
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2496 Session of
2018

INTRODUCED BY SCHLOSSBERG, SANTORA, WATSON, CONKLIN, D. COSTA,
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ROEBUCK, THOMAS, DEASY, SCHWEYER AND DALEY, JUNE 18, 2018

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, JUNE 18, 2018

AN ACT

1 Amending the act of December 19, 1990 (P.L.1372, No.212),
2 entitled "An act providing for early intervention services
3 for infants, toddlers and preschool children who qualify;
4 establishing the Interagency Coordinating Council and
5 providing for its powers and duties; and conferring powers
6 and duties upon the Department of Education and the State
7 Board of Education, the Department of Health and the
8 Department of Public Welfare," establishing the Early
9 Intervention Services Contingency Fund; providing for
10 transfers from the Early Intervention Services Contingency
11 Fund to lead agencies and for reporting; and making editorial
12 changes.

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

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

18 AN ACT

19 Providing for early intervention services for infants, toddlers
20 and preschool children who qualify; establishing the
21 Interagency Coordinating Council and providing for its powers
22 and duties; and conferring powers and duties upon the

1 Department of Education and the State Board of Education, the
2 Department of Health and the Department of [Public Welfare]
3 Human Services.

4 Section 2. The definitions of "eligible young child,"
5 "handicapped infants and toddlers," "lead agency" and "State
6 interagency agreement" in section 103 of the act are amended to
7 read:

8 Section 103. Definitions.

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

12 * * *

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

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

23 (2) The child is considered to have a developmental
24 delay, as defined by regulations of the State Board of
25 Education and the standards of the Department of Education.

26 "Handicapped infants and toddlers." Individuals ranging in
27 age from birth to two years of age, inclusive, who need early
28 intervention services for any of the following reasons:

29 (1) They are experiencing developmental delays, as
30 defined by regulations of the Department of [Public Welfare]

1 Human Services and as measured by appropriate diagnostic
2 instruments and procedures in any of the following areas:
3 cognitive development, sensory development, physical
4 development, language and speech development, psycho-social
5 development or self-help skills.

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

16 * * *

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

22 * * *

23 "State interagency agreement." An agreement entered into by
24 the Department of Education, the Department of Health, the
25 Department of [Public Welfare] Human Services and any other
26 Commonwealth agency for the purposes of this act and of Part B
27 and Part H.

28 Section 3. Sections 104, 105 and 106(b)(7) and (10), (f)(1)
29 and (4) and (h) of the act are amended to read:

30 Section 104. State interagency agreement.

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

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

- 14 (1) Responsibilities of State and local agencies.
- 15 (2) Eligibility determination and referrals.
- 16 (3) Establishment of local agreements.
- 17 (4) Fiscal responsibilities of the agencies.
- 18 (5) Dispute resolution between agencies.
- 19 (6) Payor of last resort.
- 20 (7) Maintenance of effort.
- 21 (8) Administrative management structure.
- 22 (9) Establishment and maintenance of local interagency
23 coordinating councils, which shall include, but not be
24 limited to, parents and private providers and which shall be
25 authorized to advise and comment on the development of local
26 interagency agreements for their specified geographic area
27 and to communicate directly with the Department of Education,
28 the Department of Health, the Department of [Public Welfare]
29 Human Services and the council regarding the local
30 interagency agreement and any other matters pertaining to

1 this act.

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

6 (c) Goal.--Issues under subsection (b) shall be addressed to
7 meet the requirements of this act and the provisions of Part B
8 and Part H.

9 Section 105. Other duties of State agencies.

10 (a) Statewide system.--The Department of Health, the
11 Department of [Public Welfare] Human Services and the Department
12 of Education shall be responsible for the establishment and
13 maintenance of a Statewide system of early intervention services
14 as provided in Chapter 3.

15 (b) Rulemaking.--The Department of Health, the Department of
16 [Public Welfare] Human Services, the State Board of Education as
17 the regulatory authority for the Department of Education and the
18 Department of Education for standards shall submit draft
19 regulations and standards to the council relating to the
20 implementation of this act prior to formal promulgation in order
21 to receive the recommendations of the council. If
22 recommendations are not received by the appropriate State agency
23 within 60 days of receipt by the council, the respective
24 department or board may continue to develop and promulgate
25 regulations and standards.

26 (c) Annual reports.--By July 31, the Department of Health,
27 the Department of [Public Welfare] Human Services and the
28 Department of Education shall submit annual reports to the
29 council on the status of early intervention services during the
30 preceding calendar year. These reports shall be used as the

1 basis for the report submitted by the council under section
2 106(f) (4).

3 Section 106. Council.

4 * * *

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

7 * * *

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

10 * * *

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

13 * * *

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

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

23 * * *

24 (4) To prepare and submit, with the cooperation of the
25 Secretary of Education, the Secretary of Health and the
26 Secretary of [Public Welfare] Human Services, an annual
27 report during the month of September to the Governor and the
28 Majority and Minority Chairmen of the Education Committee of
29 the Senate and the Education Committee of the House of
30 Representatives. This report shall include the number of

1 programs being provided by intermediate units, school
2 districts and public and private providers, including Head
3 Start; the number of children being served; the status of
4 compliance with State regulations and standards; descriptive
5 information on the programs; information on personnel needs;
6 any suggested changes in State statutes and regulations
7 governing these programs; any information the United States
8 Secretary of Education may require; and any other information
9 the council deems appropriate.

10 * * *

11 (h) Staff.--Staff services for the council shall be provided
12 by the Department of Health, the Department of [Public Welfare]
13 Human Services and the Department of Education and shall include
14 the preparation and distribution of the annual report required
15 under subsection (f) (4).

16 Section 4. The act is amended by adding a chapter to read:

17 CHAPTER 2

18 EARLY INTERVENTION SERVICES CONTINGENCY FUND

19 Section 201. Definitions.

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

23 "Certified amount." The amount certified by the State
24 Treasurer under section 203(b).

25 "Fund." The Early Intervention Services Contingency Fund
26 established in section 202(a).

27 "Identified statute." A statute identified by a lead agency,
28 the enactment of which results in a need for additional funding
29 for early intervention services.

30 "Impacted early intervention services." Early intervention

1 services for which funding:

2 (1) is needed as a result of the enactment of a statute;

3 and

4 (2) has not been provided for by appropriation or other
5 act of the General Assembly.

6 Section 202. Early Intervention Services Contingency Fund.

7 (a) Establishment.--The Early Intervention Services
8 Contingency Fund is established within the State Treasury.

9 (b) Appropriation.--For the fiscal year 2018-2019, and each
10 fiscal year thereafter, the General Assembly shall appropriate
11 money as it determines to be necessary from the General Fund to
12 the fund for use by a lead agency for the purpose of providing
13 early intervention services. Money in the fund shall only be
14 used to fund impacted early intervention services.

15 (c) Transfers.--Beginning fiscal year 2018-2019, the State
16 Treasurer shall transfer, upon approval by the Governor, a
17 certified amount from the fund to the lead agency responsible
18 for providing impacted early intervention services.

19 Section 203. Certification procedure.

20 (a) General rule.--Following enactment of an identified
21 statute, the lead agency shall submit to the State Treasurer a
22 request for money from the fund in the amount estimated by the
23 lead agency to be necessary to provide impacted early
24 intervention services.

25 (b) Certification of estimate and report.--

26 (1) No later than seven days from submission of the
27 request in subsection (a), the State Treasurer shall forward
28 the request to the Independent Fiscal Office for
29 certification of the cost estimate and a report.

30 (2) The Independent Fiscal Office shall review the cost

1 estimate and certify the amount to be transferred to the lead
2 agency. No later than 30 days from receipt of the request
3 from the State Treasurer, the Independent Fiscal Office shall
4 submit the certified amount and a report to the State
5 Treasurer. The report shall include the following:

6 (i) The estimated fiscal impact of the identified
7 statute on early intervention services for the current
8 fiscal year.

9 (ii) An estimate of the total number of eligible
10 young children and handicapped infants and toddlers who
11 will become eligible for early intervention services due
12 to the identified statute.

13 (iii) An estimate of the total number of eligible
14 children who will achieve the age of beginners by the end
15 of the fiscal year in which the requested money will be
16 transferred from the fund.

17 Section 204. Report of expenditures from fund.

18 (a) Annual report.--No later than 90 days after the
19 conclusion of each fiscal year in which a lead agency receives
20 money from the fund, the lead agency shall issue a report to the
21 chairperson and minority chairperson of the Appropriations
22 Committee of the Senate and the chairperson and minority
23 chairperson of the Appropriations Committee of the House of
24 Representatives, which shall include the following:

25 (1) The number of eligible young children and
26 handicapped infants and toddlers provided early intervention
27 services due to eligibility as a result of the identified
28 statute.

29 (2) The total amount of funds expended on eligible young
30 children and handicapped infants and toddlers provided early

1 intervention services due to eligibility as a result of the
2 identified statute.

3 (3) The total number of eligible young children who
4 reached the age of beginners during the fiscal year in which
5 money was transferred from the fund.

6 (4) The estimated fiscal impact on early intervention
7 services by the identified statute for the succeeding four
8 years.

9 (5) An estimate of the total number of eligible young
10 children and handicapped infants and toddlers who may be
11 impacted by the identified statute in the succeeding four
12 years.

13 (6) An estimate of the total number of eligible young
14 children and handicapped infants and toddlers who will reach
15 the age of beginners in the succeeding four years.

16 (7) If applicable, recommendations for future
17 appropriations for early intervention services in the General
18 Appropriation Act.

19 (b) Public access to report.--Each lead agency shall make
20 the agency's report accessible to the public by posting the
21 report on the agency's publicly accessible Internet website.

22 Section 5. Sections 301 introductory paragraph and (1),
23 302(a), 303, 304(c), 305(a), (b) and (d) and 503 of the act are
24 amended to read:

25 Section 301. Requirements.

26 A Statewide system of coordinated, comprehensive,
27 multidisciplinary, interagency programs shall be established and
28 maintained by the Department of Health, the Department of
29 [Public Welfare] Human Services and the Department of Education
30 to provide appropriate early intervention services to all

1 handicapped infants, toddlers and their families and to eligible
2 young children. The system shall include the following minimum
3 components:

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

11 * * *

12 Section 302. Program regulations and standards.

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

16 (1) Methods for locating and identifying eligible
17 children.

18 (2) Criteria for eligible programs.

19 (3) Contracting guidelines.

20 (4) Personnel qualifications and a system of preservice
21 and in-service training.

22 (5) Early intervention services.

23 (6) Procedural safeguards.

24 (7) Appropriate placement, including the least
25 restrictive environment.

26 (8) A system of quality assurance, including evaluation
27 of the developmental appropriateness; quality and
28 effectiveness of programs; assurance of compliance with
29 program standards; and provision of assistance to assure
30 compliance.

1 (9) Data collection and confidentiality.

2 (10) Interagency cooperation at the State and local
3 level through the State interagency agreement and local
4 interagency agreements.

5 (11) Content and development of IFSP's.

6 (12) Any other issues which are required under this act
7 and Part H.

8 * * *

9 Section 303. Administration by Department of [Public Welfare]
10 Human Services.

11 (a) Assistance to counties.--From the sum appropriated to
12 the Department of [Public Welfare] Human Services for the
13 purposes of this act, the department shall distribute funds to
14 the county mental health and [mental retardation] intellectual
15 disability offices, under section 509 of the act of October 20,
16 1966 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health
17 and [Mental Retardation] Intellectual Disability Act of 1966,
18 for the provision of early intervention services to children
19 from birth to age two, inclusive. The county offices may meet
20 their obligation to assure appropriate early intervention
21 services to all eligible children through contracts with public
22 or private agencies that meet the requirements of the
23 regulations and program standards developed under this act. The
24 county offices shall assure annually that the service providers
25 receiving funds are in compliance with the Commonwealth's
26 regulations and standards.

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

1 Federal law.

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

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

17 Section 304. Administration by Department of Education.

18 * * *

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

30 * * *

1 Section 305. Child identification, assessment and tracking
2 system.

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

10 (b) At-risk children.--For the purposes of child
11 identification, assessment and tracking for infants and
12 toddlers, the Department of [Public Welfare] Human Services
13 shall establish, by regulation, population groups to be included
14 in these activities. The population groups shall include, but
15 not be limited to, children whose birth weight is under 1,500
16 grams; children cared for in neonatal intensive care units of
17 hospitals; children born to chemically dependent mothers and
18 referred by a physician, health care provider or parent;
19 children who are seriously abused or neglected, as substantiated
20 and referred by the county children and youth agency under [the
21 act of November 26, 1975 (P.L.438, No.124), known as the Child
22 Protective Services Law] 23 Pa.C.S. Ch. 63 (relating to child
23 protective services); children with confirmed dangerous levels
24 of lead poisoning as set by the Department of Health; and
25 children who are homeless. The Department of [Public Welfare]
26 Human Services may establish other population groups by
27 regulation as it deems necessary.

28 * * *

29 (d) Confidentiality.--Proper measures shall be developed and
30 implemented to assure the confidentiality of the data contained

1 in the system. Information shall be accessed only by appropriate
2 staff of the Department of [Public Welfare] Human Services, the
3 Department of Education and the Department of Health, including
4 the staff of each agency's local entities, such as county mental
5 health and [mental retardation] intellectual disability offices,
6 school districts and intermediate units, which are responsible
7 for the provision of services either directly or through
8 subcontract to private providers. Nothing in this section is
9 intended to preclude the utilization of data to provide for the
10 preparation of reports, fiscal information or other documents
11 required by this act or the Education of the Handicapped Act;
12 but no information may be used in a manner which would allow for
13 the identification of an individual child or family.

14 Section 503. Effective date.

15 This act shall take effect as follows:

16 (1) For the purposes of meeting the program requirements
17 imposed upon the Department of [Public Welfare] Human
18 Services under the provisions of the Education of the
19 Handicapped Act Amendments of 1986 (Public Law 99-457, 100
20 Stat. 1145), this act shall take effect July 1, 1990.

21 (2) The provisions of this act pertaining to the
22 entitlement of services by the Department of [Public Welfare]
23 Human Services shall take effect September 1, 1991.

24 (3) The provisions of this act pertaining to the
25 entitlement of services by the Department of Education shall
26 take effect July 1, 1991.

27 (4) The remainder of this act shall take effect
28 immediately.

29 Section 6. This act shall take effect July 1, 2018, or
30 immediately, whichever is later.