

CHAPTER 2018-136

Committee Substitute for Committee Substitute for House Bill No. 1091

An act relating to early learning; amending s. 1002.81, F.S.; revising the definition of “at-risk child”; amending s. 1002.82, F.S.; revising the duties of the Office of Early Learning; revising the requirements for certain assessments; revising the standard statewide contract for providers; providing that failing to meet certain measures for a specified period is cause for termination of a provider; providing for the development of a program assessment for school readiness providers; providing program assessment requirements; requiring the office to set a payment differential for certain providers; providing requirements for such payment differential; revising requirements for a certain single statewide information system; revising the requirement for an analysis of early learning activities throughout the state; amending s. 1002.84, F.S.; conforming a cross-reference; amending s. 1002.85, F.S.; revising the required contents of the school readiness program plan each early learning coalition must submit; amending s. 1002.87, F.S.; revising the priority criteria for participation in the school readiness program; amending s. 1002.88, F.S.; revising school readiness provider requirements for program participation; conforming cross-references; amending s. 1002.89, F.S.; providing for the use of specified funds for a required assessment; amending s. 1002.92, F.S.; conforming a cross-reference; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) of subsection (1) of section 1002.81, Florida Statutes, is amended to read:

1002.81 Definitions.—Consistent with the requirements of 45 C.F.R. parts 98 and 99 and as used in this part, the term:

(1) “At-risk child” means:

(e) A child in the custody of a parent who is considered a victim of domestic violence and is receiving services through residing in a certified domestic violence center.

Section 2. Paragraphs (n) through (x) of subsection (2) of section 1002.82, Florida Statutes, are redesignated as paragraphs (p) through (z), respectively, present paragraphs (k), (m), and (n) of subsection (2) and paragraph (a) of subsection (5) are amended, and new paragraphs (n) and (o) are added to subsection (2) of that section, to read:

1002.82 Office of Early Learning; powers and duties.—

(2) The office shall:

(k) ~~Identify observation-based child Select assessments that are valid, reliable, and developmentally appropriate for use at least three times a year for use as preassessment and postassessment for the age ranges specified in the coalition plans. The assessments must:~~

1. Provide interval level and criterion-referenced data that measures equivalent levels of growth across the core domains of early childhood development and that can be used for determining developmentally appropriate learning gains.

2. Measure progress in the performance standards adopted pursuant to paragraph (j).

3. Provide for appropriate accommodations for children with disabilities and English language learners and be administered by qualified individuals, consistent with the developer's instructions.

4. Coordinate with the performance standards adopted by the department under s. 1002.67(1) for the Voluntary Prekindergarten Education Program.

~~5. Provide data in a format for use in the single statewide information system to meet the requirements of paragraph (q) be designed to measure progress in the domains of the performance standards adopted pursuant to paragraph (j), provide appropriate accommodations for children with disabilities and English language learners, and be administered by qualified individuals, consistent with the publisher's instructions.~~

(m) Adopt by rule a standard statewide provider contract to be used with each school readiness program provider, with standardized attachments by provider type. The office shall publish a copy of the standard statewide provider contract on its website. The standard statewide contract shall include, at a minimum, contracted slots, if applicable, in accordance with the Child Care and Development Block Grant Act of 2014, 45 C.F.R. parts 98 and 99; quality improvement strategies, if applicable; program assessment requirements; and provisions for provider probation, termination for cause, and emergency termination for those actions or inactions of a provider that pose an immediate and serious danger to the health, safety, or welfare of the children. The standard statewide provider contract shall also include appropriate due process procedures. During the pendency of an appeal of a termination, the provider may not continue to offer its services. Any provision imposed upon a provider that is inconsistent with, or prohibited by, law is void and unenforceable. Provisions for termination for cause must also include failure to meet the minimum quality measures established under paragraph (n) for a period of up to 5 years, unless the coalition determines that the provider is essential to meeting capacity needs based on the assessment under s. 1002.85(2)(j) and the provider has an active improvement plan pursuant to paragraph (n).

(n) Adopt a program assessment for school readiness program providers that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages birth to 5 years. The program assessment must also include:

1. Quality measures, including a minimum threshold for contracting purposes and program improvement through an improvement plan.

2. Requirements for program participation, frequency of program assessment, and exemptions.

(o) No later than July 1, 2019, develop a differential payment program based on the quality measures adopted by the office under paragraph (n). The differential payment may not exceed a total of 15 percent for each care level and unit of child care for a child care provider. No more than 5 percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using a child assessment identified pursuant to paragraph (k). Providers below the minimum threshold for contracting purposes are ineligible for such payment.

(q)~~(n)~~ Establish a single statewide information system that each coalition must use for the purposes of managing the single point of entry, tracking children’s progress, coordinating services among stakeholders, determining eligibility of children, tracking child attendance, and streamlining administrative processes for providers and early learning coalitions. By July 1, 2019, the system, subject to ss. 1002.72 and 1002.97, shall:

1. Allow a parent to monitor the development of his or her child as the child moves among programs within the state.

2. Enable analysis at the state, regional, and local level to measure child growth over time, program impact, and quality improvement and investment decisions.

(5) By January 1 of each year, the office shall annually publish on its website a report of its activities conducted under this section. The report must include a summary of the coalitions’ annual reports, a statewide summary, and the following:

(a) An analysis of early learning activities throughout the state, including the school readiness program and the Voluntary Prekindergarten Education Program.

1. The total and average number of children served in the school readiness program, enumerated by age, eligibility priority category, and coalition, and the total number of children served in the Voluntary Prekindergarten Education Program.

2. A summary of expenditures by coalition, by fund source, including a breakdown by coalition of the percentage of expenditures for administrative activities, quality activities, nondirect services, and direct services for children.

3. A description of the office's and each coalition's expenditures by fund source for the quality and enhancement activities described in s. 1002.89(6)(b).

4. A summary of annual findings and collections related to provider fraud and parent fraud.

5. Data regarding the coalitions' delivery of early learning programs.

6. The total number of children disenrolled statewide and the reason for disenrollment.

7. The total number of providers by provider type.

8. The number of school readiness program providers who have completed the program assessment required under paragraph (2)(n); the number of providers who have not met the minimum threshold for contracting established under to paragraph (2)(n); and the number of providers that have an active improvement plan based on the results of the program assessment under paragraph (2)(n).

9.8. The total number of provider contracts revoked and the reasons for revocation.

Section 3. Subsection (4) of section 1002.84, Florida Statutes, is amended to read:

1002.84 Early learning coalitions; school readiness powers and duties. Each early learning coalition shall:

(4) Establish a regional Warm-Line as directed by the office pursuant to s. 1002.82(2)(t) ~~s. 1002.82(2)(r)~~. Regional Warm-Line staff shall provide onsite technical assistance, when requested, to assist child care facilities and family day care homes with inquiries relating to the strategies, curriculum, and environmental adaptations the child care facilities and family day care homes may need as they serve children with disabilities and other special needs.

Section 4. Paragraphs (c) and (d) of subsection (2) of section 1002.85, Florida Statutes, are amended, and paragraph (j) is added to that subsection, to read:

1002.85 Early learning coalition plans.—

(2) Each early learning coalition must biennially submit a school readiness program plan to the office before the expenditure of funds. A

coalition may not implement its school readiness program plan until it receives approval from the office. A coalition may not implement any revision to its school readiness program plan until the coalition submits the revised plan to and receives approval from the office. If the office rejects a plan or revision, the coalition must continue to operate under its previously approved plan. The plan must include, but is not limited to:

(c) The coalition’s procedures for implementing the requirements of this part, including:

1. Single point of entry.
2. Uniform waiting list.
3. Eligibility and enrollment processes and local eligibility priorities for children pursuant to s. 1002.87.
4. Parent access and choice.
5. Sliding fee scale and policies on applying the waiver or reduction of fees in accordance with s. 1002.84(8).
6. Use of preassessments and postassessments, as applicable.
7. Payment rate schedule.
8. Use of contracted slots, as applicable, based on the results of the assessment required under paragraph (j).

(d) A detailed description of the coalition’s quality activities and services, including, but not limited to:

1. Resource and referral and school-age child care.
2. Infant and toddler early learning.
3. Inclusive early learning programs.
4. Quality improvement strategies that strengthen teaching practices and increase child outcomes.

(j) An assessment of local priorities within the county or multi-county region based on the needs of families and provider capacity using available community data.

Section 5. Subsections (1), (2), (3), and (7) of section 1002.87, Florida Statutes, are amended to read:

1002.87 School readiness program; eligibility and enrollment.—

(1) Each early learning coalition shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child younger than 13 years of age from a family that includes a parent who is receiving temporary cash assistance under chapter 414 and subject to the federal work requirements.

(b) Priority shall be given next to an at-risk child younger than 9 years of age.

(c) Subsequent priority shall be given, based on the early learning coalition's local priorities identified under s. 1002.85(2)(j), to children who meet the following criteria: ~~next to~~

1. A child from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. who is from a working family that is economically disadvantaged, and may include such child's eligible siblings, beginning with the school year in which the sibling is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. until the beginning of the school year in which the sibling is eligible to begin 6th grade, provided that the first priority for funding an eligible sibling is local revenues available to the coalition for funding direct services.

~~2.(d) Priority shall be given next to~~ A child of a parent who transitions from the work program into employment as described in s. 445.032 from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

~~3.(e) Priority shall be given next to~~ An at-risk child who is at least 9 years of age but younger than 13 years of age. An at-risk child whose sibling is enrolled in the school readiness program within an eligibility priority category listed in paragraphs (a) and (b) and subparagraph (c)1.-(e) shall be given priority over other children who are eligible under this paragraph.

~~4.(f) Priority shall be given next to~~ A child who is younger than 13 years of age from a working family that is economically disadvantaged. ~~A child who is eligible under this paragraph whose sibling is enrolled in the school readiness program under paragraph (e) shall be given priority over other children who are eligible under this paragraph.~~

~~5.(g) Priority shall be given next to~~ A child of a parent who transitions from the work program into employment as described in s. 445.032 who is younger than 13 years of age.

~~6.(h) Priority shall be given next to~~ A child who has special needs, has been determined eligible as a student with a disability, has a current individual education plan with a Florida school district, and is not younger than 3 years of age. A special needs child eligible under this paragraph remains eligible until the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

~~7.(i) Notwithstanding paragraphs (a)-(d), priority shall be given last to~~ A child who otherwise meets one of the eligibility criteria in paragraphs (a) and

(b) and subparagraphs (c)1. and 2.-~~(d)~~ but who is also enrolled concurrently in the federal Head Start Program and the Voluntary Prekindergarten Education Program.

(2) A school readiness program provider may be paid only for authorized hours of care provided for a child in the school readiness program. A child enrolled in the Voluntary Prekindergarten Education Program may receive care from the school readiness program if the child is eligible according to the eligibility priorities and criteria established in subsection (1) this section.

(3) Contingent upon the availability of funds, a coalition shall enroll eligible children, including those from its waiting list, according to the eligibility priorities and criteria established in subsection (1) this section.

(7) If a coalition disenrolls children from the school readiness program, the coalition must disenroll the children in reverse order of the eligibility priorities and criteria listed in subsection (1) beginning with children from families with the highest family incomes. A notice of disenrollment must be sent to the parent and school readiness program provider at least 2 weeks before disenrollment to provide adequate time for the parent to arrange alternative care for the child. However, an at-risk child may not be disenrolled from the program without the written approval of the Child Welfare Program Office of the Department of Children and Families or the community-based lead agency.

Section 6. Paragraphs (h) through (q) of subsection (1) of section 1002.88, Florida Statutes, are redesignated as paragraphs (i) through (r), respectively, present paragraphs (m) and (o) of subsection (1) are amended, and new paragraph (h) is added to subsection (1) of that section, to read:

1002.88 School readiness program provider standards; eligibility to deliver the school readiness program.—

(1) To be eligible to deliver the school readiness program, a school readiness program provider must:

(h) Participate in the program assessment under s. 1002.82(2)(n).

~~(n)(m)~~ For a provider that is an informal provider, comply with the provisions of paragraph (m) paragraph (l) or maintain homeowner's liability insurance and, if applicable, a business rider. If an informal provider chooses to maintain a homeowner's policy, the provider must obtain and retain a homeowner's insurance policy that provides a minimum of \$100,000 of coverage per occurrence and a minimum of \$300,000 general aggregate coverage. The office may authorize lower limits upon request, as appropriate. An informal provider must add the coalition as a named certificate-holder and as an additional insured. An informal provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance

required by this paragraph must remain in full force and effect for the entire period of the provider's contract with the coalition.

~~(p)(e)~~ Notwithstanding ~~paragraph (m)~~ ~~paragraph (l)~~, for a provider that is a state agency or a subdivision thereof, as defined in s. 768.28(2), agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

Section 7. Paragraph (b) of subsection (6) of section 1002.89, Florida Statutes, is amended to read:

1002.89 School readiness program; funding.—

(6) Costs shall be kept to the minimum necessary for the efficient and effective administration of the school readiness program with the highest priority of expenditure being direct services for eligible children. However, no more than 5 percent of the funds described in subsection (5) may be used for administrative costs and no more than 22 percent of the funds described in subsection (5) may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services as follows:

(b) Activities to improve the quality of child care as described in 45 C.F.R. s. 98.51, which shall be limited to the following:

1. Developing, establishing, expanding, operating, and coordinating resource and referral programs specifically related to the provision of comprehensive consumer education to parents and the public to promote informed child care choices specified in 45 C.F.R. s. 98.33.

2. Awarding grants and providing financial support to school readiness program providers and their staff to assist them in meeting applicable state requirements for the program assessment required under s. 1002.82(2)(n), child care performance standards, implementing developmentally appropriate curricula and related classroom resources that support curricula, providing literacy supports, and providing continued professional development and training. Any grants awarded pursuant to this subparagraph shall comply with ss. 215.971 and 287.058.

3. Providing training, technical assistance, and financial support to school readiness program providers, staff, and parents on standards, child screenings, child assessments, child development research and best practices, developmentally appropriate curricula, character development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, cardiopulmonary resuscitation, the recognition of communicable diseases, and child abuse detection, prevention, and reporting.

4. Providing, from among the funds provided for the activities described in subparagraphs 1.-3., adequate funding for infants and toddlers as

necessary to meet federal requirements related to expenditures for quality activities for infant and toddler care.

5. Improving the monitoring of compliance with, and enforcement of, applicable state and local requirements as described in and limited by 45 C.F.R. s. 98.40.

6. Responding to Warm-Line requests by providers and parents, including providing developmental and health screenings to school readiness program children.

Section 8. Paragraph (a) of subsection (3) of section 1002.92, Florida Statutes, is amended to read:

1002.92 Child care and early childhood resource and referral.—

(3) Child care resource and referral agencies shall provide the following services:

(a) Identification of existing public and private child care and early childhood education services, including child care services by public and private employers, and the development of a resource file of those services through the single statewide information system developed by the office under ~~s. 1002.82(2)(p)~~ s. 1002.82(2)(n). These services may include family day care, public and private child care programs, the Voluntary Prekindergarten Education Program, Head Start, the school readiness program, special education programs for prekindergarten children with disabilities, services for children with developmental disabilities, full-time and part-time programs, before-school and after-school programs, vacation care programs, parent education, the temporary cash assistance program, and related family support services. The resource file shall include, but not be limited to:

1. Type of program.
2. Hours of service.
3. Ages of children served.
4. Number of children served.
5. Program information.
6. Fees and eligibility for services.
7. Availability of transportation.

Section 9. For the 2018-2019 fiscal year, the sum of \$6 million in nonrecurring funds from the Child Care and Development Block Grant Trust Fund is appropriated to the Office of Early Learning to implement the program assessment required by s. 1002.82(2)(n), Florida Statutes.

Section 10. This act shall take effect July 1, 2018.

Approved by the Governor March 30, 2018.

Filed in Office Secretary of State March 30, 2018.