HOUSE BILL NO. 1026

AN ACT TO AMEND SECTIONS 41-87-5, 41-87-7, 41-87-9, 41-87-11, 41-87-13 AND 41-87-15, MISSISSIPPI CODE OF 1972, TO CORRECT CERTAIN REFERENCES TO THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) IN MISSISSIPPI'S EARLY INTERVENTION ACT FOR INFANTS AND TODDLERS; TO CLARIFY CERTAIN DEFINITIONS; TO REVISE THE COMPOSITION OF THE STATE AGENCY COORDINATING COUNCIL; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-87-5, Mississippi Code of 1972, is amended as follows:

41-87-5. Unless the context requires otherwise, the following definitions in this section apply throughout this chapter:

(a) "Eligible infants and toddlers" or "eligible children" means children from birth through thirty-six (36) months of age who need early intervention services because they:

(i) Are experiencing developmental delays as measured by appropriate diagnostic instruments and procedures in one or more of the following areas:

(A) Cognitive development;

(B) Physical development, including vision or hearing;

(C) Communication development;

(D) Social or emotional development;

(E) Adaptive development.

(ii) Have a diagnosed physical or mental condition, as defined in state policy, that has a high probability of resulting in developmental delay.
(iii) Are at risk of having substantial
developmental delays if early intervention services are not
provided due to conditions as defined in state policy. (This
category may be served at the discretion of the lead agency
contingent upon available resources.)

(b) "Early intervention services" are developmental
services that:

(i) Are provided under public supervision;

(ii) Are provided at no cost except where federal
or state law provides for a system of payments by families,
including a schedule of sliding fees;

(iii) Are designed to meet the developmental needs
of an infant or toddler with a disability in any one or more of
the following areas:

(A) Physical development;
(B) Cognitive development;
(C) Communication development;
(D) Social or emotional development; or
(E) Adaptive development;

(iv) Meet the requirements of Part C of the
Individuals with Disabilities Education Act (IDEA) and the early
intervention standards of the State of Mississippi;

(v) Include, but are not limited to, the following
services:

(A) Assistive technology devices and
assistive technology services;
(B) Audiology;
(C) Family training, counseling and home
visits;
(D) Health services necessary to enable a
child to benefit from other early intervention services;
(E) Medical services only for diagnostic or
evaluation purposes;
(F) Nutrition services;
(G) Occupational therapy;
(H) Physical therapy;
(I) Psychological services;
(J) Service coordination (case management);
(K) Social work services;
(L) Special instruction;
(M) Speech-language pathology;
(N) Transportation and related costs that are necessary to enable an infant or toddler and her/his family to receive early intervention services; and
(O) Vision services;
(vi) Are provided by qualified personnel as determined by the state's personnel standards, including:
(A) Audiologists;
(B) Family therapists;
(C) Nurses;
(D) Nutritionists;
(E) Occupational therapists;
(F) Orientation and mobility specialists;
(G) Pediatricians and other physicians;
(H) Physical therapists;
(I) Psychologists;
(J) Social workers;
(K) Special educators;
(L) Speech and language pathologists;
(vii) Are provided, to the maximum extent appropriate, in natural environments, including the home, and community settings in which children without disabilities would participate;
(viii) Are provided in conformity with an individualized family service plan.
(c) "Council" means the State Interagency Coordinating Council established under Section 41-87-7.

(d) "Lead agency" means the State Department of Health.

(e) "Participating agencies" includes, but is not limited to, the State Department of Education, the Department of Human Services, the State Department of Health, the Division of Medicaid, the State Department of Mental Health, the University Medical Center, the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges.

(f) "Local community" means a county either jointly, severally, or a portion thereof, participating in the provision of early intervention services.

(g) "Primary service agency" means the agency, whether a state agency, local agency, local interagency council or service provider which is designated by the lead agency to serve as the fiscal and contracting agent for a local community.

(h) "Multidisciplinary team" means a group comprised of the parent(s) or legal guardian and the service providers, as appropriate, described in paragraph (b) of this section, who are assembled for the purposes of:

(i) Assessing the developmental needs of an infant or toddler;

(ii) Developing the individualized family service plan; and

(iii) Providing the infant or toddler and his or her family with the appropriate early intervention services as detailed in the individualized family service plan.

(i) "Individualized family service plan" means a written plan designed to address the needs of the infant or toddler and his or her family as specified under Section 41-87-13.

(j) "Early intervention standards" means those standards established by any agency or agencies statutorily...
designated the responsibility to establish standards for infants and toddlers with disabilities, in coordination with the council and in accordance with Part C of IDEA.

(k) "Early intervention system" means the total collaborative effort in the state that is directed at meeting the needs of eligible children and their families.

(l) "Parent," for the purpose of early intervention services, means a parent, a guardian, a person acting as a parent of a child, foster parent, or an appointed surrogate parent. The term does not include the state if the child is a ward of the state where the child has not been placed with individuals to serve in a parenting capacity, such as foster parents, or when a surrogate parent has not been appointed. When a child is the ward of the state, a Department of Human Services representative will act as parent for purposes of service authorization.

(m) "Policies" means the state statutes, regulations, Governor's orders, directives by the lead agency, or other written documents that represent the state's position concerning any matter covered under this chapter.

(n) "Regulations" means the United States Department of Education's regulations concerning the governance and implementation of Part C of IDEA, the Early Intervention Program for Infants and Toddlers with Disabilities.

SECTION 2. Section 41-87-7, Mississippi Code of 1972, is amended as follows:

41-87-7. (1) For the purposes of implementing this chapter, the Governor shall appoint a State Interagency Coordinating Council for the purpose of early intervention services. The council shall be appointed by the Governor. In making the appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the state.
(a) The Governor shall designate a member of the
council to serve as the chairperson of the council or shall
require the council to so designate such a member. Any member of
the council who is a representative of the lead agency may not
serve as the chairperson of the council.

(b) The council shall be composed as follows:

(i) At least twenty percent (20%) of the members
shall be parents, including minority parents, of infants or
toddlers with disabilities or children with disabilities aged
twelve (12) or younger, with knowledge of, or experience with,
programs for infants and toddlers with disabilities. At least one
such member shall be a parent of an infant or toddler with a
disability or a child with a disability aged six (6) or younger. Parental representatives shall not be employees of any agency or
organization which provides early intervention services;

(ii) At least twenty percent (20%) of the members
shall be public or private providers of early intervention
services;

(iii) At least one (1) member shall be from the
State Legislature;

(iv) At least one (1) member shall be involved in
personnel preparation;

(v) At least one (1) member shall be from each of
the state agencies involved in the provision of or payment for
early intervention services to infants and toddlers with
disabilities and their families and shall have sufficient
authority to engage in policy planning and implementation on
behalf of such agencies;

(vi) At least one (1) member shall be from the
state educational agency responsible for preschool services to
children with disabilities and shall have sufficient authority to
engage in policy planning and implementation on behalf of such
(vii) At least one (1) member shall be from the agency responsible for the state governance of insurance, especially in the area of health insurance;
(viii) At least one (1) member must be from a Head Start agency or program in the state;
(ix) At least one (1) member must be from a state agency responsible for child care;
(x) The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs (BIA), or where there is no BIA operated or funded school, from the Indian Health Service or the tribe/tribal council.

(3) The council shall meet at least quarterly in such places as it deems necessary. The meetings shall be publicly announced, and to the extent appropriate, open and accessible to the general public.

(4) The council may prepare and approve a budget using Part C funds to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if such member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions under this chapter.

(5) The council shall:
(a) Advise and assist the lead agency in the performance of its responsibilities, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility by the appropriate agency, and the promotion of the interagency agreements;
(b) Advise and assist the lead agency in the preparation of applications for funding under Part C of Public Law 102-119;

(c) Prepare and submit an annual report to the Governor and to the United States Secretary of Education on the status of early intervention programs for eligible infants and toddlers and their families operated within the state;

(d) Advise and assist the lead agency in the development and implementation of the policies that constitute the statewide system;

(e) Assist the lead agency in achieving the full participation, coordination and cooperation of all appropriate public agencies in the state;

(f) Assist the lead agency in the effective implementation of the statewide system, by establishing a process that includes:

   (i) Seeking information from service providers, service coordinators, parents and others about any federal, state or local policies that impede timely service delivery; and

   (ii) Taking steps to ensure that any policy problems are identified are resolved;

(g) To the extent appropriate, assist the lead agency in the resolution of disputes;

(h) Advise and assist the state educational agency regarding the transition of toddlers with disabilities to services provided under Section 619 of Part B of Public Law 105-17, to the extent such services are appropriate; and

   (i) Perform other functions as defined in the regulations.

(6) The council may advise and assist the lead agency and the state educational agency regarding the provision of appropriate services for children aged birth to five (5), inclusive.
(7) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under state law.

SECTION 3. Section 41-87-9, Mississippi Code of 1972, is amended as follows:

41-87-9. (1) A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all eligible infants and toddlers and their families, including eligible Indian infants and toddlers and their families on reservations, shall include the following minimum components:

(a) Eligibility criteria and procedures including a definition of the term "developmentally delayed" that will be used by the state in carrying out programs under this chapter;

(b) Timetables for ensuring that appropriate early intervention services will be available to all eligible children in the state, including Indian infants and toddlers on reservations;

(c) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with a disability in the state, and a family-directed assessment of the resources, priorities and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability;

(d) For each eligible child, an individualized family service plan including service coordination (case management) services in accordance with such service plan. The individualized family services plan shall be in writing, done in accordance with Part C regulations, and contain a statement of the natural environments in which early intervention services shall
appropriately be provided, as well as all components listed in the Part C regulations;

(e) A comprehensive interagency child find system that includes a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources;

(f) A public awareness program focusing on early identification of infants and toddlers with disabilities, including preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services to parents of infants with disabilities;

(g) A central directory which includes early intervention services, resources and experts available in the state and research and demonstration projects being conducted in the state;

(h) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the state, that is consistent with the comprehensive system of personnel development described in Part B of IDEA and that may include:

(i) Implementing innovative strategies and activities for the recruitment and retention of early intervention service providers;

(ii) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this chapter;

(iii) Training personnel to work in rural areas;
(iv) Training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program in the early intervention system to a preschool program under Section 619 of IDEA;

(i) A single line of responsibility in the lead agency for carrying out:

(i) The general administration and supervision of programs and activities receiving assistance under Part C of IDEA, and the monitoring of programs and activities used by the state to carry out this chapter, whether or not such programs or activities are receiving assistance made available under Part C, to ensure that the state complies with Part C;

(ii) The identification and coordination of all available resources within the state from federal, state, local and private sources;

(iii) The assignment of financial responsibility in accordance with state and federal law to the appropriate agencies;

(iv) The development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers;

(v) The resolution of intra- and interagency disputes; and

(vi) The entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with state law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination;

(j) A policy pertaining to contracting or making arrangements with service providers to provide early intervention
services in the state as a part of the early intervention system in accordance with state law, state regulation and Part C of IDEA;

(k) A procedure for timely reimbursement of funds used in accordance with Section 41-87-15;

(l) Procedural safeguards with respect for programs participating in the early intervention system;

(m) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to implement the early intervention system are adequately and appropriately prepared and trained including:

(i) The establishment and maintenance of standards which are consistent with any state-approved or recognized certification, licensing, registration or other comparable requirements which apply to the area in which such personnel are providing early intervention services; and

(ii) To the extent such standards are not based on the highest requirements of the state applicable to a specific profession or discipline, the steps the state is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the state;

(n) A system for compiling data on the number of infants and toddlers with disabilities and their families in the state in need of appropriate early intervention services, the numbers of such infants and toddlers and their families served, the types of services provided, and other information required by the United States Secretary of Education, or state regulation.

SECTION 4. Section 41-87-11, Mississippi Code of 1972, is amended as follows:

41-87-11. (1) The lead agency shall have the following responsibilities in the implementation of this chapter:

(a) General administering and supervising programs and activities receiving Part C funds and the monitoring of programs and activities used by the state to carry out this chapter,
whether or not such programs or activities are receiving Part C funds, to ensure that the state complies with this chapter;

(b) Identifying and coordinating all available financial resources within the state from federal, state, local and private sources;

(c) Developing procedures to ensure that services are provided to eligible children and their families in a timely manner pending the resolution of any disputes among public agencies or service providers;

(d) Ensuring effective implementation of procedural safeguards by each public agency in the state that is involved in the provision of early intervention services;

(e) Entering into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with other state laws) and procedures for resolving intra- and interagency disputes and that include all additional components necessary to ensure meaningful cooperation;

(f) Entering into contracts with agencies within a local community which have been designated by the lead agency as being a primary service agency within the community;

(g) Developing procedures to ensure that available services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public agencies or service providers;

(h) Resolving individual disputes in accordance with the regulations;

(i) Adopting and using proper methods of administering each program including:

(i) Monitoring of agencies, institutions and organizations receiving assistance under Part C of Public Law 102-119;
(ii) Enforcing of any obligations imposed on those agencies providing early intervention services according to Part C of Public Law 102-119 and the standards of the state;

(iii) Providing technical assistance to agencies in the program;

(iv) Correction of deficiencies that are identified through monitoring;

(j) Establishing state policies related to how services to children eligible under this chapter and their families will be paid for under the state's early intervention system in accordance with federal regulations;

(k) Development of policies, standards and regulations necessary for implementation of the state early intervention plan that are in compliance with the federal regulations; and

(l) Provision of technical assistance to localities in the establishment and operation of local interagency coordinating councils which may also be designated as primary service agencies for an area.

(2) All participating agencies shall cooperate with the lead agency and the council in the implementation of this chapter.

SECTION 5. Section 41-87-13, Mississippi Code of 1972, is amended as follows:

41-87-13. (1) Upon full implementation of the early intervention system, eligible infants and toddlers and their families shall receive the following, at no cost to the parents:

(a) A comprehensive multidisciplinary evaluation and assessment of the needs of the infant and toddler and the concerns, priorities and resources of the family, and the identification of services to meet such needs;

(b) An explanation of the assessment and all service options in the family's native language or through an interpreter for the deaf, if necessary, accommodating cultural differences;
(c) A written individualized family service plan developed according to the federal Part C regulations and the state guidelines and the recommendations by a multidisciplinary team with the parents as fully participating members of the team; 
(d) Case management/service coordination services; and 
(e) Procedural safeguards as outlined in state policy and according to the regulations.

(2) The individualized family service plan shall serve as the singular comprehensive service plan for all agencies involved in providing early intervention services to the infant or toddler and the family. Service plans from other agencies should be incorporated into the individualized family service plan on an individual basis.

(3) The contents of the individualized family service plan shall be fully explained to the parents or guardian, and informed written consent from such parents or guardian shall be obtained before the provision of early intervention services described in such plan. If such parents or guardian do not provide consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.

SECTION 6. Section 41-87-15, Mississippi Code of 1972, is amended as follows:

41-87-15. Any federal funds made available to the state through Part C and any additional state funds appropriated for early intervention services after July 1, 1990, shall be used to supplement and increase the level of state, local and other federal funds that were expended for eligible children and their families before July 1, 1990. Funds provided under Part C may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source if Part C money did not exist, except that whenever necessary to prevent a delay in the receipt of appropriate early intervention services by
the infant or toddler or family in a timely fashion, Part C funds may be used to pay the provider of the services pending reimbursement to the lead agency from the agency that has ultimate responsibility for the payment.

SECTION 7. This act shall take effect and be in force from and after July 1, 2001.