INTRODUCED BY BARTOLOTTA, SCHWANK, SABATINA, GREENLEAF, VULAKOVICH, TARTAGLIONE, COSTA, YUDICHAK, BLAKE, HAYWOOD, RAFFERTY, VOGEL, HUGHES, BOSCOLA, LEACH, MENSCH, AUMENT, BROWNE AND WARD, JANUARY 31, 2017

REFERRED TO HEALTH AND HUMAN SERVICES, JANUARY 31, 2017

AN ACT

Amending the act of December 19, 1990 (P.L.1372, No.212), entitled "An act providing for early intervention services for infants, toddlers and preschool children who qualify; establishing the Interagency Coordinating Council and providing for its powers and duties; and conferring powers and duties upon the Department of Education and the State Board of Education, the Department of Health and the Department of Public Welfare," further providing for the title of the act; in general provisions, further providing for definitions, for State interagency agreement, for other duties of State agencies and for council; and, in Statewide system for provision of early intervention services, further providing for requirements, for program regulations and standards, for administration by Department of Public Welfare, for administration by Department of Education and for child identification, assessment and tracking system.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of December 19, 1990 (P.L.1372, No.212), known as the Early Intervention Services System Act, is amended to read:

AN ACT

Providing for early intervention services for infants, toddlers and preschool children who qualify; establishing the
Interagency Coordinating Council and providing for its powers and duties; and conferring powers and duties upon the Department of Education and the State Board of Education, the Department of Health and the Department of Human Services.

Section 2. The definitions of "eligible young child," "handicapped infants and toddlers," "lead agency" and "State interagency agreement" in section 103 of the act are amended and the section is amended by adding a definition to read:

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Eligible young child." A child who is younger than the age of beginners and at least three years of age and who meets any of the following criteria:

(1) The child has any of the following physical or mental disabilities: autism/pervasive developmental disorder, serious emotional disturbance, neurological impairment, deafness/hearing impairment, specific learning disability, [mental retardation] intellectual disability, multihandicap, other health impairment, physical disability, speech impairment or blindness/visual impairment.

(2) The child is considered to have a developmental delay, as defined by regulations of the State Board of Education and the standards of the Department of Education. "Handicapped infants and toddlers." Individuals ranging in age from birth to two years of age, inclusive, who need early intervention services for any of the following reasons:
(1) They are experiencing developmental delays, as defined by regulations of the Department of [Public Welfare] Human Services and as measured by appropriate diagnostic instruments and procedures in any of the following areas: cognitive development, sensory development, physical development, language and speech development, psycho-social development or self-help skills.

(2) They have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay under paragraph (1). This paragraph applies to conditions with known etiologies and developmental consequences. Examples of these conditions include Down syndrome; other chromosomal abnormalities; sensory impairments, including vision and hearing; inborn errors of metabolism; microcephaly; severe attachment disorders, including failure to thrive; seizure disorders; and fetal alcohol syndrome.

* * *

"Lead agency." For early intervention services to eligible children from birth to two years of age, inclusive, the Department of [Public Welfare] Human Services; for early intervention services to eligible young children, the Department of Education.

* * *

"Postpartum depression." A major depressive episode with an onset in pregnancy or within one year of the birth of a child.

"State interagency agreement." An agreement entered into by the Department of Education, the Department of Health, the Department of [Public Welfare] Human Services and any other Commonwealth agency for the purposes of this act and of Part B.
Section 3. Sections 104(a) and (b), 105, 106(b), (f) and (h), 301 introductory paragraph and (l), 302(a) introductory paragraph, 303, 304(c) and 305 of the act are amended to read:

Section 104. State interagency agreement.

(a) Interagency agreement.--The Department of Education, the Department of Health and the Department of [Public Welfare] Human Services shall enter into and maintain a State interagency agreement to enable the State and local agencies serving infants, toddlers and eligible young children who are handicapped to establish working relationships that will increase the efficiency and effectiveness of their early intervention services. The agreement shall outline the responsibilities of those State and local agencies and shall implement a coordinated service delivery system through local interagency agreements.

(b) Components.--The State interagency agreement shall address, at a minimum, the following issues:

1. Responsibilities of State and local agencies.
2. Eligibility determination and referrals.
3. Establishment of local agreements.
4. Fiscal responsibilities of the agencies.
5. Dispute resolution between agencies.
6. Payor of last resort.
7. Maintenance of effort.
8. Administrative management structure.
9. Establishment and maintenance of local interagency coordinating councils, which shall include, but not be limited to, parents and private providers and which shall be authorized to advise and comment on the development of local
interagency agreements for their specified geographic area and to communicate directly with the Department of Education, the Department of Health, the Department of [Public Welfare] Human Services and the council regarding the local interagency agreement and any other matters pertaining to this act.

(10) Plans by the Department of Health, the Department of [Public Welfare] Human Services and the Department of Education to work together to develop a coordinated system of case management.

* * *

Section 105. Other duties of State agencies.
(a) Statewide system.—The Department of Health, the Department of [Public Welfare] Human Services and the Department of Education shall be responsible for the establishment and maintenance of a Statewide system of early intervention services as provided in Chapter 3.
(b) Rulemaking.—The Department of Health, the Department of [Public Welfare] Human Services, the State Board of Education as the regulatory authority for the Department of Education and the Department of Education for standards shall submit draft regulations and standards to the council relating to the implementation of this act prior to formal promulgation in order to receive the recommendations of the council. If recommendations are not received by the appropriate State agency within 60 days of receipt by the council, the respective department or board may continue to develop and promulgate regulations and standards.
(c) Annual reports.—By July 31, the Department of Health, the Department of [Public Welfare] Human Services and the
Department of Education shall submit annual reports to the council on the status of early intervention services during the preceding calendar year. These reports shall be used as the basis for the report submitted by the council under section 106(f)(4).

Section 106. Council.

* * *

(b) Membership.--The membership of the council shall consist of the following:

(1) Three parents of handicapped infants, toddlers or eligible young children.

(2) One provider of a child development program, such as Head Start.

(3) One parent of a child who has received early intervention services and is now beyond six years of age.

(4) Three providers of early intervention services, including one school district provider, one intermediate unit provider and one private provider.

(5) One member from the General Assembly.

(6) One representative of the American Academy of Pediatrics.

(7) One county [mental health/mental retardation] mental health/intellectual disability administrator or designee.

(8) One individual involved in personnel preparation.

(9) The Secretary of Education or a designee.

(10) The Secretary of [Public Welfare] Human Services or a designee.

(11) The Secretary of Health or a designee.

(12) As ex officio members, who shall not have voting privileges: a representative of the Developmental
Disabilities Planning Council and members appointed by the chair of the council.

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(f) Powers and duties.--The council has the following powers and duties:

(1) To review and comment to the Department of Health, the Department of [Public Welfare] Human Services, the Department of Education and the State Board of Education on draft regulations and standards for the implementation and maintenance of a Statewide system of early intervention services which are in accordance with the provisions of this act and Parts B and H.

(2) To review and comment to the appropriate legislative committees and the Independent Regulatory Review Commission on regulations and standards proposed under this act.

(3) To assist and advise Commonwealth agencies in their effort to carry out the provisions of this act. This paragraph includes, but is not limited to:

   (i) recommendations for the implementation and maintenance of a Statewide comprehensive, coordinated, multidisciplinary, interagency program, as described in Chapter 3;

   (ii) suggestions regarding sources of fiscal and other support from Federal, State, local and private sources, including insurance coverage; and

   (iii) recommendations regarding in-service training and personnel competencies.

(4) To prepare and submit, with the cooperation of the Secretary of Education, the Secretary of Health and the Secretary of [Public Welfare] Human Services, an annual
report during the month of September to the Governor and the
Majority and Minority Chairmen of the Education Committee of
the Senate and the Education Committee of the House of
Representatives. This report shall include the number of
programs being provided by intermediate units, school
districts and public and private providers, including Head
Start; the number of children being served; the status of
compliance with State regulations and standards; descriptive
information on the programs; information on personnel needs;
any suggested changes in State statutes and regulations
governing these programs; any information the United States
Secretary of Education may require; and any other information
the council deems appropriate.

(5) To meet at least six times a year.

(6) To perform other functions required of a state's
interagency coordinating council under Part H.

* * *

(h) Staff.--Staff services for the council shall be provided
by the Department of Health, the Department of Human Services
and the Department of Education and shall include
the preparation and distribution of the annual report required
under subsection (f)(4).

Section 301. Requirements.

A Statewide system of coordinated, comprehensive,
multidisciplinary, interagency programs shall be established and
maintained by the Department of Health, the Department of
Human Services and the Department of Education
to provide appropriate early intervention services to all
handicapped infants, toddlers and their families and to eligible
young children. The system shall include the following minimum
components:

(1) Compatible definitions of the term "developmental delay" shall be promulgated and adopted by the Department of [Public Welfare] Human Services, the Department of Health and the Department of Education, with review and comment of the council under section 106(f)(1). The definition shall provide for the continuity of program services and shall be used in implementing programs under this act.

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Section 302. Program regulations and standards.

(a) [Public Welfare] Human Services.--The Department of [Public Welfare] Human Services shall define and address the following issues in developing regulations:

* * *


(a) Assistance to counties.--From the sum appropriated to the Department of [Public Welfare] Human Services for the purposes of this act, the department shall distribute funds to the county mental health and [mental retardation] intellectual disability offices, under section 509 of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966, for the provision of early intervention services to children from birth to age two, inclusive. The county offices may meet their obligation to assure appropriate early intervention services to all eligible children through contracts with public or private agencies that meet the requirements of the regulations and program standards developed under this act. The county offices shall assure annually that the service providers
receiving funds are in compliance with the Commonwealth's regulations and standards.

(b) Federal benefits.--Nothing in this act shall preclude medical or other assistance available under Title V or XIX of the Social Security Act (Public Law 74-271, 42 U.S.C. § 701 et seq. or § 1396 et seq.) or any other benefits available under Federal law.

(c) Education.--In order to facilitate the transfer of responsibility for eligible children from the Department of [Public Welfare] Human Services to the Department of Education at one time each year, consistent with the beginning of the school year, the Secretary of [Public Welfare] Human Services may delegate responsibility for serving certain children under three years of age to the Department of Education and may accept a delegation of responsibility from the Secretary of Education under section 304(c) to serve certain children over the age of three.

(d) Use of funds.--From the sum of State funds appropriated by the General Assembly to the Department of [Public Welfare] Human Services for this act, the department shall use 2% to 4% of the appropriation for personnel training and program technical assistance.

Section 304. Administration by Department of Education.

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(c) [Public welfare] Human services.--The Secretary of Education shall provide for the transition of eligible children, including handicapped infants and toddlers, who, prior to their third birthday, received services under Part H. The Secretary of Education is authorized to accept responsibility pursuant to delegation from the Secretary of [Public Welfare] Human Services.
under section 303(c) for providing early intervention services to children less than three years of age. The Secretary of Education is authorized to delegate responsibility to the Secretary of [Public Welfare] Human Services for providing services for certain children over the age of three.

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Section 305. Child identification, assessment and tracking system.

(a) Development of system.--The Department of [Public Welfare] Human Services, the Department of Education and the Department of Health shall develop a Statewide system for eligible child identification, assessment and tracking. This system shall be developed and coordinated by the agencies to assure that the system is compatible with the child-find system as required by Part B.

(b) At-risk children.--For the purposes of child identification, assessment and tracking for infants and toddlers, the Department of [Public Welfare] Human Services shall establish, by regulation, population groups to be included in these activities. The population groups shall include, but not be limited to, children whose birth weight is under 1,500 grams; children cared for in neonatal intensive care units of hospitals; children born to chemically dependent mothers and referred by a physician, health care provider or parent; children who are seriously abused or neglected, as substantiated and referred by the county children and youth agency under the act of November 26, 1975 (P.L.438, No.124), known as the Child Protective Services Law; children with confirmed dangerous levels of lead poisoning as set by the Department of Health; [and] children who are homeless.; and children who have a
parent that is either at high risk for or is diagnosed as having postpartum depression and who are referred by a physician, health care provider or parent. The Department of [Public Welfare] Human Services may establish other population groups by regulation as it deems necessary.

(c) Components of system.--The system shall include, but need not be limited to, the provision of the following activities and services:

(1) The identification of eligible children and referral to early intervention services as soon after birth as possible.

(2) Referral services for families of eligible children.

(3) Continuing assessment of at-risk children from birth through age of beginners.

(4) A description of agencies providing early intervention services and the services provided by each agency.

(5) Pertinent information regarding the exit of the child from early intervention services.

(6) The orderly transfer of the accumulated information to the appropriate provider upon the child's attainment of age of beginners, except if the child has met exit criteria contained in this act.

(d) Confidentiality.--Proper measures shall be developed and implemented to assure the confidentiality of the data contained in the system. Information shall be accessed only by appropriate staff of the Department of [Public Welfare] Human Services, the Department of Education and the Department of Health, including the staff of each agency's local entities, such as county mental health and [mental retardation] intellectual disability offices,
school districts and intermediate units, which are responsible for the provision of services either directly or through subcontract to private providers. Nothing in this section is intended to preclude the utilization of data to provide for the preparation of reports, fiscal information or other documents required by this act or the Education of the Handicapped Act; but no information may be used in a manner which would allow for the identification of an individual child or family.

Section 4. This act shall take effect in 60 days.