

ASSEMBLY, No. 5358

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 30, 2023

Sponsored by:

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblyman REGINALD W. ATKINS

District 20 (Union)

Co-Sponsored by:

Assemblyman Benson and Assemblywoman McKnight

SYNOPSIS

Establishes Employer-Based Child Care Assistance Partnership Program in DCF.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/8/2023)

1 AN ACT establishing an employer-based child care assistance
2 partnership program and supplementing P.L.1983, c.492
3 (C.30:5B-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. The Legislature finds and declares that:

9 a. One of the primary barriers for parents seeking to enter the
10 workforce is lack of access to affordable child care.

11 b. According to McKinsey's American Opportunity Survey, an
12 online survey which was released in May of 2021, only 39 percent
13 of respondents who had incomes below \$50,000 and children at
14 home said they could afford child care.

15 c. Although the lack of affordable child care was a barrier for
16 many working parents long before the coronavirus disease 2019
17 (COVID-19) pandemic and the resulting public health emergency,
18 the pandemic required these parents to juggle jobs and caregiving
19 responsibilities when child care centers closed or pandemic-related
20 restrictions limited the number of children the centers were allowed
21 to serve.

22 d. A 2020 survey conducted by Care@Work of 1,000 working
23 parents with children under the age of 15 showed that 73 percent
24 were considering making major changes at work, such as revising
25 their schedules (44 percent), looking for a different job
26 (21 percent), or leaving the workforce entirely (15 percent), so the
27 parents could focus on providing child care.

28 e. Working women are most adversely affected by the lack of
29 accessible child care. Although women make up less than half of
30 the nation's workforce, they accounted for a majority of the
31 decrease in the labor force during the first year of the pandemic.
32 Data gathered by the Pew Research Center showed that between
33 February 2020 and February 2021, 2.4 million women left the
34 workforce, compared with 1.8 million men.

35 f. Businesses have a vested interest in ensuring that their
36 employees can access and afford child care. When companies offer
37 child care benefits, they see increased employee retention and
38 loyalty, improved productivity, and a better workplace environment.
39 Despite the clear advantages, in 2020, data from the Bureau of
40 Labor Statistics indicated just 11 percent of all workers had access
41 to employer-provided child care, and those with lower incomes
42 were less likely to receive child care benefits.

43 g. Offering benefits such as the subsidization of child care for a
44 company's employees or the establishment of employer-provided
45 spending accounts designed to cover the cost, in part or in full, of
46 child care-related expenses, can remove a major barrier to
47 workforce participation and help attract and retain employees with
48 children.

1 h. Therefore, it is in the best interest of the State to establish an
2 employer-based child care assistance partnership program that
3 incentivizes employers to contribute to an employee's child care
4 costs, encourages the State to provide matching funds against such
5 contributions to make child care more affordable for working
6 parents, and ensures that the children of this State have access to
7 high-quality child care services.

8
9 2. As used in this act:

10 "Child care provider" means a licensed child care center or a
11 registered family child care provider which has achieved a Grow NJ
12 Kids rating of at least three.

13 "Contribution" means a direct payment made by an employer or
14 through a third-party vendor to a child care provider to subsidize an
15 employee's eligible child care costs.

16 "Department" means the Department of Children and Families.

17 "Eligible child care costs" means any cost incurred by a person
18 for services rendered by a child care provider.

19 "Employee" means a person engaged in service to an employer
20 in the business of the employer for compensation.

21 "Employer" means any person, firm, business, educational
22 institution, nonprofit agency, corporation, limited liability company
23 or other entity that employs employees in the State.

24 "Fund" means the Employer-Based Child Care Assistance
25 Partnership Fund established pursuant to section 6 of this act.

26 "Grow NJ Kids" means New Jersey's quality rating improvement
27 system designed to raise the quality of child care and early learning
28 programs.

29 "Program" means the Employer-Based Child Care Assistance
30 Partnership Program established pursuant to section 3 of this act.

31 "State match" means a direct payment made to a child care
32 provider by the Department of Children and Families from the
33 Employer-Based Child Care Assistance Partnership Program Fund
34 pursuant to section 6 of this act.

35 "State median household income" means the most recent
36 estimate available of real median house income for the State of New
37 Jersey, as determined by the United States Census Bureau, and
38 adjusted for family size.

39
40 3. a. There is established the Employer-Based Child Care
41 Assistance Partnership Program in the Department of Children and
42 Families. The purpose of the program shall be to incentivize
43 employers to contribute to an employee's child care costs, for the
44 State to provide matching funds against such contributions, and to
45 ensure that for working parents of this State and their children have
46 access to affordable, high-quality child care services. Participation
47 in the program shall be voluntary.

- 1 b. The department shall:
- 2 (1) regulate and oversee the activities associated with the
- 3 program;
- 4 (2) prepare, make available, and process an application and
- 5 standardized certification form to be used by an employer to enter
- 6 into an agreement with an employee and the employee's child care
- 7 provider to contribute to the employee's child care costs pursuant to
- 8 section 4 of this act, which certification form shall include the:
- 9 (a) name, address, and size of the employer;
- 10 (b) name and telephone number of the person who will be the
- 11 point of contact for the employer regarding compliance with the
- 12 provisions of this act;
- 13 (c) name, address, and telephone number of the employee who
- 14 will be receiving child care assistance from the employer pursuant
- 15 to section 4 of this act;
- 16 (d) name and address of the employee's child care provider;
- 17 (e) name and telephone number of the person who will be the
- 18 point of contact for the child care provider regarding compliance
- 19 with the provisions of this act;
- 20 (f) total amount and frequency of the contribution to be paid by
- 21 the employer to the employee's child care provider;
- 22 (g) total amount and frequency of a co-payment to be paid by an
- 23 employee to the employee's child care provider, if applicable; and
- 24 (h) duration of the agreement entered into by the employer,
- 25 employee, and the employee's child care provider;
- 26 (3) develop procedures for the notification of an employer, an
- 27 employee, and an employee's child care provider of the employer's,
- 28 employee's, and employee's child care provider's enrollment in the
- 29 program;
- 30 (4) establish eligibility requirements that an employer, employee,
- 31 and child care provider shall meet in order for the department to
- 32 enter into an agreement to match the contribution made by an
- 33 employer to an employee's child care costs;
- 34 (5) establish security procedures to protect the confidentiality of
- 35 the personal information of employers, employees, and child care
- 36 providers participating in the program;
- 37 (6) enter into partnership agreements with employers
- 38 participating in the program to provide State matching funds against
- 39 the contributions made by the employer to employee child care
- 40 costs pursuant to section 4 of this act;
- 41 (7) manage and administer the funds deposited in the Employer-
- 42 Based Child Care Assistance Partnership Program Fund established
- 43 pursuant to section 6 of this act, including, but not limited to, the
- 44 development of an automated payment system for the disbursement
- 45 of such funds;
- 46 (8) establish procedures for collecting and verifying household
- 47 income information from an employee participating in the program,

1 which information shall be used to determine the amount of State
2 matching funds for which the employee is eligible;

3 (9) establish procedures for the termination of an agreement to
4 contribute to an employee's child care costs entered between an
5 employer, an employee, and the employee's child care provider, and
6 the appropriate notification of such termination consistent with the
7 requirements of section 5 of this act;

8 (10) develop and disseminate informational materials, including,
9 but not limited to, pamphlets and posters, which identify the
10 program's requirements any other relevant program details to
11 employers, employees, and child care providers participating in the
12 program; and

13 (11) post information about the program and its requirements in a
14 conspicuous place on the department's Internet website.
15

16 4. a. An employer seeking to provide child care assistance to an
17 employee as a benefit of employment, and any child care provider
18 which has achieved a Grow NJ Kids rating of at least three, may
19 participate in the program established pursuant to section 3 of this
20 act. An employer or child care provider seeking to participate in
21 the program shall submit a one-time application to the department,
22 in a manner and on a form as determined by the department.

23 b. (1) An application form for an employer to participate in the
24 program shall contain the following:

25 (a) the name, location, and telephone number of the employer;

26 (b) documentation from the employer indicating the employer's
27 intent to contribute to employee child care costs; and

28 (c) any other information required by the department.

29 (2) An application form for child care provider to participate in
30 the program shall contain the following:

31 (a) the name, location, and telephone number of the child care
32 provider;

33 (b) documentation of the child care provider's current Grow NJ
34 rating;

35 (c) enrollment in the department's automatic payment system
36 developed pursuant to paragraph (7) of subsection b. of section 3 of
37 this act; and

38 (d) any other information required by the department.

39 c. Upon receipt of the application form submitted pursuant
40 subsection b. of this section, the department shall review the
41 application and, if the employer or child care provider meet the
42 program's eligibility requirements, the department shall enroll the
43 employer or the child care provider, as applicable, in the program
44 and provide notice to the employer and child care provider of its
45 enrollment in the program, and of the department's intent to match
46 the employer's contribution to the employee's child care costs in
47 accordance with the provisions section 6 of this act.

- 1 d. (1) An employer enrolled in the program that seeks to provide
2 child care assistance to an employee shall submit to the department
3 a standardized certification form, for each employee, that includes,
4 at a minimum:
- 5 (a) the details of the agreement between the employer,
6 employee, and the employee's child care provider, including the
7 amount and frequency of the contribution to be paid by the
8 employer towards the employee's child care costs as agreed upon
9 by the employer, employee, and the employee's child care provider;
- 10 (b) documentation that the employee's child care provider is
11 enrolled in the program pursuant to subsection c. of this section or
12 that the child care provider has submitted an application for
13 enrollment pursuant to paragraph (2) of subsection b. of this section
14 and documentation from the provider indicating the provider's
15 intent to provide child care services as agreed upon by the
16 employer, employee, and the employee's child care provider and
17 receive State matching funds pursuant to section 6 of this act; and
- 18 (c) any other information required by the department.
- 19 (2) The department shall make the standardized certification
20 form available on the department's Internet website for the
21 employer to access whenever an employee wishes to receive child
22 care assistance from the employer as a benefit of employment.
- 23 e. The department shall review each certification submitted
24 pursuant to subsection d. of this section and shall enroll the
25 employee in the program and commence direct payments to the
26 child care provider consistent with the agreement and in accordance
27 with section 6 of this act, unless the department finds the agreement
28 deficient, which deficiency may include, but is not limited to: the
29 employer is not enrolled in the program; the child care provider is
30 not enrolled in the program, has not submitted an application to
31 enroll in the program pursuant to paragraph (2) of subsection c. of
32 this section, or has had the provider's application denied by the
33 department; the child care provider does not have a Grow NJ rating
34 of three or higher; or the parties to the agreement do not otherwise
35 meet the requirements of this act. The department will provide the
36 employer, the employee, and the child care provider of the
37 employee's enrollment in the program and the amount of matching
38 funds that will be provided under the program, or the department's
39 determination that the certification is deficient, along with the
40 specific deficiency and the steps needed to cure the deficiency, if
41 applicable.
- 42 f. An employee participating in the program shall be
43 responsible for the balance of any child care costs that exceed the
44 amount of the contribution made by the employee's employer under
45 a certification submitted pursuant to paragraph (1) of subsection d.
46 of this section and the State matching funds provided against such
47 contribution by the department.

1 5. a. An agreement to contribute to an employee's child care
2 costs entered between an employer, an employee, and the
3 employee's child care provider pursuant to paragraph (1) of
4 subsection d. of section 4 of this act shall be terminated under the
5 following circumstances:

6 (1) if an employee is terminated, laid off, furloughed, or
7 otherwise separated from employment with the employer;

8 (2) if the employer fails to make direct payments to the
9 employee's child care provider in accordance with the amount and
10 frequency of the contribution agreed upon by the employer,
11 employee, and the employee's child care provider as documented in
12 the certification form submitted to the department pursuant to
13 subsection d. of section 4 of this act;

14 (3) if an employee fails to pay the employee's child care
15 provider for the balance of the costs not covered by the contribution
16 made by the employer to the employee's child care costs and the
17 State matching funds provided against the employer's contribution
18 pursuant to subsection f. of section 4 of this act;

19 (4) if the employee's child care provider ceases its participation
20 in, or if the department denies, suspends, revokes, or refuses to
21 renew the provider's rating under, the Grow New Jersey quality
22 rating improvement system; or

23 (5) the employer or child care provider disenrolls from the
24 program.

25 b. (1) If an employer fails to make a direct payment to an
26 employee's child care provider in accordance with the amount and
27 frequency of the contribution agreed upon by the employer,
28 employee, and the employee's child care provider as documented in
29 the certification form submitted to the department pursuant to
30 paragraph (1) of subsection d. of section 4 of this act, the
31 employee's child care provider shall notify the employer, employee,
32 and the department within five days of the employer's failure to
33 make the direct payments. Upon receipt of such notification, the
34 department shall:

35 (a) temporarily cease the provision of matching State funds
36 against the contribution made by the employer to the employee's
37 child care costs; and

38 (b) notify the employer that the agreement entered into between
39 the employer, employee, and the employee's child care provider as
40 documented in the certification form submitted to the department
41 pursuant to paragraph (1) of subsection d. of section 4 of this act,
42 will be terminated unless the employer makes any delinquent
43 payments and certifies that the employer will resume the direct
44 payments within five days of receipt of the notification.

45 (2) A child care provider that provides notice to the department
46 pursuant to paragraph (1) of this subsection that receives matching
47 State funds from the department on behalf of the employee as a
48 contribution towards the employee's child care costs, shall be

1 entitled to retain the matching funds made in connection with the
2 delinquent payment. If the child care provider fails to provide
3 notice to the department pursuant to paragraph (1) of subsection b.
4 of this section, within five days of the date the delinquent payment
5 was due, and the provider receives matching funds from the
6 department in connection with the delinquent payment, the provider
7 shall reimburse the department for such matching funds.

8 (3) In the event that the employer is terminated from the program
9 pursuant to paragraph (1) of this subsection, the department may, in
10 its discretion, and at the request of the employee, continue to
11 provide funds to the child care provider in an amount equal to the
12 matching funds that it would ordinarily provide to that provider
13 under the program, for up to two months after the employer last
14 made a direct payment to the child care provider, and may seek
15 reimbursement from the employer for the full amount of the funds
16 provided to the child care provider during that two month period.

17 c. (1) If an employee fails to pay the employee's child care
18 provider for the balance of the costs not covered by the contribution
19 made by the employer to the employee's child care costs and the
20 State matching funds provided against the employer's contribution
21 pursuant to paragraph (3) of subsection a. of this section, the
22 employee's child care provider:

23 (a) may voluntarily excuse the employee from paying the balance
24 of the costs not covered by the contribution made by the employer
25 to the employee's child care costs and the State matching funds
26 provided against the employer's contribution, and shall notify the
27 employer, the employee, and the department of the change to the
28 agreement entered into between the employer, employee, and the
29 provider pursuant to subsection f. of section 4 of this act; or

30 (b) shall notify the employee of the child care provider's intent
31 to terminate the agreement entered into between the employer,
32 employee, and provider pursuant to paragraph (1) of subsection d.
33 of section 4 of this act if the employee fails to pay the balance the
34 employee's child care costs owed to the provider within a
35 reasonable period of time, as specified by the provider.

36 (2) If after receiving notice pursuant to subparagraph (b) of
37 paragraph (1) of this subsection, the employee fails to pay the
38 balance of the employee's child care costs owed to the provider
39 within time period specified by the provider, the provider shall
40 notify the employer, the employee, and the department that the
41 agreement entered into between the employer, employee, and the
42 employee's child care provider pursuant to paragraph (1) of
43 subsection d. of section 4 of this act will be terminated on the date
44 that the notification is submitted to the department.

45 c. An agreement to contribute to an employee's child care costs
46 entered into between an employer, an employee, and the employee's
47 child care provider may be terminated by the employer or the
48 employee at any time and for any reason. The employer or

1 employee terminating the agreement shall notify all other parties to
2 the agreement within two weeks from the date on which the
3 agreement will be terminated. The parties to the agreement shall be
4 obligated to fulfill the terms of the agreement as documented in the
5 certification form submitted to the department pursuant to
6 paragraph (1) of subsection d. of section 4 of this act through the
7 termination date of the agreement.

8
9 6. a. There is created in the Department of the Treasury a
10 dedicated, non-lapsing fund to be known as the Employer-Based
11 Child Care Assistance Partnership Fund. The fund shall be the
12 repository for monies:

13 (1) appropriated by the State for the purpose of providing
14 matching funds against the contribution made by an employer to an
15 employee's child care costs in accordance with the guidelines
16 established pursuant to subsection b. of this section;

17 (2) as may be available to the fund from public or private
18 donations, grants, or other forms of assistance established to
19 support child care programs by federal or State agencies, offices,
20 divisions, or departments; and

21 (3) otherwise appropriated or directed to be remitted to the fund.

22 b. The Department of the Treasury shall appropriate monies
23 from the fund to the Department of Children and Families for the
24 purpose of providing State matching funds against contributions
25 made by employer to employee's child care costs pursuant to
26 subsection e. of the section 4 of this act and in accordance with the
27 following guidelines:

28 (1) for employees whose household income is equal to or less
29 than 100 percent of the State median income, the State match
30 against the contribution made by the employer to an employee's
31 child care costs shall not exceed 100 percent of the employer's
32 contribution;

33 (2) the State match against the contribution made by the
34 employer to an employee's child care costs shall decrease by 10
35 percent for every 20 percent increase in an employee's household
36 income over 100 percent of the State median income, up to 180
37 percent of the State median household income; and

38 (3) the State match shall equal 50 percent of the contribution
39 made by the employer to an employee's child care costs for
40 employees whose household income exceeds 180 percent of the
41 State median income.

42 c. All monies expended for the purpose of providing State
43 matching funds against the contribution made by an employer to an
44 employee's child care costs under the program shall be paid from
45 the fund.

46 d. All interest earned on the monies that have been deposited
47 into the fund shall be retained in the fund and used for purposes
48 consistent with the fund.

1 contribute to employee child care costs by providing State funds for
2 such contributions in order to ensure that the working parents of
3 this State and their children have access to affordable, high-quality
4 child care services. Participation in the program will be voluntary,
5 and the DCF is to regulate and oversee the activities associated with
6 the program.

7 Under the bill, an employer who wishes to provide child care
8 assistance to an employee under the program and a child care
9 provider seeking to participate in the program will submit a one-
10 time application to the DCF, which will enroll the employer or child
11 care provider in the program. Upon enrollment, the employer may
12 enroll employees by submitting a standardized certification form to
13 the DCF that includes, among other things, the amount of
14 employer's contribution to the employee's child care provider. The
15 amount of State matching funds will be based on the employee's
16 household income.

17 If the total amount of the employer contribution and State
18 matching funds do not cover the employee's total child care costs,
19 the employee will be responsible for the balance of the costs.

20 The bill sets forth certain circumstances under which
21 participation in the program will be terminated, including the failure
22 by the employer to make a contribution payment, the failure of the
23 employee to pay the balance of child care costs not covered under
24 the program, a child care provider ceasing to qualify for the
25 program, or voluntary termination by the employer or employee.

26 The bill creates in the Department of the Treasury a dedicated,
27 non-lapsing fund, to be known as the Employer-Based Child Care
28 Assistance Partnership Fund. The fund will be the repository for
29 monies made available to implement the provisions established in
30 the bill. All monies expended for the purpose of providing State
31 matching funds against contributions made employers to employee
32 child care costs are to be paid from the fund.

33 The bill also requires the DCF to issue a report about the
34 program's efficacy within one year after the program is established,
35 and annually thereafter, to the Governor and to the Legislature. The
36 report is to be posted on the DCF's website and made available to
37 the public upon request.