

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2266

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 INFANTS AND TODDLERS ADMINISTERED BY THE STATE DEPARTMENT OF
5 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 of 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 maintain the Infant and
64 Toddler Hearing Impaired Registry. The State Part C Coordinator
65 is designated as the Director of the early hearing detection and
66 intervention program and is charged with its administration. The
67 State Part C Coordinator may designate a staff person (or persons)
68 to carry out the provisions of this section. All hospitals in the
69 state and other providers of services that have established
70 hearing screening procedures for infants and toddlers ages birth
71 through two (2) shall report to the State Part C Coordinator the
72 results of all screening procedures. All persons and providers in
73 the state who perform a diagnostic hearing evaluation on an infant
74 or toddler (birth through age 2 years) referred as a result of a
75 newborn hearing screening failure, shall report the results of
76 said diagnostic hearing evaluation to the State Part C Coordinator
77 within two (2) business days after their completion. The
78 aforementioned persons and providers shall also report to the
79 State Part C Coordinator the results of all diagnostic hearing
80 evaluations of infants and toddlers (birth through age 2 years),
81 including appropriate personal and identifying information, when
82 said results confirm the presence of a hearing impairment
83 consistent with Section 41-90-1(2). The information compiled and
84 maintained in the registry shall be kept confidential in
85 accordance with the applicable requirements and provisions of the
86 Early Intervention Act for Infants and Toddlers (Section 41-87-1
87 through Section 41-87-19) and Part C of IDEA. Families of all
88 registrants will be provided information on the availability of
89 services in the state for children with hearing impairments,
90 including those provided in accordance with Part C of IDEA through
91 the statewide infant and toddler early intervention system.

92 (3) The director of the registration program or his or her
93 designee shall facilitate the reporting of infants and toddlers

94 who fail to pass hearing screening or follow-up diagnostic hearing
95 evaluation by hospitals or any other person or provider of
96 services, as provided in subsection (2) of this section. Reports
97 may be submitted to the early hearing detection and intervention
98 program through the use of prepaid envelopes, sending of
99 facsimiles, or telephone via statewide toll free number, or by
100 other designated electronic data transmission process. It is the
101 purpose of this subsection to facilitate the reporting of infants
102 and toddlers who may have impaired hearing. The reporting
103 requirements shall be designed to be as simple as possible and
104 easily completed by nonprofessional persons when necessary.

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

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

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

120 (c) Provide guidance on protocols and equipment to be
121 utilized during diagnostic hearing evaluations of infants and
122 toddlers;

123 (d) Compile and publish statistical and other studies
124 derived from the patient data obtained under this section to
125 provide in an accessible form information that is useful to

126 physicians, other medical personnel, the State Department of
127 Education, the Legislature and the general public;

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

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

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

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

153 SECTION 4. Section 41-90-7, Mississippi Code of 1972, is
154 amended as follows:

155 41-90-7. The State Health Officer shall appoint an advisory
156 committee of at least nine (9) members that may include
157 physician(s), audiologist(s), educator(s), parent(s) and others as
158 appropriate. The committee shall provide advice to the State

159 Interagency Coordinating Council established under Section
160 47-87-7, and the State Department of Health on issues regarding
161 this act and its provisions. The committee shall be created so
162 that members serve for three (3) years and one-third of its
163 members are retired annually, unless re-appointed.

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

166 41-90-9. **Fiscal support for Department of Health.**

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

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

185 (a) Establish positions reasonable and appropriate to
186 insure that the provisions of this act are carried out;

187 (b) Procure * * * equipment to achieve universal
188 hearing screening of one hundred percent (100%) of live births;

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

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

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

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

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

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