

SENATE, No. 4005

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 26, 2023

Sponsored by:

Senator RENEE C. BURGESS

District 28 (Essex)

Co-Sponsored by:

Senator Schepisi

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/27/2023)

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2

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 (21
26 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

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1 workforce participation and help attract and retain employees with
2 children.

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

10

11 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

41

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

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4

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

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1 (8) establish procedures for collecting and verifying household
2 income information from an employee participating in the program,
3 which information shall be used to determine the amount of State
4 matching funds for which the employee is eligible;

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

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

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

17

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

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

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

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

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

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

33 (a) the name, location, and telephone number of the child care
34 provider;

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

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

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

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

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1 the employer's contribution to the employee's child care costs in
2 accordance with the provisions section 6 of this act.

3 d. (1) An employer enrolled in the program that seeks to provide
4 child care assistance to an employee shall submit to the department
5 a standardized certification form, for each employee, that includes,
6 at a minimum:

7 (a) the details of the agreement between the employer, employee,
8 and the employee's child care provider, including the amount and
9 frequency of the contribution to be paid by the employer towards
10 the employee's child care costs as agreed upon by the employer,
11 employee, and the employee's child care provider;

12 (b) documentation that the employee's child care provider is
13 enrolled in the program pursuant to subsection c. of this section or
14 that the child care provider has submitted an application for
15 enrollment pursuant to paragraph (2) of subsection b. of this section
16 and documentation from the provider indicating the provider's
17 intent to provide child care services as agreed upon by the
18 employer, employee, and the employee's child care provider and
19 receive State matching funds pursuant to section 6 of this act; and

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

21 (2) The department shall make the standardized certification
22 form available on the department's Internet website for the
23 employer to access whenever an employee wishes to receive child
24 care assistance from the employer as a benefit of employment.

25 e. The department shall review each certification submitted
26 pursuant to subsection d. of this section and shall enroll the
27 employee in the program and commence direct payments to the
28 child care provider consistent with the agreement and in accordance
29 with section 6 of this act, unless the department finds the agreement
30 deficient, which deficiency may include, but is not limited to: the
31 employer is not enrolled in the program; the child care provider is
32 not enrolled in the program, has not submitted an application to
33 enroll in the program pursuant to paragraph (2) of subsection c. of
34 this section, or has had the provider's application denied by the
35 department; the child care provider does not have a Grow NJ rating
36 of three or higher; or the parties to the agreement do not otherwise
37 meet the requirements of this act. The department will provide the
38 employer, the employee, and the child care provider of the
39 employee's enrollment in the program and the amount of matching
40 funds that will be provided under the program, or the department's
41 determination that the certification is deficient, along with the
42 specific deficiency and the steps needed to cure the deficiency, if
43 applicable.

44 f. An employee participating in the program shall be responsible
45 for the balance of any child care costs that exceed the amount of
46 the contribution made by the employee's employer under a
47 certification submitted pursuant to paragraph (1) of subsection d. of

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1 this section and the State matching funds provided against such
2 contribution by the department.

3

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

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

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

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

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

26 (5) the employer or child care provider disenrolls from the
27 program.

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

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

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

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1 (2) A child care provider that provides notice to the department
2 pursuant to paragraph (1) of this subsection that receives matching
3 State funds from the department on behalf of the employee as a
4 contribution towards the employee's child care costs, shall be
5 entitled to retain the matching funds made in connection with the
6 delinquent payment. If the child care provider fails to provide
7 notice to the department pursuant to paragraph (1) of subsection b.
8 of this section, within five days of the date the delinquent payment
9 was due, and the provider receives matching funds from the
10 department in connection with the delinquent payment, the provider
11 shall reimburse the department for such matching funds.

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

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

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

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

40 (2) If after receiving notice pursuant to subparagraph (b) of
41 paragraph (1) of this subsection, the employee fails to pay the
42 balance of the employee's child care costs owed to the provider
43 within time period specified by the provider, the provider shall
44 notify the employer, the employee, and the department that the
45 agreement entered into between the employer, employee, and the
46 employee's child care provider pursuant to paragraph (1) of

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1 subsection d. of section 4 of this act will be terminated on the date
2 that the notification is submitted to the department.

3 c. An agreement to contribute to an employee's child care costs
4 entered into between an employer, an employee, and the employee's
5 child care provider may be terminated by the employer or the
6 employee at any time and for any reason. The employer or
7 employee terminating the agreement shall notify all other parties to
8 the agreement within two weeks from the date on which the
9 agreement will be terminated. The parties to the agreement shall be
10 obligated to fulfill the terms of the agreement as documented in the
11 certification form submitted to the department pursuant to
12 paragraph (1) of subsection d. of section 4 of this act through the
13 termination date of the agreement.

14

15 6. a. There is created in the Department of the Treasury a
16 dedicated, non-lapsing fund to be known as the Employer-Based
17 Child Care Assistance Partnership Fund. The fund shall be the
18 repository for monies:

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

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

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

28 b. The Department of the Treasury shall appropriate monies
29 from the fund to the Department of Children and Families for the
30 purpose of providing State matching funds against contributions
31 made by employer to employee's child care costs pursuant to
32 subsection e. of the section 4 of this act and in accordance with the
33 following guidelines:

34 (1) for employees whose household income is equal to or less
35 than 100 percent of the State median income, the State match
36 against the contribution made by the employer to an employee's
37 child care costs shall not exceed 100 percent of the employer's
38 contribution;

39 (2) the State match against the contribution made by the
40 employer to an employee's child care costs shall decrease by 10
41 percent for every 20 percent increase in an employee's household
42 income over 100 percent of the State median income, up to 180
43 percent of the State median household income; and

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

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

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

8

9 7. a. The department shall issue a report about the program's
10 efficacy within one year after the establishment of the program, and
11 annually thereafter, to the Governor, and to the Legislature pursuant
12 to section 2 of P.L.1991, c.164 (C.52:14-19.1). The report shall be
13 posted on the department's Internet website and be made available
14 to the public upon request.

15 b. The report shall, at a minimum, provide information on the:

16 (1) number of application forms submitted by employers wishing
17 to participate in the program;

18 (2) the number of child care providers registering with the
19 department to participate in the program;

20 (3) number of partnership agreements entered into by the
21 department with employers to provide State matching funds against
22 the contributions made by the employer to an employee's child care
23 costs;

24 (4) size, geographical location, and industry type of employers
25 participating in the program;

26 (5) number, license type, quality rating, and geographical
27 location of child care providers participating in the program;

28 (6) average cost of child care services charged by child care
29 providers participating in the program and how such costs increase
30 or decrease as a result of the provider's participation in the
31 program;

32 (7) demographic information of employees participating in the
33 program;

34 (8) total amount of monies appropriated from the fund to provide
35 State matching funds against contributions made by employers to an
36 employee's child care costs under the program, by county; and

37 (9) effectiveness of the program in incentivizing employers to
38 contribute to an employee's child care costs.

39

40 8. The Department of Children and Families shall adopt,
41 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
42 (C.52:14B-1 et seq.), rules and regulations necessary for the
43 implementation of this act.

44

45 9. This act shall take effect on the first day of the fourth month
46 following the date of enactment, but the Department of Children
47 and Families shall take such anticipatory administrative action in

1 advance thereof as shall be necessary for the implementation of this
2 act.

3

4

5

STATEMENT

6

7 This bill establishes the Employer-Based Child Care Assistance
8 Partnership Program in the Department of Children and Families
9 (DCF). The purpose of the program is to incentivize employers to
10 contribute to employee child care costs by providing State funds for
11 such contributions in order to ensure that the working parents of
12 this State and their children have access to affordable, high-quality
13 child care services. Participation in the program will be voluntary,
14 and the DCF is to regulate and oversee the activities associated with
15 the program.

16 Under the bill, an employer who wishes to provide child care
17 assistance to an employee under the program and a child care
18 provider seeking to participate in the program will submit a one-
19 time application to the DCF, which will enroll the employer or child
20 care provider in the program. Upon enrollment, the employer may
21 enroll employees by submitting a standardized certification form to
22 the DCF that includes, among other things, the amount of
23 employer's contribution to the employee's child care provider. The
24 amount of State matching funds will be based on the employee's
25 household income.

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

29 The bill sets forth certain circumstances under which
30 participation in the program will be terminated, including the failure
31 by the employer to make a contribution payment, the failure of the
32 employee to pay the balance of child care costs not covered under
33 the program, a child care provider ceasing to qualify for the
34 program, or voluntary termination by the employer or employee.

35 The bill creates in the Department of the Treasury a dedicated,
36 non-lapsing fund, to be known as the Employer-Based Child Care
37 Assistance Partnership Fund. The fund will be the repository for
38 monies made available to implement the provisions established in
39 the bill. All monies expended for the purpose of providing State
40 matching funds against contributions made employers to employee
41 child care costs are to be paid from the fund.

42 The bill also requires the DCF to issue a report about the
43 program's efficacy within one year after the program is established,
44 and annually thereafter, to the Governor and to the Legislature. The
45 report is to be posted on the DCF's website and made available to
46 the public upon request.