

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 200 Session of 2017

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

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," further providing for the
 9 title of the act; in general provisions, further providing
 10 for definitions, for State interagency agreement, for other
 11 duties of State agencies and for council; and, in Statewide
 12 system for provision of early intervention services, further
 13 providing for requirements, for program regulations and
 14 standards, for administration by Department of Public
 15 Welfare, for administration by Department of Education and
 16 for child identification, assessment and tracking system.

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

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

22 AN ACT

23 Providing for early intervention services for infants, toddlers
 24 and preschool children who qualify; establishing the

1 Interagency Coordinating Council and providing for its powers
2 and duties; and conferring powers and duties upon the
3 Department of Education and the State Board of Education, the
4 Department of Health and the Department of [Public Welfare]
5 Human Services.

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

10 Section 103. Definitions.

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

14 * * *

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

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

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

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

1 (1) They are experiencing developmental delays, as
2 defined by regulations of the Department of [Public Welfare]
3 Human Services and as measured by appropriate diagnostic
4 instruments and procedures in any of the following areas:
5 cognitive development, sensory development, physical
6 development, language and speech development, psycho-social
7 development or self-help skills.

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

18 * * *

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

24 * * *

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

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

1 and Part H.

2 Section 3. Sections 104(a) and (b), 105, 106(b), (f) and
3 (h), 301 introductory paragraph and (1), 302(a) introductory
4 paragraph, 303, 304(c) and 305 of the act are amended to read:

5 Section 104. State interagency agreement.

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

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

- 19 (1) Responsibilities of State and local agencies.
- 20 (2) Eligibility determination and referrals.
- 21 (3) Establishment of local agreements.
- 22 (4) Fiscal responsibilities of the agencies.
- 23 (5) Dispute resolution between agencies.
- 24 (6) Payor of last resort.
- 25 (7) Maintenance of effort.
- 26 (8) Administrative management structure.
- 27 (9) Establishment and maintenance of local interagency
28 coordinating councils, which shall include, but not be
29 limited to, parents and private providers and which shall be
30 authorized to advise and comment on the development of local

1 interagency agreements for their specified geographic area
2 and to communicate directly with the Department of Education,
3 the Department of Health, the Department of [Public Welfare]
4 Human Services and the council regarding the local
5 interagency agreement and any other matters pertaining to
6 this act.

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

11 * * *

12 Section 105. Other duties of State agencies.

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

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

29 (c) Annual reports.--By July 31, the Department of Health,
30 the Department of [Public Welfare] Human Services and the

1 Department of Education shall submit annual reports to the
2 council on the status of early intervention services during the
3 preceding calendar year. These reports shall be used as the
4 basis for the report submitted by the council under section
5 106(f)(4).

6 Section 106. Council.

7 * * *

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

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

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

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

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

19 (5) One member from the General Assembly.

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

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

24 (8) One individual involved in personnel preparation.

25 (9) The Secretary of Education or a designee.

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

28 (11) The Secretary of Health or a designee.

29 (12) As ex officio members, who shall not have voting
30 privileges: a representative of the Developmental

1 Disabilities Planning Council and members appointed by the
2 chair of the council.

3 * * *

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

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

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

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

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

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

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

28 (4) To prepare and submit, with the cooperation of the
29 Secretary of Education, the Secretary of Health and the
30 Secretary of [Public Welfare] Human Services, an annual

1 report during the month of September to the Governor and the
2 Majority and Minority Chairmen of the Education Committee of
3 the Senate and the Education Committee of the House of
4 Representatives. This report shall include the number of
5 programs being provided by intermediate units, school
6 districts and public and private providers, including Head
7 Start; the number of children being served; the status of
8 compliance with State regulations and standards; descriptive
9 information on the programs; information on personnel needs;
10 any suggested changes in State statutes and regulations
11 governing these programs; any information the United States
12 Secretary of Education may require; and any other information
13 the council deems appropriate.

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

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

17 * * *

18 (h) Staff.--Staff services for the council shall be provided
19 by the Department of Health, the Department of [Public Welfare]
20 Human Services and the Department of Education and shall include
21 the preparation and distribution of the annual report required
22 under subsection (f) (4).

23 Section 301. Requirements.

24 A Statewide system of coordinated, comprehensive,
25 multidisciplinary, interagency programs shall be established and
26 maintained by the Department of Health, the Department of
27 [Public Welfare] Human Services and the Department of Education
28 to provide appropriate early intervention services to all
29 handicapped infants, toddlers and their families and to eligible
30 young children. The system shall include the following minimum

1 components:

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

9 * * *

10 Section 302. Program regulations and standards.

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

14 * * *

15 Section 303. Administration by Department of [Public Welfare]
16 Human Services.

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

1 receiving funds are in compliance with the Commonwealth's
2 regulations and standards.

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

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

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

23 Section 304. Administration by Department of Education.

24 * * *

25 (c) [Public welfare] Human services.--The Secretary of
26 Education shall provide for the transition of eligible children,
27 including handicapped infants and toddlers, who, prior to their
28 third birthday, received services under Part H. The Secretary of
29 Education is authorized to accept responsibility pursuant to
30 delegation from the Secretary of [Public Welfare] Human Services

1 under section 303(c) for providing early intervention services
2 to children less than three years of age. The Secretary of
3 Education is authorized to delegate responsibility to the
4 Secretary of [Public Welfare] Human Services for providing
5 services for certain children over the age of three.

6 * * *

7 Section 305. Child identification, assessment and tracking
8 system.

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

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

1 parent that is either at high risk for or is diagnosed as having
2 postpartum depression and who are referred by a physician,
3 health care provider or parent. The Department of [Public
4 Welfare] Human Services may establish other population groups by
5 regulation as it deems necessary.

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

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

12 (2) Referral services for families of eligible children.

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

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

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

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

24 (d) Confidentiality.--Proper measures shall be developed and
25 implemented to assure the confidentiality of the data contained
26 in the system. Information shall be accessed only by appropriate
27 staff of the Department of [Public Welfare] Human Services, the
28 Department of Education and the Department of Health, including
29 the staff of each agency's local entities, such as county mental
30 health and [mental retardation] intellectual disability offices,

1 school districts and intermediate units, which are responsible
2 for the provision of services either directly or through
3 subcontract to private providers. Nothing in this section is
4 intended to preclude the utilization of data to provide for the
5 preparation of reports, fiscal information or other documents
6 required by this act or the Education of the Handicapped Act;
7 but no information may be used in a manner which would allow for
8 the identification of an individual child or family.

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