

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 521 (Smallwood-Cuevas)
Version: March 20, 2023
Hearing Date: April 25, 2023
Fiscal: Yes
Urgency: No
ME

SUBJECT

CalWORKs: pregnancy or parenting

DIGEST

This bill adds denial of reasonable accommodations for pregnant or parenting students, in violation of Title IX, to the list of conditions that may be considered good cause for excuse from participation in specified welfare-to-work activities. The bill also clarifies that sanctions shall not be applied for a recipient's failure or refusal to comply with welfare to work program requirements for reasons related to employment, an offer of employment, an activity, or other training for employment, for the following reason: the recipient requires pregnancy or parenting related accommodations covered under Title IX, including, but not limited to, excused absences to attend child medical appointments, and has not received adequate accommodations.

EXECUTIVE SUMMARY

The CalWORKs program provides financial benefits to eligible families in need with children in the home. Recipients are required to engage in "work activities" in order to continue receiving this benefit. California's community colleges provide education and vocational training that can fulfill these work activity requirements, and every community college offers targeted programs for students receiving CalWORKs benefits. These programs provide additional services and supports to address the specific challenges students may face both inside and outside the classroom as low income, predominantly single, parents.

Many of these student recipients of CalWORKs also enjoy protections under Title IX, which prohibits colleges from discriminating against students based on their sex or receipt of federal assistance. The author and sponsor report that despite the legal protections provided by Title IX, professors do not always provide accommodations for breast milk pumping breaks, medical appointments, or other parent obligations. This can lead to sanctions and loss of CalWORKs benefits as students get behind in classes.

To better ensure that students are supported in asserting their rights under Title IX, this bill provides a good cause exemption from CalWORKs welfare to work requirements for student recipients when the requirements cannot be met due to pregnancy or parenting needs covered by Title IX.

The bill is sponsored by the Women's Foundation California Solis Policy Institute. The bill passed the Senate Human Services Committee with a 4 to 0 vote. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) States that no person in the U.S. shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. (Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1964; 20 U.S.C. § 1681 *et seq.*)
- 2) Mandates that recipients of federal financial assistance comply with the procedural requirements outlined in the Title IX implementing regulations. To do so, a recipient must: (1) disseminate a specified notice of nondiscrimination; (2) designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX; and (3) adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints. (34 C.F.R. §§ 106.9, 106.8(a), 106.8(b).)
- 3) Requires every individual, as a condition of eligibility for specified CalWORKs benefits, to participate in specified welfare-to-work activities. However, recipients of benefits shall be excused from participation for good cause, as specified. Good cause includes, but is not limited to the following: lack of necessary supportive services; the applicant or recipient is a victim of domestic violence, as specified; and licensed or license-exempt childcare for a child 10 years of age or younger is not reasonably available, as specified. (Welf. & Inst. Code sec 11320.3.)
- 4) Provides that sanctions shall not be applied for a failure or refusal to comply with welfare to work program requirements for reasons as related to employment, an offer of employment, an activity, or other training for employment, for a number of reasons, including: if the recipient states that their rights to lactation accommodations were violated; if the recipient states that the recipient's rights under any federal, state, or local labor or employment law were violated, including the Garment Worker Protection Act, Wage Theft Prevention

Act, Gender Nondiscrimination Act, and others. (Welf. & Inst. Code sec 11320.31.)

This bill:

- 1) Makes certain findings and declarations.
- 2) Provides that good cause that excuses recipients of benefits from participation in specified welfare to work activities also includes the denial of reasonable accommodations for pregnant or parenting students in violation of Title IX.
- 3) Clarifies that sanctions shall not be applied for a recipient's failure or refusal to comply with welfare to work program requirements for reasons as related to employment, an offer of employment, an activity, or other training for employment, for the following reason: the recipient requires pregnancy or parenting related accommodations covered under Title IX, including, but not limited to, excused absences to attend child medical appointments, and has not received adequate accommodations.

COMMENTS

1. Stated need for the bill

According to the author:

Student parents pursue higher education to not only join the workforce but to provide for their families. The cost of living is increasing in California and it's our job as legislators to make sure everyone has a chance to continue education as well as take care of their family without stressing about their financial needs. Unfortunately, pregnant and parenting students cannot always balance the needs of their families with the demands of their coursework, and, despite protections provided by Title IX, these student parents often face consequences from professors who don't provide appropriate accommodations. While most students can appeal these decisions, students in CalWORKS risk losing critical benefits if they fail to meet coursework completion requirements. SB 521 provides a "good cause" exemption for these lapses in academic performance resulting [from] Title IX protected activities such as attending medical appointments or pumping breast milk.

2. Better support for pregnant, parenting, and lactating students

Title IX prohibits discrimination and harassment on the basis of sex in education programs and activities that receive federal financial assistance. The purposes of Title IX are two-fold: to avoid the use of Federal resources to support discriminatory practices

and second, to provide individuals effective protection against those practices. (*Cannon v. University of Chicago*, 441 U.S. 677, 1979). The U.S. Department of Education (DOE) issues rules regarding the dual purposes of Title IX.

The Women's Foundation California Solis Policy Institute, sponsors of the bill, explain:

CalWORKs recipients are required to work or attend school in order to receive the financial benefits they need to care for their families. However, students are subject to their professors' rules, which sometimes violate Title IX. Under Title IX, colleges cannot discriminate against student parents and are required to provide accommodations to parenting and pregnant students, such as allowing students to make up work due to missing class to attend appointments or breaks to pump breast milk. Despite these legal protections, we're hearing from students that professors are not always providing these accommodations. As a result, pregnant and parenting CalWORKs students are facing additional barriers, such as falling behind in their classes, which can lead to sanctions and loss of their CalWORKs benefits. These students face many obstacles getting to college in the first place and they rely on the support from CalWORKs to continue their education. Any delays in financial and academic support keep them further from achieving their educational and financial goals and impact the wellbeing of their children and families.

Supporters assert that SB 521 will protect pregnant, parenting and lactating students from losing CalWORKs benefits, so they can continue on their path to obtaining a college degree. Supporters explain that the bill accomplishes this goal by adding a good cause exemption from participation in CalWORKs welfare to work activities for students who report a lack of Title IX accommodations at their academic institutions.

The California Catholic Conference, a supporter of SB 521, asserts the following in support of the bill:

Unfortunately, student parents can be sanctioned if they miss their welfare-to-work position, even if they were denied a reasonable accommodation as a pregnant or parenting student under Title IX. For example, when their child needs a medical appointment, needs to be picked up from school, or their childcare falls through for the day, student parents should not be penalized for responding to those needs.

[. . .] Providing necessary accommodations for student parents on CalWORKs will help these excellent students achieve academic equity, maintain their benefits, and fulfill their parental responsibilities.

SUPPORT

Women's Foundation California Solis Policy Institute (sponsor)
American Association of University Women San Jose
American Federation of State, County, and Municipal Employees (AFSCME), AFL-CIO
BreastfeedLA
Building Skills Partnership
California Catholic Conference
California Federation of Teachers AFL-CIO
Center for Worklife Law
Children NOW
Coaliton of California Welfare Rights Organizations
Drug Policy Alliance
Equal Rights Advocates
GRACE/End Child Poverty California
Michelson Center for Public Policy
National Association of Social Workers - California Chapter
Parent Voices California
The Children's Partnership
University of California Student Association

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 2326 (Rubio, 2017) would have recast and expand CalWORKs welfare-to-work exemptions that apply to parents or caregivers who have a child 24 months of age or younger and pregnant women who are the sole member of their assistance unit and would have adopted notification and assistance requirements related to exempt individuals' ability to volunteer for welfare to work activities. AB 2326 was held under submission in the Senate Appropriations Committee.

SB 252 (Liu, Ch. 563, Stats. 2013) among other things: specified that a pregnant woman who is unable to obtain medical verification but is otherwise eligible for the good cause exemption is exempt from participation in welfare-to-work activities; authorized a pregnant woman to satisfy welfare-to-work participation requirements by participating in a voluntary maternal, infant, and early childhood home visiting program, as specified; stated that, pursuant to existing law, an applicant or recipient of CalWORKs benefits is entitled to breastfeed her child in any public area, or area where the mother

and the child are authorized to be present, in a county welfare department or other county office.

PRIOR VOTES:

Senate Human Service Committee (Ayes 4, Noes 0)
