HOUSE BILL NO. 1022

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

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

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

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

(2) For the purposes of this section, the term "hearing impairment" means a dysfunction of the auditory system of any type or degree that is sufficient that it may interfere with the acquisition and development of speech and language skills with or without the use of sound amplification. No health care provider...
shall be civilly liable for the failure to conduct such screening
or evaluation.

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

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

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

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

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

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

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

(2) The State Department of Health, as "lead agency" for the
Education Act (IDEA) and in accordance with the provisions of the Early Intervention Act for Infants and Toddlers (Section 41-87-1 through Section 41-87-19), shall administer the early hearing detection and intervention program. The State Part C Coordinator is designated as the director of the early hearing detection and intervention program and is charged with its administration. The State Part C Coordinator may designate a staff person (or persons) to carry out the provisions of this section. All hospitals in the state and other providers of services that have established hearing screening procedures for infants and toddlers ages birth through two (2) shall report to the State Part C Coordinator the results of all screening procedures. All persons and providers in the state who perform a diagnostic hearing evaluation on an infant or toddler (birth through age 2 years) referred as a result of a newborn hearing screening failure, shall report the results of the diagnostic hearing evaluation to the State Part C Coordinator within two (2) business days after their completion. The aforementioned persons and providers shall also report to the State Part C Coordinator the results of all diagnostic hearing evaluations of infants and toddlers (birth through age 2 years), including appropriate personal and identifying information, when those results confirm the presence of a hearing impairment consistent with Section 41-90-1(2). The information compiled and maintained in the early hearing detection and intervention program shall be kept confidential in accordance with the applicable requirements and provisions of the Early Intervention Act for Infants and Toddlers (Section 41-87-1 through Section 41-87-19) and Part C of IDEA. Families of all identified children with hearing impairments will be provided information on the availability of services in the state for children with hearing impairments, including those provided in accordance with Part C of IDEA through the statewide infant and toddler early intervention system.
(3) The director of the early hearing detection and intervention program or his or her designee shall facilitate the reporting of infants and toddlers who fail to pass hearing screening or follow-up diagnostic hearing evaluation by hospitals or any other person or provider of services, as provided in subsection (2) of this section. Reports may be submitted to the early hearing detection and intervention program through the use of prepaid envelopes, sending of facsimiles, or telephone via statewide toll free number, or by other designated electronic data transmission process. It is the purpose of this subsection to facilitate the reporting of infants and toddlers who may have impaired hearing. The reporting requirements shall be designed to be as simple as possible and easily completed by nonprofessional persons when necessary.

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

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

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

(c) Provide guidance on protocols and equipment to be utilized during diagnostic hearing evaluations of infants and toddlers;
(d) Compile and publish statistical and other studies derived from the patient data obtained under this section to provide in an accessible form information that is useful to physicians, other medical personnel, the State Department of Education, the Legislature and the general public;

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

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

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

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

SECTION 4. Section 41-90-7, Mississippi Code of 1972, is amended as follows:
41-90-7. The State Health Officer shall appoint an advisory committee of at least nine (9) members that may include physician(s), audiologist(s), educator(s), parent(s) and others as appropriate. The committee shall provide advice to the State Interagency Coordinating Council established under Section 47-87-7, and the State Department of Health on issues regarding this act and its provisions. The committee shall be created so that members serve for three (3) years and one-third (1/3) of its members are retired annually, unless reappointed.

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

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

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

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

(a) Establish positions reasonable and appropriate to insure that the provisions of this act are carried out;
(b) Procure equipment to achieve universal hearing screening of one hundred percent (100%) of live births;

(c) Procure diagnostic equipment necessary to identify the cause of the child's hearing impairment and plan an appropriate course of therapeutic services;

(d) Assist with the establishment of training programs on the education of hearing impaired children in the colleges and universities of the state;

(e) Assist with in-service training of existing providers of services to the hearing impaired population of the state to increase their skill in providing developmentally appropriate services to infants and toddlers and their families;

(f) Contract directly with individuals identified as qualified providers of services; and

(g) Provide training for appropriate staff of schools and school districts to insure the successful transition of children upon reaching age three (3) from Part C to services under Part B of IDEA through schools across the state or other appropriate services.

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