

By: Representatives Moody, Robertson

To: Public Health and Welfare

HOUSE BILL NO. 1022

1 AN ACT TO AMEND SECTIONS 41-90-1 THROUGH 41-90-9, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY DEFINITIONS AND MAKE CERTAIN TECHNICAL
3 AMENDMENTS TO THE EARLY HEARING DETECTION AND INTERVENTION PROGRAM
4 FOR NEWBORNS, INFANTS AND TODDLERS ADMINISTERED BY THE STATE
5 DEPARTMENT OF HEALTH; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 41-90-1, Mississippi Code of 1972, is
8 amended as follows:

9 41-90-1. (1) The physician attending any newborn child in a
10 hospital in this state, or the person attending any newborn child
11 in a hospital in this state if the child is not attended by a
12 physician, shall cause the child, if available, to be screened or
13 evaluated to determine if the child has a potential hearing
14 impairment, using methods and procedures prescribed by the State
15 Department of Health. If it is determined by such screening or
16 evaluation that a newborn child in a hospital in this state may
17 have a hearing impairment, the physician or other person attending
18 the child shall (a) refer the child for confirmatory testing, and
19 (b) make reasonable efforts to promptly notify the child's parents
20 or guardian that the child may have a hearing impairment and shall
21 explain to them the potential effect of such impairment on the
22 development of the child's speech and language skills.

23 (2) For the purposes of this section, the term "hearing
24 impairment" means a dysfunction of the auditory system of any type
25 or degree that is sufficient that it may interfere with the
26 acquisition and development of speech and language skills with or
27 without the use of sound amplification. No health care provider

28 shall be civilly liable for the failure to conduct such screening
29 or evaluation.

30 SECTION 2. Section 41-90-3, Mississippi Code of 1972, is
31 amended as follows:

32 41-90-3. Based on information from the American Academy of
33 Pediatrics, the National Institutes of Health, American Academy of
34 Audiology, American Speech-Language-Hearing Association, and
35 others who have completed extensive research on early
36 identification of children with hearing loss, the Legislature
37 finds an urgent need to establish an early identification system
38 and a comprehensive service delivery system of developmentally
39 appropriate services for infants and toddlers with hearing
40 impairments and their families.

41 SECTION 3. Section 41-90-5, Mississippi Code of 1972, is
42 amended as follows:

43 41-90-5. (1) There is established a program of early
44 hearing detection and intervention for newborns, infants and
45 toddlers in the State of Mississippi who have impaired hearing.
46 It is the purpose of this early hearing detection and intervention
47 program to:

48 (a) Identify such children near birth in order that
49 they and their parents or caregivers may be assisted in obtaining
50 education, training, medical, diagnostic and therapeutic services,
51 and other assistance necessary to enable them to become productive
52 citizens of the state;

53 (b) Provide the state with the information necessary to
54 effectively plan and establish a comprehensive system of
55 developmentally appropriate services for deaf and hearing impaired
56 infants and toddlers; and

57 (c) Reduce the likelihood of secondary disabling
58 conditions for such children.

59 (2) The State Department of Health, as "lead agency" for the
60 implementation of Part C of the Individuals with Disabilities

61 Education Act (IDEA) and in accordance with the provisions of
62 the Early Intervention Act for Infants and Toddlers (Section
63 41-87-1 through Section 41-87-19), shall administer the early
64 hearing detection and intervention program. The State Part C
65 Coordinator is designated as the director of the early hearing
66 detection and intervention program and is charged with its
67 administration. The State Part C Coordinator may designate a
68 staff person (or persons) to carry out the provisions of this
69 section. All hospitals in the state and other providers of
70 services that have established hearing screening procedures for
71 infants and toddlers ages birth through two (2) shall report to
72 the State Part C Coordinator the results of all screening
73 procedures. All persons and providers in the state who perform a
74 diagnostic hearing evaluation on an infant or toddler (birth
75 through age 2 years) referred as a result of a newborn hearing
76 screening failure, shall report the results of the diagnostic
77 hearing evaluation to the State Part C Coordinator within two (2)
78 business days after their completion. The aforementioned persons
79 and providers shall also report to the State Part C Coordinator
80 the results of all diagnostic hearing evaluations of infants and
81 toddlers (birth through age 2 years), including appropriate
82 personal and identifying information, when those results confirm
83 the presence of a hearing impairment consistent with Section
84 41-90-1(2). The information compiled and maintained in the early
85 hearing detection and intervention program shall be kept
86 confidential in accordance with the applicable requirements and
87 provisions of the Early Intervention Act for Infants and Toddlers
88 (Section 41-87-1 through Section 41-87-19) and Part C of IDEA.
89 Families of all identified children with hearing impairments will
90 be provided information on the availability of services in the
91 state for children with hearing impairments, including those
92 provided in accordance with Part C of IDEA through the statewide
93 infant and toddler early intervention system.

94 (3) The director of the early hearing detection and
95 intervention program or his or her designee shall facilitate the
96 reporting of infants and toddlers who fail to pass hearing
97 screening or follow-up diagnostic hearing evaluation by hospitals
98 or any other person or provider of services, as provided in
99 subsection (2) of this section. Reports may be submitted to the
100 early hearing detection and intervention program through the use
101 of prepaid envelopes, sending of facsimiles, or telephone via
102 statewide toll free number, or by other designated electronic data
103 transmission process. It is the purpose of this subsection to
104 facilitate the reporting of infants and toddlers who may have
105 impaired hearing. The reporting requirements shall be designed to
106 be as simple as possible and easily completed by nonprofessional
107 persons when necessary.

108 (4) The State Board of Health may adopt rules and
109 regulations that the board considers necessary to implement this
110 section with input from the advisory committee established in
111 Section 41-90-7. The board in its rules and regulations may
112 specify the types of information to be provided to the State Part
113 C Coordinator for the early hearing detection and intervention
114 program. The State Department of Health may:

115 (a) Execute contracts that the department deems
116 necessary to carry out the provisions of this section;

117 (b) Obtain data from medical records for children
118 suspected of having hearing impairments that are in the custody or
119 under the control of laboratories, hospitals, audiologists,
120 physicians, or other health care providers to record and analyze
121 the data related to the child's hearing impairment or suspected
122 hearing impairment;

123 (c) Provide guidance on protocols and equipment to be
124 utilized during diagnostic hearing evaluations of infants and
125 toddlers;

126 (d) Compile and publish statistical and other studies
127 derived from the patient data obtained under this section to
128 provide in an accessible form information that is useful to
129 physicians, other medical personnel, the State Department of
130 Education, the Legislature and the general public;

131 (e) Comply with requirements as necessary to obtain
132 federal funds in the maximum amounts and in the most advantageous
133 portions possible; and

134 (f) Receive and use gifts made for the purpose of this
135 section.

136 (5) Data obtained by the establishment of the early hearing
137 detection and intervention program that is taken directly from the
138 medical records of a patient is for the confidential use of the
139 State Department of Health and the persons or public or private
140 entities that the department determines are necessary to carry out
141 the intent of the program. The data is privileged and may not be
142 divulged or made public in a manner that discloses the identity of
143 an individual whose medical records have been used for obtaining
144 data for the early hearing detection and intervention program.
145 Information that may identify an individual whose medical records
146 have been used for obtaining data for this section is not
147 available for public inspection under the Mississippi Public
148 Records Act of 1983. Statistical information collected under this
149 section is public information.

150 (6) The following persons who act in compliance with this
151 section are not civilly or criminally liable for furnishing
152 information required by this section: a hospital, clinical
153 laboratory or other health care facility, an audiologist, an
154 administrator, officer or employee of a hospital or other health
155 care facility, and a physician or employee of a physician.

156 SECTION 4. Section 41-90-7, Mississippi Code of 1972, is
157 amended as follows:

158 41-90-7. The State Health Officer shall appoint an advisory
159 committee of at least nine (9) members that may include
160 physician(s), audiologist(s), educator(s), parent(s) and others as
161 appropriate. The committee shall provide advice to the State
162 Interagency Coordinating Council established under Section
163 47-87-7, and the State Department of Health on issues regarding
164 this act and its provisions. The committee shall be created so
165 that members serve for three (3) years and one-third (1/3) of its
166 members are retired annually, unless reappointed.

167 SECTION 5. Section 41-90-9, Mississippi Code of 1972, is
168 amended as follows:

169 41-90-9. **Fiscal support for Department of Health.**

170 (1) The Legislature, knowing that hearing is essential to
171 appropriate language development which is, in turn, directly
172 related to communication skills and the ultimate ability of a
173 child to attain his or her best level of education, and finding
174 limited resources available in the state and few providers
175 qualified to provide developmentally appropriate diagnostic and
176 therapeutic services to infants and toddlers identified through
177 the early hearing detection and intervention program, finds it
178 necessary to supplement the efforts of the State Department of
179 Health as lead agency for the implementation of Part C of IDEA in
180 its efforts to identify and provide developmentally appropriate
181 services to hearing impaired infants and toddlers and their
182 families.

183 (2) To assure the best possible developmental outcomes for
184 infants and toddlers identified through the early hearing
185 detection and intervention program, the Legislature shall provide
186 fiscal support to the infant and toddler early intervention
187 program of the State Department of Health to:

188 (a) Establish positions reasonable and appropriate to
189 insure that the provisions of this act are carried out;

190 (b) Procure * * * equipment to achieve universal
191 hearing screening of one hundred percent (100%) of live births;
192 (c) Procure diagnostic equipment necessary to identify
193 the cause of the child's hearing impairment and plan an
194 appropriate course of therapeutic services;
195 (d) Assist with the establishment of * * * training
196 programs on the education of hearing impaired children in the
197 colleges and universities of the state;
198 (e) Assist with in-service training of existing
199 providers of services to the hearing impaired population of the
200 state to increase their skill in providing developmentally
201 appropriate services to infants and toddlers and their families;
202 (f) Contract directly with individuals identified as
203 qualified providers of services; and
204 (g) Provide training for appropriate staff of schools
205 and school districts to insure the successful transition of
206 children upon reaching age three (3) from Part C to services under
207 Part B of IDEA through schools across the state or other
208 appropriate services.

209 SECTION 6. This act shall take effect and be in force from
210 and after July 1, 2001.