

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 1026

1 AN ACT TO AMEND SECTIONS 41-87-5, 41-87-7, 41-87-9, 41-87-11,
2 41-87-13 AND 41-87-15, MISSISSIPPI CODE OF 1972, TO CORRECT
3 CERTAIN REFERENCES TO THE FEDERAL INDIVIDUALS WITH DISABILITIES
4 EDUCATION ACT (IDEA) IN MISSISSIPPI'S EARLY INTERVENTION ACT FOR
5 INFANTS AND TODDLERS; TO CLARIFY CERTAIN DEFINITIONS; TO REVISE
6 THE COMPOSITION OF THE STATE AGENCY COORDINATING COUNCIL; AND FOR
7 RELATED PURPOSES.

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

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

11 41-87-5. Unless the context requires otherwise, the
12 following definitions in this section apply throughout this
13 chapter:

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

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

20 (A) Cognitive development;

21 (B) Physical development, including vision or
22 hearing;

23 (C) Communication development;

24 (D) Social or emotional development;

25 (E) Adaptive development.

26 (ii) Have a diagnosed physical or mental
27 condition, as defined in state policy, that has a high probability
28 of resulting in developmental delay.

29 (iii) Are at risk of having substantial
30 developmental delays if early intervention services are not
31 provided due to conditions as defined in state policy. (This
32 category may be served at the discretion of the lead agency
33 contingent upon available resources.)

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

36 (i) Are provided under public supervision;

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

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

43 (A) Physical development;

44 (B) Cognitive development;

45 (C) Communication development;

46 (D) Social or emotional development; or

47 (E) Adaptive development;

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

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

53 (A) Assistive technology devices and
54 assistive technology services;

55 (B) Audiology;

56 (C) Family training, counseling and home
57 visits;

58 (D) Health services necessary to enable a
59 child to benefit from other early intervention services;

60 (E) Medical services only for diagnostic or
61 evaluation purposes;

62 (F) Nutrition services;
63 (G) Occupational therapy;
64 (H) Physical therapy;
65 (I) Psychological services;
66 (J) Service coordination (case management);
67 (K) Social work services;
68 (L) Special instruction;
69 (M) Speech-language pathology;
70 (N) Transportation and related costs that are
71 necessary to enable an infant or toddler and her/his family to
72 receive early intervention services; and
73 (O) Vision services;

74 (vi) Are provided by qualified personnel as
75 determined by the state's personnel standards, including:

76 (A) Audiologists;
77 (B) Family therapists;
78 (C) Nurses;
79 (D) Nutritionists;
80 (E) Occupational therapists;
81 (F) Orientation and mobility specialists;
82 (G) Pediatricians and other physicians;
83 (H) Physical therapists;
84 (I) Psychologists;
85 (J) Social workers;
86 (K) Special educators;
87 (L) Speech and language pathologists;

88 (vii) Are provided, to the maximum extent
89 appropriate, in natural environments, including the home, and
90 community settings in which children without disabilities would
91 participate;

92 (viii) Are provided in conformity with an
93 individualized family service plan.

94 (c) "Council" means the State Interagency Coordinating
95 Council established under Section 41-87-7.

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

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

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

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

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

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

117 (ii) Developing the individualized family service
118 plan; and

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

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

125 (j) "Early intervention standards" means those
126 standards established by any agency or agencies statutorily

127 designated the responsibility to establish standards for infants
128 and toddlers with disabilities, in coordination with the council
129 and in accordance with Part C of IDEA.

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

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

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

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

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

152 41-87-7. (1) For the purposes of implementing this chapter,
153 the Governor shall appoint a State Interagency Coordinating
154 Council * * *.

155 (2) The council shall be appointed by the Governor. In
156 making the appointments to the council, the Governor shall ensure
157 that the membership of the council reasonably represents the
158 population of the state.

159 (a) The Governor shall designate a member of the
160 council to serve as the chairperson of the council or shall
161 require the council to so designate such a member. Any member of
162 the council who is a representative of the lead agency may not
163 serve as the chairperson of the council.

164 (b) The council shall be composed as follows:

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

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

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

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

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

187 (vi) At least one (1) member shall be from the
188 state educational agency responsible for preschool services to
189 children with disabilities and shall have sufficient authority to
190 engage in policy planning and implementation on behalf of such
191 agency;

192 (vii) At least one (1) member shall be from the
193 agency responsible for the state governance of insurance,
194 especially in the area of health insurance;

195 (viii) At least one (1) member must be from a
196 Head Start agency or program in the state;

197 (ix) At least one (1) member must be from a state
198 agency responsible for child care;

199 (x) The council may include other members selected
200 by the Governor, including a representative from the Bureau of
201 Indian Affairs (BIA), or where there is no BIA operated or funded
202 school, from the Indian Health Service or the tribe/tribal
203 council.

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

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

218 (5) The council shall:

219 (a) Advise and assist the lead agency in the
220 performance of its responsibilities, particularly the
221 identification of the sources of fiscal and other support for
222 services for early intervention programs, assignment of financial
223 responsibility by the appropriate agency, and the promotion of the
224 interagency agreements;

225 (b) Advise and assist the lead agency in the
226 preparation of applications for funding under Part C of Public Law
227 102-119;

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

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

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

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

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

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

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

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

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

254 (6) The council may advise and assist the lead agency and
255 the state educational agency regarding the provision of
256 appropriate services for children aged birth to five (5),
257 inclusive.

258 (7) No member of the council shall cast a vote on any matter
259 which would provide direct financial benefit to that member or
260 otherwise give the appearance of a conflict of interest under
261 state law.

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

264 41-87-9. (1) A statewide system of coordinated,
265 comprehensive, multidisciplinary, interagency programs providing
266 appropriate early intervention services to all eligible infants
267 and toddlers and their families, including eligible Indian infants
268 and toddlers and their families on reservations, shall include the
269 following minimum components:

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

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

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

284 (d) For each eligible child, an individualized family
285 service plan including service coordination (case management)
286 services in accordance with such service plan. The individualized
287 family services plan shall be in writing, done in accordance with
288 Part C regulations, and contain a statement of the natural
289 environments in which early intervention services shall

290 appropriately be provided, as well as all components listed in the
291 Part C regulations;

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

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

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

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

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

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

321 (iii) Training personnel to work in rural areas;

322 and

323 (iv) Training personnel to coordinate transition
324 services for infants and toddlers with disabilities from an early
325 intervention program in the early intervention system to a
326 preschool program under Section 619 of IDEA;

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

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

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

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

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

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

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

353 (j) A policy pertaining to contracting or making
354 arrangements with service providers to provide early intervention

355 services in the state as a part of the early intervention system
356 in accordance with state law, state regulation and Part C of IDEA;

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

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

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

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

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

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

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

383 41-87-11. (1) The lead agency shall have the following
384 responsibilities in the implementation of this chapter:

385 (a) General administering and supervising programs and
386 activities receiving Part C funds and the monitoring of programs
387 and activities used by the state to carry out this chapter,

388 whether or not such programs or activities are receiving Part C
389 funds, to ensure that the state complies with this chapter;

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

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

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

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

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

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

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

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

417 (i) Monitoring of agencies, institutions and
418 organizations receiving assistance under Part C of Public Law
419 102-119;

420 (ii) Enforcing of any obligations imposed on those
421 agencies providing early intervention services according to Part C
422 of Public Law 102-119 and the standards of the state;

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

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

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

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

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

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

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

442 41-87-13. (1) Upon full implementation of the early
443 intervention system, eligible infants and toddlers and their
444 families shall receive the following, at no cost to the parents:

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

449 (b) An explanation of the assessment and all service
450 options in the family's native language or through an interpreter
451 for the deaf, if necessary, accommodating cultural differences;

452 (c) A written individualized family service plan
453 developed according to the federal Part C regulations and the
454 state guidelines and the recommendations by a multidisciplinary
455 team with the parents as fully participating members of the team;
456 (d) Case management/service coordination services; and
457 (e) Procedural safeguards as outlined in state policy
458 and according to the regulations.

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

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

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

475 41-87-15. Any federal funds made available to the state
476 through Part C and any additional state funds appropriated for
477 early intervention services after July 1, 1990, shall be used to
478 supplement and increase the level of state, local and other
479 federal funds that were expended for eligible children and their
480 families before July 1, 1990. Funds provided under Part C may not
481 be used to satisfy a financial commitment for services that would
482 have been paid for from another public or private source if Part C
483 money did not exist, except that whenever necessary to prevent a
484 delay in the receipt of appropriate early intervention services by

485 the infant or toddler or family in a timely fashion, Part C funds
486 may be used to pay the provider of the services pending
487 reimbursement to the lead agency from the agency that has ultimate
488 responsibility for the payment.

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