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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair

2015 - 2016 Regular

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**Bill No:** AB 271

**Author:** Obernolte

**Version:** May 28, 2015

**Urgency:** No

**Consultant:** Olgalilia Ramirez

**Hearing Date:** July 8, 2015

**Fiscal:** Yes

**Subject:** Child care: alternative payment programs and contractors: electronic records: digital signatures

**Note:** This bill has been referred to the Committees on Education and Human Services. A "do pass" motion should include referral to the Committee on Human Services

### SUMMARY

This bill expands the existing authority of Alternative Payment Programs (APP) and child care providers to use electronic methods for storage of documents or records and use of digital signatures pursuant to current state standards, as specified.

### BACKGROUND

Existing law authorizes local government agencies or non-profit organizations to contract with the California Department of Education (CDE) to operate APPs and provide alternative payments and support services to parents and child development providers. APPs help parents arrange child care services and make payments directly to the provider, which may be in-home care, family child care or center-based care, and either licensed or license-exempt. (Education Code § 8220)

Existing law establishes requirements and procedures that APPs and child development providers must follow as contracted agencies with the CDE, including but not limited to tracking and reporting of attendance, accounting and auditing requirements, and reimbursement and payment procedures. (EC § 8221.5)

Current regulations require child care and development providers that contract with APPs to submit periodic reports that must include:

- 1) Days and hours of enrollment and attendance.
- 2) Total days of operation.
- 3) Services, revenues and expenditures relating to care provided for subsidized and unsubsidized children.

Parents are required to physically sign-in and sign-out their child when they drop off and pick up their child each day. (California Code of Regulations, Title 5, § 18065)

Existing law requires agencies that receive state funds to, at the request of the Superintendent of Public Instruction, make all records pertaining to its state-funded programs available to the California Department Education (CDE), as specified, and requires that all records be retained by each agency for at least five years, as specified. (EDC § 33421)

Existing law authorizes alternative payment programs and providers and other contractors providing child care development services to maintain records in electronic format if the original documents were created in electronic format. (EC § 8262.1)

## ANALYSIS

This bill expands the existing authority of Alternative Payment Programs (APP) and child care providers to use electronic methods for storage of documents or records pursuant to current law and the standards for trustworthy electronic document preservation under state regulations. Specifically this bill:

- 1) Authorizes APPs and child care providers to maintain child care records electronically and requires any conversion from a paper record to an electronic format, as well as the storage of the electronic record to comply with the specified state standards for electronic document or record preservation.
- 2) Authorizes APPs and child care providers to use digital signatures and requires a digital signature to have the same force and effect as the manual signature provided that the requirements for digital signatures and their acceptable technology satisfy state standards, as specified.
- 3) Deletes the requirement that APPs and child care providers only store records electronically if the original documents were created in electronic format.
- 4) Extends the existing five year requirements for the storage of original records, as specified to all records including electronic records as described in this bill.
- 5) Makes other non-substantive technical changes.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author current law governing the use of technology for child care contractors fail to reflect recent technological advances. The author further asserts that local child care agencies and contractors are expending dollars and resources to store paper copies of case files dating back five to seven years. This bill seeks to give APPs and child care providers the option of storing documents electronically and the ability to use digital signatures on records.
- 2) **Alternative Payment Programs (APP).** APPs are funded with state and federal funds and offer vouchers to parents that allow them choose care from licensed or license-exempt child care providers, such as in-home care, family child care, and center-based care. APPs help families arrange child care services through referral networks and make payments for those services directly to the child care provider selected by the family. Statewide, there are currently 76 APPs contracted with CDE.

3) **System for Preserving Documents.** Current law requires uniform statewide standards for the purpose of storing and recording documents in electronic media to be approved and adopted by the Secretary of State in accordance with the American National Standards Institute or the Association for Information and Image Management (AIIM). These standards specify that in order to ensure that official electronic documents are considered to be a true and an accurate copy of the original information received and before the original copy may be destroyed, at least two separate copies of the official document must be created to meet the following AIIM standards:

- a) Copies are stored using both hardware and media storage methodologies.
- b) The system for storing copies must ensure that there is no plausible way for electronically stored information to be modified, altered, or deleted during the approved information lifecycle.
- c) At least one copy of the electronic document or record must not permit unauthorized additions, deletions, or changes to the original document and that is to be stored and maintained in a safe and separate location.

Additionally, any information being scanned, or electronically received or stored should be stored using industry accepted format such as JPEG, JBIG, JPEG 2000, or PDF-A.

This bill seeks to authorize APPs and child care providers that use at minimum the system described above in order to reduce costs of maintaining original documents.

- 4) **Digital Signature.** Current regulations establish criteria for public entities using digital signature of technology. Acceptable technology must be capable of creating signatures that are unique to the person using it, capable of verification, under sole control of the person using it and cannot be altered. The regulations also provide recommendations of acceptable digital signature technology. This bill attempts to authorize digital signatures to have the same effect as a manual signature.
- 5) **Auditing.** The Child Care and Development Services Act requires an independent financial and compliance audit of organizations that contract with California Department of Education (CDE) under direct service contracts. Current law also requires agencies that receive state funds to, at the request of the Superintendent of Public Instruction, make all records pertaining to its state-funded programs available to the CDE and requires that all records be retained by each agency for at least five years. This bill extends the existing five year requirements for the storage of original records to all records including electronic documents and records. It is unclear how the use of electronic records, if at all, will impact audit procedures by CDE. Concerns were raised on prior versions of this bill regarding the integrity of electronically stored documents. The bill has since been amended to comply with existing state standards for storing electronic documents as described in staff comment 3 and 4.

**6) *Prior legislation.***

AB 2101 (Levine, 2014) similar to this bill, would have allowed alternative payment programs and child care providers to maintain and retain records electronically and expanded the list of types of records that can be maintained electronically. AB 2101 died in the Assembly Appropriations Committee.

**SUPPORT**

California Alternative Payment Program (CAPPA)  
California State PTA

**OPPOSITION**

None received.

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