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AB-752 Child care: state preschool programs: expulsion. (2017-2018)

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Assembly Bill No. 752

CHAPTER 708

An act to add Section 8239.1 to the Education Code, and to add Section 1596.893c to the Health and Safety Code, relating to child care.

[Approved by Governor October 12, 2017. Filed with Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 752, Rubio. Child care: state preschool programs: expulsion.

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, including California state preschool programs. The act requires families to meet certain requirements to be eligible for federal and state subsidized child development services. The act authorizes the Superintendent 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.

This bill would prohibit a contracting agency from expelling or unenrolling a child from a state preschool program because of a child's behavior unless the contracting agency has expeditiously pursued and documented reasonable steps to maintain the child's safe participation in the program and determines, in consultation with specified parties, that the child's continued enrollment would present a continued serious safety threat to the child or other enrolled children, and has referred the parents or legal guardians to other potentially appropriate placements, the local child care resource and referral agency, or any other referral service available in the local community.

Existing law provides for the licensure, by the State Department of Social Services, of facilities that provide day care for children, including day care centers and family day care homes. Existing law authorizes the department to impose civil penalties for certain violations of the licensing requirements and their corresponding regulations. Existing law requires each licensed child day care facility to post various documents and provide various notices to parents in response to certain citations. Existing law provides that failure to comply with these requirements results in an immediate civil penalty.

This bill would require the department to consider, in determining whether to issue a citation to or impose a civil penalty on a child day care facility that contracts with the State Department of Education, whether the child day care facility is in the process of complying with the procedure described above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) In both California and the United States, children in preschool are expelled at three times the rate as children in kindergarten through grade 12.

(2) Given the well-established evidence on the benefits for young children attending a high-quality preschool program — particularly for closing the achievement gap between low-income students and their middle- and high-income peers — it is deeply concerning that expulsions occur at such a high rate, affecting children and their families at a crucial time in their development.

(3) A joint statement from the National Association for the Education of Young Children and over 30 national early childhood organizations states that while young children thrive in the context of stable and supportive relationships with adults, the expulsion of a child from preschool threatens the development of those positive relationships, disrupts the learning process, and instigates a negative cycle that increases inequality and denies the child and family access to much needed supports.

(4) Currently, there are no guidelines or regulations on expulsion for the California state preschool program.

(b) It is the intent of the Legislature in enacting this act to significantly reduce the expulsion or unenrollment of children due to challenging behaviors from the California state preschool program.

SEC. 2. Section 8239.1 is added to the Education Code, to read:

8239.1. (a) A contracting agency shall not expel or unenroll a child because of a child's behavior except as authorized by subdivision (c).

(b) (1) If a child exhibits persistent and serious challenging behaviors, the contracting agency shall expeditiously pursue and document reasonable steps, including, but not limited to, consulting with the child's parents or legal guardians and teacher, to maintain the child's safe participation in the program. The contracting agency shall inform the parents or legal guardians of a child exhibiting persistent and serious challenging behaviors of the process described in this section.

(2) (A) If the child has an individualized family service plan or individualized education program, the contracting agency, with written parental consent, shall contact the agency responsible for the individualized family service plan or individualized education program to seek consultation on serving the child.

(B) If the child does not have an individualized family service plan or individualized education program, the contracting agency shall consider, if appropriate, completing a universal screening of the child, including, but not limited to, screening the child's social and emotional development, referring the child's parents or legal guardians to community resources, and implementing behavior supports within the program before referring the child's parents or legal guardians to the local agency responsible for implementing the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(c) If a contracting agency has expeditiously pursued and documented reasonable steps to maintain the child's safe participation in the program and determines, in consultation with the parents or legal guardians of the child, the child's teacher, and, if applicable, the local agency responsible for implementing the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), that the child's continued enrollment would present a continued serious safety threat to the child or other enrolled children, it shall refer the parents or legal guardians to other potentially appropriate placements, the local child care resource and referral agency, or any other referral service available in the local community. The contracting agency may then unenroll the child.

(d) A contracting agency shall have up to 180 days to complete the process described in this section.

(e) This section shall apply only to California state preschool programs described in this article.

SEC. 3. Section 1596.893c is added to the Health and Safety Code, to read:

1596.893c. (a) The department shall consider, in determining whether to issue a citation or impose a civil penalty under any provision of this chapter to a child day care facility that contracts with the State Department of Education, whether the child day care facility is in the process of complying with Section 8239.1 of the Education Code.

(b) This section shall apply only to a California state preschool program described in Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.