

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2212

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 PROGRAM
5 FOR INFANTS AND TODDLERS, AND CLARIFY CERTAIN DEFINITIONS; AND FOR
6 RELATED PURPOSES.

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

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

10 41-87-5. Unless the context requires otherwise, the
11 following definitions in this section apply throughout this
12 chapter:

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

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

- 19 (A) Cognitive development;
- 20 (B) Physical development, including vision or
21 hearing;
- 22 (C) Communication development;
- 23 (D) Social or emotional development;
- 24 (E) Adaptive development.

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

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

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

35 (i) Are provided under public supervision;

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

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

42 (A) Physical development;

43 (B) Cognitive development;

44 (C) Communication development;

45 (D) Social or emotional development; or

46 (E) Adaptive development;

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

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

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

54 (B) Audiology;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

151 41-87-7. (1) For the purposes of implementing this chapter,
152 the Governor shall appoint a State Interagency Coordinating
153 Council * * *.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

217 (5) The council shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

263 41-87-9. (1) A statewide system of coordinated,
264 comprehensive, multidisciplinary, interagency programs providing
265 appropriate early intervention services to all eligible infants
266 and toddlers and their families, including eligible Indian infants
267 and toddlers and their families on reservations, shall include the
268 following minimum components:

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

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

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

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

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

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

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

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

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

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

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

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

321 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

382 41-87-11. (1) The lead agency shall have the following
383 responsibilities in the implementation of this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

441 41-87-13. (1) Upon full implementation of the early
442 intervention system, eligible infants and toddlers and their
443 families shall receive the following, at no cost to the parents:

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

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

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

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

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

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

474 41-87-15. Any federal funds made available to the state
475 through Part C and any additional state funds appropriated for
476 early intervention services after July 1, 1990, shall be used to
477 supplement and increase the level of state, local and other
478 federal funds that were expended for eligible children and their
479 families before July 1, 1990. Funds provided under Part C may not
480 be used to satisfy a financial commitment for services that would
481 have been paid for from another public or private source if Part C
482 money did not exist, except that whenever necessary to prevent a
483 delay in the receipt of appropriate early intervention services by

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

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