

1 AN ACT relating to employee child-care assistance and declaring an emergency.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
4 READ AS FOLLOWS:

5 *The General Assembly finds and declares that the purpose of this Act is to support*
6 *Kentucky families by incentivizing employers to contribute to the child-care costs of its*
7 *employees. In enacting this legislation, it is the intention of the General Assembly to*
8 *enable the Cabinet for Health and Family Services to facilitate this public and private*
9 *partnership program, herein known as the Employee Child Care Assistance*
10 *Partnership, and administer program funds to achieve this purpose.*

11 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
12 READ AS FOLLOWS:

13 *As used in Sections 1 to 8 of this Act:*

14 *(1) "Cabinet" means the Cabinet for Health and Family Services;*

15 *(2) "Child-care provider" means a child-care provider that is rated pursuant to the*
16 *quality-based graduated early care and education program rating system set forth*
17 *in KRS 199.8943;*

18 *(3) "Contribution" means a direct payment to a child-care provider either directly by*
19 *an employer or through a third party vendor to subsidize an employee's eligible*
20 *child-care costs;*

21 *(4) "Eligible child-care costs" means costs to be incurred by an individual for*
22 *services rendered by an eligible child-care provider;*

23 *(5) "Employee" means an individual who works in Kentucky and is employed by an*
24 *employer;*

25 *(6) "Employer" means a nonprofit or for-profit entity with at least one (1) employee*
26 *who works in Kentucky in each of twenty (20) or more calendar weeks in the*
27 *current or preceding calendar year;*

1 (7) "Fund" means the fund administered by the Cabinet as described in Section 5 of
 2 this Act;

3 (8) "Program" means the Employee Child Care Assistance Partnership;

4 (9) "Small business" means a business with fewer than fifty (50) employees who are
 5 individually contracted to work more than thirty-five (35) hours per week;

6 (10) "State match" means the money paid directly to the child-care provider by the
 7 Cabinet from the fund described in Section 5 of this Act; and

8 (11) "State median household income" means the most recent estimate available of
 9 real median household income for the state, as determined by the United States
 10 Census Bureau, and adjusted for family size.

11 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
 12 READ AS FOLLOWS:

13 (1) The Employee Child Care Assistance Partnership program is hereby established
 14 under the cabinet. To administer the program, the cabinet may:

15 (a) Delegate authority to a subsidiary department;

16 (b) Coordinate and share information with other executive branch agencies;

17 and

18 (c) Enter into contracts with third parties to administer the program or specific
 19 parts of the program.

20 (2) The cabinet shall be responsible for:

21 (a) Creating and making available a standardized contract for participation in
 22 the program;

23 (b) Processing the contract between an employer, employee, and child-care
 24 provider that is submitted to the cabinet;

25 (c) Notifying the parties of their enrollment status in the program;

26 (d) Managing and administering the program funds;

27 (e) Securing third-party vendors in accordance with all applicable federal and

- 1 state procurement regulations, if deemed necessary;
- 2 (f) Verifying the eligibility of the respective employee, employer, and child-care
3 provider as parties to a contract for participation in the program prior to
4 disbursement of a state match;
- 5 (g) Collecting and verifying household income information from eligible
6 employees and determining the amount of the state match for which the
7 employee is eligible; and
- 8 (h) Distributing educational materials about the program's objectives, benefits,
9 and eligibility requirements to employers, employees, and child-care
10 providers.
- 11 (3) The cabinet shall review the completed contract after it is submitted by the
12 employer and, if the employee, employer, and the proposed child-care provider
13 meet program eligibility requirements, agree to match the contribution made by
14 the employer up to one hundred percent (100%) of the cost of service from the
15 fund.
- 16 (4) The cabinet shall only become party to a proposed contract under this program if
17 the fund reflects a positive balance based on both:
- 18 (a) The cabinet's existing contractual obligations already accrued under this
19 program; and
- 20 (b) The cabinet's additional financial obligation imposed by the proposed
21 contract.
- 22 (5) The cabinet shall not agree to become party to a proposed contract pursuant to
23 this program if the corresponding financial obligation would cause the fund to
24 accrue a negative balance.
- 25 (6) The cabinet shall maintain a waitlist of contracts submitted after available funds
26 were committed. The cabinet shall become party to a proposed contract from the
27 waitlist as new funds become available and according to the order in which it was

- 1 received.
- 2 (7) The cabinet shall issue a state match directly to the child-care provider or
3 through a third-party vendor for the duration of the contract.
- 4 (8) The cabinet shall not disclose an employee's personal information without that
5 individual's express written consent.
- 6 (9) In the first fiscal year of the program, the cabinet shall administer the program
7 according to the following:
- 8 (a) The cabinet shall begin administering the program after the effective date of
9 this Act, including but not limited to:
- 10 1. Promulgating the required administrative regulations as described in
11 Section 4 of this Act; and
- 12 2. Soliciting third-party vendor contracts, if deemed necessary;
- 13 (b) The cabinet shall not begin accepting proposed contracts from employers
14 pursuant to this program prior to ninety (90) calendar days before July 1,
15 2023; and
- 16 (c) The cabinet shall not disperse state matches from the fund as a party to a
17 contract with an employer, employee, and child-care provider pursuant to
18 this program prior to July 1, 2023.
- 19 (10) Beginning in 2024 and every year thereafter, the cabinet shall begin accepting
20 proposed contracts from employers, employees, and child-care providers for the
21 next fiscal year according to the following:
- 22 (a) Ninety (90) calendar days before July 1st for employers with existing
23 approved contracts pursuant to the program; and
- 24 (b) Forty-five (45) calendar days before July 1st for all other employers.
- 25 (11) Beginning in 2024 and every year thereafter, the cabinet shall publish reports
26 detailing the efficacy of the program by July 15th and December 15th of each
27 year and shall submit the report to the Legislative Research Commission. The

1 report shall include at least the following information about the program:

2 (a) Any appropriation made in the past fiscal year to the fund;

3 (b) The total number of standardized contracts submitted by employers;

4 (c) The total amount of state matches paid out of the fund by the cabinet;

5 (d) The breakdown of the state matches paid by county;

6 (e) Information on the size, geographical location, and industry type of
7 employers who participated in the program;

8 (f) The number, license type, quality rating, and geographical distribution of
9 participating child-care providers;

10 (g) The average cost for services charged by child-care providers participating
11 in the program and information on how these costs have increased or
12 decreased during the most recent reporting period and previous reporting
13 periods;

14 (h) The number and total dollar value of contracts not approved by the cabinet;
15 and

16 (i) The demographic information of employees participating in the program.

17 (12) Prior to one hundred and twenty (120) calendar days before July 1, 2023, the
18 cabinet shall publish a report detailing implementation plans for the program
19 and submit the report to the Legislative Research Commission.

20 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
21 READ AS FOLLOWS:

22 The cabinet, or its designated department, shall promulgate administrative regulations
23 in accordance with KRS Chapter 13A to effectuate the provisions of Sections 1 to 8 of
24 this Act including:

25 (1) Creating a standardized agreement for employers, employees, and providers
26 wishing to participate in the program, to be completed and agreed to by each
27 respective party that includes:

- 1 (a) Name, physical location, size, and industry of the employer;
- 2 (b) Name and phone number of the employer's point of contact;
- 3 (c) Name and physical location of the child-care provider;
- 4 (d) Name and phone number of the child-care provider's point of contact;
- 5 (e) Name and home address of the employee;
- 6 (f) Total contribution to be paid by the employer to the provider, either directly
- 7 or through a third-party vendor;
- 8 (g) Total amount of the state match to be paid to the provider, either directly or
- 9 through a third-party vendor;
- 10 (h) Duration of the contract, which shall not last beyond the end of the state's
- 11 fiscal year in any given year;
- 12 (i) Frequency of the contribution to be made directly to the child-care provider
- 13 in accordance with the provider's established billing cycle; and
- 14 (j) Demographic information of the employee.
- 15 (2) Establishing eligibility verification procedures for the following parties as a
- 16 prerequisite for the cabinet entering the agreement as a party and issuing a state
- 17 match:
- 18 (a) Employer's enrollment in the program;
- 19 (b) Employee's eligibility; and
- 20 (c) Child-care provider's eligibility;
- 21 (3) Collecting and verifying household income information from eligible employees
- 22 and determining the amount of the state match for which the employee is eligible
- 23 in accordance with Section 5 of this Act;
- 24 (4) Creating procedures for issuing a notice to all parties to the agreement of their
- 25 enrollment in the program upon receiving and processing the contract and
- 26 determining eligibility;
- 27 (5) Compiling confidentiality protocols for the cabinet and its designated department

1 or departments to safeguard the personal information of participating employees,
2 employers, and child-care providers;

3 (6) Introducing reporting requirements for an employer or a child-care provider
4 reporting a lapse or nonpayment of contribution towards eligible child-care
5 services;

6 (7) Creating procedures for issuing and logging a state match to child-care providers
7 pursuant to the respective contract;

8 (8) Maintaining records of the fund in the fiscal year and all payments;

9 (9) Creating criteria for participant disqualification from the program;

10 (10) Establishing procedures for appeals hearings; and

11 (11) Establishing procedures for recouping state matches or portions of state matches
12 that result in overpayments to participating child-care providers.

13 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
14 READ AS FOLLOWS:

15 (1) There is hereby established in the State Treasury a revolving account to be known
16 as the Employee Child Care Assistance Partnership fund. The fund shall consist
17 of moneys appropriated by the General Assembly, contributions, gifts, or grants
18 made available for the purposes of the program.

19 (2) The fund shall be administered by the cabinet or its designated department.

20 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of
21 the fiscal year shall not lapse but shall be carried forward to the next fiscal year.

22 (4) Any interest earnings of the fund shall become a part of the fund and shall not
23 lapse.

24 (5) Moneys deposited in the fund are hereby appropriated for the purposes set forth
25 in Sections 1 to 8 of this Act and shall not be appropriated or transferred by the
26 General Assembly for any other purpose.

27 (6) The cabinet shall issue state matches out of the fund to child-care providers in

1 accordance with the provisions of the respective contracts and in the order that
2 the cabinet processed the contracts.

3 (7) (a) The state match shall not exceed one hundred percent (100%) of the
4 contribution made by the employer for contracts in which the employee's
5 household income is equal to or less than one hundred percent (100%) of
6 the state median household income.

7 (b) The state match shall decrease by ten percent (10%) for each twenty percent
8 (20%) increase in household income over one hundred percent (100%) of
9 the state median household income up to one hundred eighty percent
10 (180%) of the state median household income.

11 (c) The state match shall equal fifty percent (50%) for contracts in which the
12 employee's household income exceeds one hundred eighty percent (180%)
13 of the state median household income.

14 (8) In each fiscal year, twenty-five percent (25%) of the total fund shall be distributed
15 to agreements in which an employer is a small business.

16 (9) In fiscal year 2022-2023, five percent (5%) of the total fund shall be distributed to
17 the cabinet to administer the program. In every fiscal year thereafter, three
18 percent (3%) of the total fund shall be distributed to the cabinet to administer the
19 program.

20 (10) A state match issued pursuant to this program and administered by the cabinet is
21 for the promotion of the general welfare and shall not be considered
22 compensation for an employee's service.

23 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) If an employer wishes to provide child-care assistance to an employee as a benefit
26 of employment and participate in this program, the employer may enter into an
27 agreement with its employee and a child-care provider using the standardized

1 contract provided by the cabinet.

2 (2) To participate in the program, an employer shall do the following:

3 (a) Obtain the standardized contract created by the cabinet and enter into it
4 with the employee and child-care provider;

5 (b) Submit the proposed contract to the cabinet;

6 (c) Submit any additional information as deemed necessary by the cabinet
7 pursuant to Section 4 of this Act; and

8 (d) Make contributions to the employee's eligible child-care costs directly to the
9 child-care provider or through a third-party vendor in accordance with the
10 amount and frequency agreed to in the final contract.

11 (3) To participate in the program, an employee shall complete the standardized
12 contract with the employer and the child-care provider and provide any additional
13 information as deemed necessary by the cabinet pursuant to Section 4 of this Act.

14 (4) In the event that the agreement includes costs of service not covered by the
15 employer's contribution and the state match, the employee shall make payments
16 to the child-care provider according to the amount and frequency determined by
17 the final contract. If another member of the employee's household or family
18 becomes a party to an agreement in accordance with Sections 1 to 8 of this Act,
19 the employer contribution and state match of that agreement may be utilized to
20 pay for costs of service not covered by the employer contribution and state match
21 of the preceding agreement, provided that it does not result in overpayment to the
22 provider.

23 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) Termination of an active contract between an employer, employee, child-care
26 provider, and the cabinet pursuant to this program shall occur in the following
27 circumstances:

1 (a) If the relationship between the employee and employer is severed, the
2 employer shall notify the child-care provider and the cabinet within three
3 (3) business days of the separation, and the contract is terminated on the
4 calendar date provided by the employer in the notification. If the employer
5 fails to make this notification and the cabinet issues a state match to the
6 provider on behalf of that employer's employee, then the employer shall
7 reimburse the cabinet for the unnecessary state match.

8 (b) If the employer fails to make a contribution or contributions for the eligible
9 child-care costs in accordance to the terms of the contract, the child-care
10 provider shall notify the cabinet within five (5) business days. After
11 receiving notification from the provider, the cabinet shall temporarily cease
12 providing a state match and shall notify the employer that the contract will
13 be terminated unless the employer remedies the nonpayment within five (5)
14 business days of receiving notification from the cabinet. If the provider fails
15 to make this notification and receives a state match from the cabinet on
16 behalf of that employer's employee, the provider shall reimburse the cabinet
17 for the unnecessary state match.

18 (2) Termination of an active contract between an employer, employee, child-care
19 provider and the cabinet pursuant to this program may occur in the following
20 circumstances:

21 (a) If the employee fails to pay the child-care provider for costs not covered by
22 the employer contribution and the state match in accordance to the terms of
23 the contract, the child-care provider may give the employee reasonable time
24 to remedy the nonpayment. The child-care provider may notify the cabinet
25 and terminate the contract on the date that the notification was issued. If
26 the child-care provider voluntarily excuses the employee's nonpayment or
27 the child-care provider does not notify the cabinet within two (2) calendar

1 months from the date of the employee's nonpayment and continues to
 2 provide services, then the contract made between all the parties will
 3 automatically reflect the reduction in value;

4 **(b) If the child-care provider ceases participation or otherwise loses its rating in**
 5 **the rating system described in KRS 199.8943, it shall notify all parties to the**
 6 **agreement immediately; and**

7 **(c) Either the employer or employee may terminate the contract at any time and**
 8 **for any reason. The terminating party shall notify all the parties to the**
 9 **contract and specify the desired termination date. All parties to the contract**
 10 **shall be financially obligated, according to the provisions of the contract, up**
 11 **to the termination date.**

12 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
 13 READ AS FOLLOWS:

14 **The Cabinet for Economic Development may, in consultation with the Cabinet for**
 15 **Health and Family Services, require employers seeking economic development**
 16 **incentives through Subchapters 31 and 32 of KRS Chapter 154 to participate in this**
 17 **program.**

18 ➔Section 9. KRS 199.990 is amended to read as follows:

19 (1) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473,
 20 199.570, 199.572, and 199.590 except subsection (2), or 199.640 to 199.670, or any
 21 rule or regulation under such sections the violation of which is made unlawful shall
 22 be fined not less than five hundred dollars (\$500) nor more than two thousand
 23 dollars (\$2,000) or imprisoned for not more than six (6) months, or both. Each day
 24 such violation continues shall constitute a separate offense.

25 (2) Any person who willfully violates any other of the provisions of KRS 199.420 to
 26 199.670 or any rule or regulation thereunder, the violation of which is made
 27 unlawful under the terms of those sections, and for which no other penalty is

1 prescribed in those sections, or in any other applicable statute, shall be fined not less
2 than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or
3 imprisoned for not more than thirty (30) days, or both.

4 (3) Any violation of the regulations, standards, or requirements of the cabinet under the
5 provisions of KRS 199.896 that poses an immediate threat to the health, safety, or
6 welfare of any child served by the child-care center shall be subject to a civil
7 penalty of no more than one thousand dollars (\$1,000) for each occurrence. Treble
8 penalties shall be assessed for two (2) or more violations within twelve (12)
9 months. All money collected as a result of civil penalties assessed under the
10 provisions of KRS 199.896 shall be paid into the State Treasury and credited to a
11 special fund for the purpose of the Early Childhood Scholarship Program created in
12 accordance with KRS 164.518. The balance of the fund shall not lapse to the
13 general fund at the end of each biennium.

14 (4) A person who commits a violation of the regulations, standards, or requirements of
15 the cabinet under the provisions of KRS 199.896 shall be fined not less than one
16 thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or
17 be fined and imprisoned, at the discretion of the court.

18 (5) Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of
19 a Class D felony.

20 (6) Any person who knowingly or intentionally registers false information under KRS
21 199.503(4) shall be fined not more than one thousand dollars (\$1,000) or
22 imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the
23 discretion of the court.

24 (7) Any person who knowingly or intentionally releases or requests confidential
25 information in violation of KRS 199.503(8) or (9) or in violation of KRS 199.505
26 shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not
27 more than twelve (12) months, or be fined and imprisoned, at the discretion of the

1 court. It is a defense under this subsection if the cabinet releases confidential
2 information while acting in good faith and with reasonable diligence.

3 **(8) Any person who intentionally registers false information under Sections 1 to 8 of**
4 **this Act with the Cabinet in pursuit of the benefits of this program shall be**
5 **subject to a civil penalty of no more than five hundred dollars (\$500) per**
6 **violation. All money collected as a result of penalties assessed under Sections 1 to**
7 **8 of this Act shall be paid into the State Treasury and credited to the Employee**
8 **Child Care Assistance Program fund.**

9 ➔Section 10. This Act may be cited as the "Employee Child Care Assistance
10 Partnership".

11 ➔Section 11. Whereas it is of the utmost importance to the Commonwealth of
12 Kentucky to support employees struggling to access child-care, an emergency is declared
13 to exist, and this Act takes effect upon its passage and approval by the Governor or upon
14 its otherwise becoming a law.