

[First Reprint]

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 reported by the Senate Health, Human Services and Senior Citizens Committee on November 30, 2023, with amendments.



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

1 AN ACT establishing an employer-based child care assistance
2 partnership program and supplementing ¹ [P.L.1983, c.492
3 (C.30:5B-1 et seq.)] Title 30 of the Revised Statutes¹.
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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted November 30, 2023.

1 child care-related expenses, can remove a major barrier to
2 workforce participation and help attract and retain employees with
3 children.

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

11

12 2. As used in this act:

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

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

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

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

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

24 "Employer" means any person, firm, business, educational
25 institution, nonprofit agency, corporation, limited liability company ^{1, 1}
26 or other entity that employs employees in the State.

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

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

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

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

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

42

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

1 that **‘[for]’** working parents of this State and their children have
2 access to affordable, high-quality child care services. Participation in
3 the program shall be voluntary.

4 b. The department shall:

5 (1) regulate and oversee the activities associated with the program;

6 (2) prepare, make available, and process an application and
7 standardized certification form to be used by an employer to enter into
8 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 to
17 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 with
21 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 **‘employee’s’** child care provider shall meet in order for the
34 department to enter into an agreement to match the contribution made
35 by an 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 participating
40 in the program to provide State matching funds against the
41 contributions made by the employer to employee child care costs
42 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 of
47 such funds;

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 program's
12 requirements ¹and¹ any other relevant program details to employers,
13 employees, and child care providers participating in the program; and

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

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

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

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

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

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

30 (2) An application form for ¹a¹ child care provider to participate
31 in the program shall contain the following:

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

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

36 (c) ¹information required for the child care provider's¹ enrollment
37 in the department's automatic payment system developed pursuant to
38 paragraph (7) of subsection b. of section 3 of this act; and

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

40 c. Upon receipt of the application form submitted pursuant
41 subsection b. of this section, the department shall review the
42 application and, if the employer or child care provider meet the
43 program's eligibility requirements, the department shall enroll the
44 employer or the child care provider, as applicable, in the program and
45 provide notice to the employer ¹[and] ¹or¹ child care provider of its
46 enrollment in the program, and of the department's intent to match the

1 employer's contribution to the employee's child care costs in
2 accordance with the provisions ¹of¹ 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 a
5 standardized certification form, for each employee, that includes, at a
6 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 the
10 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 that
14 the child care provider has submitted an application for enrollment
15 pursuant to paragraph (2) of subsection b. of this section and
16 documentation from the provider indicating the provider's intent to
17 provide child care services as agreed upon by the employer, employee,
18 and the employee's child care provider and receive State matching
19 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 form
22 available on the department's Internet website for the employer to
23 access whenever an employee wishes to receive child care assistance
24 from the employer as a benefit of employment.

25 e. The department shall review each certification ¹form¹ submitted
26 pursuant to subsection d. of this section and shall enroll the employee
27 in the program and commence direct payments to the ¹employee's¹
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 not
32 enrolled in the program, has not submitted an application to enroll in
33 the program pursuant to paragraph (2) of subsection c. of this section,
34 or has had the provider's application denied by the department; the
35 child care provider does not have a Grow NJ rating of three or higher;
36 or the parties to the agreement do not otherwise meet the requirements
37 of this act. The department ¹**will** ¹shall¹ provide the employer, the
38 employee, and the ¹employee's¹ child care provider ¹notice¹ of the
39 employee's enrollment in the program and the amount of matching
40 funds that ¹**will** ¹shall¹ be provided under the program, or the
41 department's determination that the ¹agreement documented by the¹
42 certification ¹form¹ is deficient, along with the specific deficiency and
43 the steps needed to cure the deficiency, if 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 the
46 contribution made by the employee's employer under ¹**a** ¹the
47 agreement documented by the¹ certification ¹form¹ submitted pursuant

1 to paragraph (1) of subsection d. of this section and the State matching
2 funds provided against such contribution by the department.

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

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

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

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

21 (4) if the employee's child care provider ceases its participation in,
22 or if the department denies, suspends, revokes, or refuses to renew the
23 provider's rating under ¹['.']¹ the Grow New Jersey quality rating
24 improvement system; or

25 (5) the employer or ¹employee's¹ child care provider disenrolls
26 from the program.

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

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

39 (b) notify the employer that the agreement entered into between
40 the employer, employee, and the employee's child care provider as
41 documented in the certification form submitted to the department
42 pursuant to paragraph (1) of subsection d. of section 4 of this act,
43 ¹['will'] shall¹ be terminated unless the employer makes any delinquent
44 payments and certifies that that the employer ¹['will'] shall¹ resume the
45 direct payments within five days of receipt of the notification.

46 (2) A child care provider that provides notice to the department
47 pursuant to paragraph (1) of this subsection ¹['that'] and¹ receives

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

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

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

25 (a) may voluntarily excuse the employee from paying the balance
26 of the costs not covered by the contribution made by the employer to
27 the employee's child care costs and the State matching funds provided
28 against the employer's contribution, and shall notify the employer, the
29 employee, and the department of the change to the agreement entered
30 into between the employer, employee, and the provider pursuant to
31 subsection ¹[f.] d. of section 4 of this act; or

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

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

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

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

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

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

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

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

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

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

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

46 c. All monies expended for the purpose of providing State
47 matching funds against the contribution made by an employer to an

1 employee's child care costs under the program shall be paid from
2 the fund.

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

6
7 7. a. The ¹~~['department']~~ Department of Children and Families¹
8 shall issue a report about the program's efficacy within one year after
9 the establishment of the program, and annually thereafter, to the
10 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
11 c.164 (C.52:14-19.1). The report shall be posted on the department's
12 Internet website and be made available to the public upon request.

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

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

16 (2) ¹~~['the']~~ number of child care providers registering with the
17 department to participate in the program;

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

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

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

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

29 (7) demographic information of employees participating in the
30 program;

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

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

36
37 8. The Department of Children and Families shall adopt,
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
39 (C.52:14B-1 et seq.), rules and regulations necessary for the
40 implementation of this act.

41
42 9. This act shall take effect on the first day of the fourth month
43 following the date of enactment, but the Department of Children
44 and Families shall take such anticipatory administrative action in
45 advance thereof as shall be necessary for the implementation of this
46 act.