

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.