

An act to amend Section 10388 of the Welfare and Institutions Code,
relating to childcare.

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

SECTION 1. Section 10388 of the Welfare and Institutions Code is amended to read:

10388. (a) (1) The State Department of Education, in consultation with the State Department of Social Services, county fraud investigators, and other fraud investigation experts, shall perform an error rate study to estimate the percentage of errors, including, but not limited to, overpayments and fraud, in determinations of eligibility, the need for ~~child care~~ childcare pursuant to paragraph (2) of subdivision (c) of Section 8208 of the Education Code, family fees, and reimbursement payments to ~~child care~~ childcare providers, including, but not limited to, authorized hours of care and the use of adjustment factors, in programs operated pursuant to Chapter 3 (commencing with Section 10225) and Chapter 21 (commencing with Section 10370). The study shall include, but not be limited to, an analysis of a statistically valid, random, sample of family files and reimbursement payments that have been processed over a specified time. Each payment from the sample shall be audited to determine whether it was correctly paid or paid in error. Those payments identified as being paid in error shall be classified based on the type of the error that occurred, including, but not limited to, administrative errors, overpayment caused by providers, overpayments caused by parents, provider fraud, and beneficiary fraud.

(2) In conducting the compliance reviews required by regulations of the Superintendent of Public Instruction pursuant to Section 10267.5 for programs operated pursuant to Chapter 7 (commencing with Section 10240), the State Department of Education shall survey a statistically valid sample of files for the program and identify and report the errors, by category, resulting from that survey.

(3) The State Department of Education shall report in writing to the Governor, the Chair of the Joint Legislative Budget Committee, the chairs of the fiscal committees for both houses of the Legislature, and the Department of Finance, information regarding the error rate study by April 1, 2005. The report shall include, but not be limited to, all of the following:

(A) The results of the error rate study.

(B) Fraud and overpayment reduction targets that have been established based on the data from the error rate study.

(C) The timeframe for achieving the targets.

(D) Recommendations developed pursuant to subdivision (b).

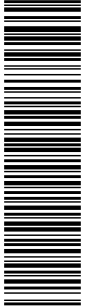
(b) The State Department of Education shall develop recommendations for the prevention and elimination of ~~child care~~ childcare fraud and programmatic errors and the identification and collection of ~~child care~~ childcare overpayments. The recommendations shall include, but not be limited to:

(1) Precise definitions of what constitutes ~~child care~~ childcare fraud and overpayments.

(2) A consistent statewide system to identify fraud and overpayments.

(3) A consistent statewide system of standards for fraud prevention, intervention, and overpayment collection that is applied to all ~~child care~~ childcare program provider categories.

(4) Statewide fraud and overpayment measures that will be reported annually by the department.



(5) Standards for independent financial compliance audits, including provisions to ensure that small programs are not unduly burdened.

(6) Consistent statewide mechanisms for due process for parents.

(7) Consistent statewide mechanisms for dispute resolution for ~~child care~~ childcare programs and providers.

(8) Assessment of the cost-effectiveness of prevention and intervention activities.

(9) Equitable treatment of all consumers of subsidized ~~child care~~ childcare.

(10) Consideration of the need to minimize new barriers to family access to ~~child care~~ childcare.

(11) A survey of best practices from both California agencies and providers and from other states.

(c) In developing its recommendations, the State Department of Education shall place priority on prevention of fraud and overpayments, and shall consider existing best practices for doing so. The State Department of Education shall make any identified best practices available on its ~~Internet Web site~~ internet website by March 1, 2005.

(d) The State Department of Education shall consult with representatives of the State Department of Social Services, the Legislative Analyst's Office, the Department of Finance, staff from the appropriate policy and fiscal committees of each house of the Legislature, and other interested parties including, but not limited to, ~~child care~~ childcare consumers and providers, representatives from county welfare departments, district attorneys, county special investigative units, and legal advocacy organizations representing consumers in developing these recommendations.

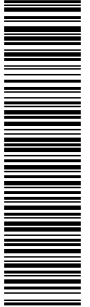
(e) The State Department of Education shall report its recommendations directly to the respective policy and fiscal committees of the Legislature by April 1, 2005.

(f) (1) On or after July 1, 2005, all ~~child care~~ childcare contracts entered into by the State Department of Social Services for means-tested ~~child care~~ childcare programs, including, but not limited to, the programs described in Chapter 3 (commencing with Section 10225), Chapter 6 (commencing with Section 10235), Chapter 7 (commencing with Section 10240), Chapter 8 (commencing with Section 10250), Chapter 9 (commencing with Section 10260), and Chapter 21 (commencing with Section 10370), shall require ~~implementation of best practices identified pursuant to subdivision (e)~~ adoption in contractor policies and implementation of best practices on prevention and intervention of fraud and program integrity violations, as determined by the State Department of Social Services.

(2) Notwithstanding paragraph (1) of subdivision (h) of Section 10271, the best practices described in paragraph (1) shall require childcare contractors to recertify eligibility for services if there is substantiated evidence of a fraud or program integrity violation that invalidates the certification.

(g) (1) The State Department of Social Services may enter into agreements with county welfare departments to support the investigation and enforcement of fraud and program integrity in any subsidized childcare program administered by the department, inclusive of licensed and license-exempt providers.

(2) Any agreements entered into pursuant to this subdivision shall describe how the State Department of Social Services may furnish or require the disclosure of information to the extent required to investigate and pursue claims related to fraud or program integrity.

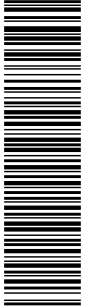


(h) The State Department of Social Services may clarify the process for recovery of funds and imposition of sanctions described in the approved state plan under the federal Child Care and Development Fund in instances where fraud or other program integrity violation is established. For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

(i) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement and administer the changes made to this section by the act that added this subdivision by all-county letters, bulletins, contract provisions, or similar written instructions until regulations are adopted. The department shall initiate a rulemaking action to adopt regulations to implement this section no later than July 1, 2030.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Childcare: program integrity.

Existing law, the Child Care and Development Services Act, administered by the State Department of Social Services, establishes a comprehensive, coordinated, and cost-effective system of childcare and development services for children from infancy to 13 years of age and their parents. The act requires the State Department of Education, in consultation with the State Department of Social Services, county fraud investigators, and other fraud investigation experts, to perform an error rate study to estimate the percentage of errors in certain determinations, including, among others, errors in determinations of eligibility and reimbursement payments to childcare providers. The act also requires the State Department of Education to develop recommendations for the prevention and elimination of childcare fraud and programmatic errors and the identification and collection of childcare overpayments, and, in developing its recommendations, to consider existing best practices. Existing law requires all childcare contracts entered into by the State Department of Social Services for means-tested childcare programs to require implementation of those best practices.

This bill would require the best practices on fraud and overpayments to require adoption in contractor policies and implementation of best practices on prevention and intervention of fraud and program integrity violations. The bill would require childcare contractors to recertify eligibility for services if there is substantiated evidence of a fraud or program integrity violation that invalidates the certification. The bill would authorize the department to enter into agreements with county welfare departments to support the investigation and enforcement of fraud and program integrity in any subsidized childcare program administered by the department, as specified. The bill would authorize the department to clarify the process for recovery of funds and imposition of sanctions described in the approved state plan for the implementation of programs under the federal Child Care and Development Fund in instances where fraud or other program integrity violation is established.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

