payment programs for services provided in licensed centers and family day care homes and for other types of programs that conform to applicable law. Existing law authorizes contractors and alternative payment programs and providers to maintain any records electronically and authorizes alternative payment programs and providers to use a digital signature, as provided. Existing law requires the use of a digital signature to have the same force and effect as the use of a manual signature if specified requirements are met. Existing law requires the above provisions relating to the electronic maintenance of records or digital signatures to be in compliance with state and federal standards, as determined by the department.~~

~~This bill would authorize the Superintendent of Public Instruction to adopt rules and regulations related to digital signatures, including, but not limited to, defining or redefining what is an acceptable technology for the creation and use of a digital signature authorized by the act. The bill would require, if these rules and regulations are adopted by the Superintendent, that they apply to digital signatures used by an alternative payment program or provider in lieu of other specified requirements.~~

The act authorizes the Superintendent of *Public Instruction* to enter into and execute local contractual agreements with any public or private entity or agency for the delivery of child care and development services. The act authorizes these contractors to maintain records electronically.

This bill would authorize the contractors to use a digital signature, as provided, and would require that the use of a digital signature have the same force and effect as a manual signature if specified requirements are met. ~~The bill would require, if rules and regulations relating to digital signatures are adopted by the Superintendent, that they apply to digital signatures used by contractors in lieu of other specified requirements.~~ The bill would require the use of a digital signature to be in compliance with state and federal standards, as determined by the department.

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 8227.5 of the Education Code is amended~~
2 ~~to read:~~
3 ~~8227.5. (a) Alternative payment programs and providers~~
4 ~~operating or providing services pursuant to this article may use a~~
5 ~~digital signature that complies with state and federal standards, as~~
6 ~~determined by the department, that may be a marking that is either~~
7 ~~computer generated or produced by electronic means and is~~
8 ~~intended by the signatory to have the same effect as a handwritten~~
9 ~~signature.~~
10 (b) ~~(1) The use of a digital signature shall have the same force~~
11 ~~and effect as the use of a manual signature if the requirements for~~
12 ~~digital signatures and their acceptable technology, as provided in~~
13 ~~Section 16.5 of the Government Code and in Chapter 10~~
14 ~~(commencing with Section 22000) of Division 7 of Title 2 of the~~
15 ~~California Code of Regulations, are satisfied.~~

1 ~~(2) Notwithstanding Section 1633.17 of the Civil Code, the~~
 2 ~~Superintendent may adopt rules and regulations related to digital~~
 3 ~~signatures, including, but not limited to, defining or redefining~~
 4 ~~what is an acceptable technology for the creation and use of a~~
 5 ~~digital signature authorized by this chapter.~~

6 ~~(3) If, pursuant to paragraph (2), the Superintendent adopts~~
 7 ~~different requirements related to digital signatures or their~~
 8 ~~acceptable technology than the requirements cited in paragraph~~
 9 ~~(1), those different requirements shall apply in lieu of the~~
 10 ~~requirements cited in paragraph (1).~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Section 8262.1 of the Education Code is amended
 13 to read:

14 8262.1. Contractors operating or providing services pursuant
 15 to this chapter may do both of the ~~of the~~ following:

16 (a) (1) Maintain records electronically, in compliance with state
 17 and federal standards, as determined by the department. ~~Any A~~
 18 ~~conversion from a paper record to an electronic format, as well as~~
 19 ~~the storage of the electronic record, shall comply with the minimum~~
 20 ~~standards described in Section 12168.7 of the Government Code~~
 21 ~~and the standards for trustworthy electronic document or record~~
 22 ~~preservation described in Chapter 15 (commencing with Section~~
 23 ~~22620.1) of Division 7 of Title 2 of the California Code of~~
 24 ~~Regulations.~~

25 (2) Pursuant to Section 33421, the records shall be retained by
 26 each contractor for at least five years, or, where an audit has been
 27 requested by a state agency, until the date the audit is resolved,
 28 whichever is longer.

29 (3) This subdivision does not require a contractor to create
 30 records electronically.

31 (b) (1) Use a digital signature that complies with state and
 32 federal standards, as determined by the department, that may be a
 33 marking that is either computer generated or produced by electronic
 34 means and is intended by the signatory to have the same effect as
 35 a handwritten signature.

36 (2) The use of a digital signature shall have the same force and
 37 effect as the use of a manual signature if the requirements for the
 38 digital signatures and their acceptable technology, as provided in
 39 Section 16.5 of the Government Code and in Chapter 10

1 (commencing with Section 22000) of Division 7 of Title 2 of the
2 California Code of Regulations, are satisfied.
3 ~~(3) If, pursuant to paragraph (2) of subdivision (b) of Section~~
4 ~~8227.5, the Superintendent adopts different requirements related~~
5 ~~to digital signatures or their acceptable technology than the~~
6 ~~requirements cited in paragraph (2), those different requirements~~
7 ~~shall apply in lieu of the requirements cited in paragraph (2).~~

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