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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991



ENROLLED

Committee Substitute for
SENATE BILL NO. 104

(By Senator Burdette, Mr. President, etal)



PASSED March 9, 1991

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 104

(SENATORS BURDETTE, MR. PRESIDENT, HOLLIDAY,
M. MANCHIN, PRITT, WEHRLE, BLATNIK, HUMPHREYS
AND LUCHT, *original sponsors*)

[Passed March 9, 1991; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-k, relating to the provision of early intervention services for infants and toddlers with or at risk of having a developmental delay; setting forth findings and purpose; designating the department of health and human resources as the coordinating agency and setting forth the department's responsibilities; defining certain terms; establishing a coordinating council; and setting forth the council's responsibilities.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-k, to read as follows:

**ARTICLE 5K. EARLY INTERVENTION SERVICES FOR CHILDREN
WITH DEVELOPMENTAL DELAYS.**

§16-5K-1. Legislative findings and statement of purpose.

1 The Legislature hereby finds and declares that early
2 intervention services for children who are develop-
3 mentally delayed is essential in helping to maximize
4 each child's potential and is in the best interest of the
5 state. These early intervention services will reduce
6 future educational costs, minimize the likelihood of
7 having to provide institutional care and enhance the
8 capacity of families to meet the special needs of the
9 children. In order to meet this important need, a
10 statewide comprehensive, coordinated, interagency
11 program of early intervention services is required for
12 children and the families of children from birth to
13 thirty-six months of age who are developmentally
14 delayed. By facilitating coordination of payment for
15 early intervention services from various public and
16 private sources, enhancing the capacity to provide
17 quality early intervention services, and expanding and
18 improving existing services, the interagency program
19 will ensure that children who are developmentally
20 delayed will receive necessary services which are cost
21 effective.

§16-5K-2. Definitions.

- 1 Unless the context clearly otherwise indicates, as
2 used in this article:
- 3 (a) "Cabinet" means the governor's cabinet on
4 children and families.
- 5 (b) "Council" means the governor's early interven-
6 tion interagency coordinating council.
- 7 (c) "Department" means the department of health
8 and human resources.
- 9 (d) "Early intervention services" means develop-
10 mental services which:
- 11 (1) Are designed to meet the developmental needs of
12 developmentally delayed infants and toddlers and the
13 needs of the family related to enhancing the child's

14 development;

15 (2) Are selected in collaboration with the parents;

16 (3) Are provided under public supervision in confor-
17 mity with an individualized family service plan, and at
18 no cost to families;

19 (4) Meet the state's early intervention standards, as
20 established by the department of health and human
21 resources with the assistance of the governor's early
22 intervention interagency coordinating council;

23 (5) Include audiology case management, family
24 training, counseling and home visits, health services
25 necessary to enable a child to benefit from other early
26 intervention services, medical services only for diag-
27 nostic or evaluation purposes, nursing services, nutri-
28 tion services, occupational therapy, physical therapy,
29 psychological services, social work services, special
30 instruction, speech-language pathology and transporta-
31 tion; and

32 (6) Are provided by licensed or otherwise qualified
33 personnel, including audiologists, nurses, nutritionists,
34 occupational therapists, physical therapists, physicians,
35 psychologists, social workers, special educators, speech-
36 language pathologists and paraprofessionals approp-
37 riately trained and supervised.

38 (e) "Infants and toddlers with developmental delay"
39 means children from birth to thirty-six months of age
40 who need early intervention services for any of the
41 following reasons:

42 (1) They are experiencing developmental delays, as
43 measured by appropriate diagnostic instruments and
44 procedures, in one or more of the following areas:
45 Cognitive development, physical development, lan-
46 guage and speech development, psycho-social develop-
47 ment or self-help skills; or

48 (2) They have a diagnosed physical or mental condi-
49 tion that has a high probability of resulting in devel-
50 opmental delay.

§16-5K-3. Responsibilities of the department of health and human resources.

1 (a) The department of health and human resources
2 is the administering agency for the development of a
3 statewide, comprehensive, coordinated, interagency
4 system of early intervention services.

5 (b) Consistent with the provisions of Public Law 99-
6 457, as enacted by the Congress of the United States,
7 the department has the following responsibilities:

8 (1) To carry out the general administration, supervi-
9 sion and monitoring of early intervention programs
10 and activities;

11 (2) To resolve complaints regarding the require-
12 ments of Public Law 99-457;

13 (3) To identify and coordinate all available resources
14 within the state from federal, state, local and private
15 sources;

16 (4) To enter into formal interagency agreements
17 with other state agencies involved in early interven-
18 tion; and

19 (5) To resolve intraagency and interagency disputes
20 and to ensure that early intervention services are
21 provided in a timely manner pending the resolution of
22 such disputes.

23 (c) The department may adopt rules necessary to
24 carry out the purposes of this article.

25 (d) The department of health and human resources
26 and the department of education shall enter into a
27 formal interagency agreement regarding early inter-
28 vention services. The agreement shall define the
29 financial responsibility of each agency, describe the
30 transition of services to children and their families
31 between service systems, and establish procedures for
32 resolving disputes.

§16-5K-4. Interagency coordinating council.

1 (a) The governor's early intervention interagency
2 coordinating council is hereby established. The council

3 is composed of fifteen members appointed by the
4 governor with additional ex officio members repres-
5 enting specific agencies serving infants and toddlers
6 with developmental delays.

7 (b) The membership of the council shall consist of
8 the following:

9 (1) At least three parents of children, ages birth
10 through six years of age, who have developmental
11 delays;

12 (2) At least three persons, representative of the
13 public or private service providers;

14 (3) At least one member of the House of Delegates
15 recommended by the speaker of the House of Dele-
16 gates and one member of the Senate recommended by
17 the Senate president;

18 (4) At least one person from higher education
19 involved in training individuals to provide services
20 under this article; and

21 (5) A representative of each of the agencies involved
22 in the provision of or payment for early intervention
23 services to infants and toddlers with developmental
24 delays and their families.

25 (c) The council shall meet at least quarterly and in
26 such place as it considers necessary.

27 (d) The council is responsible for the following
28 functions:

29 (1) To advise and assist the department of health and
30 human resources in the development and implemen-
31 tation of early intervention policies;

32 (2) To assist the department in achieving the full
33 participation of all relevant state agencies and
34 programs;

35 (3) To collaborate with the governor's cabinet on
36 children and families in the coordination of early
37 intervention services with other programs and servi-
38 ces for children and families;

39 (4) To assist the department in the effective imple-
40 mentation of a statewide system of early intervention
41 services;

42 (5) To assist the department in the resolution of
43 disputes;

44 (6) To advise and assist the department in the
45 preparation of grant applications; and

46 (7) To prepare and submit an annual report to the
47 governor, the Legislature and the United States
48 secretary of education on the status of early interven-
49 tion programs within the state.

§16-5K-5. Provision of early intervention services.

1 (a) The department may enter into contracts with
2 public or private providers of early intervention
3 services who meet state early intervention standards.

4 (b) Within available resources, as determined by the
5 department, appropriate early intervention services
6 shall be made available to eligible children and their
7 families.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Homer Heck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harold Eldredge
.....
Clerk of the Senate

Donald L. Slapp
.....
Clerk of the House of Delegates

Wick Burdette
.....
President of the Senate

B. J. Call
.....
Speaker House of Delegates

The within ~~is approved~~..... this the 3rd.....
day of April....., 1991.

Robert C. Byrd
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/91
Time 4:35 PM