WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1991

ENROLLED
Committee Substitute for
SENATE BILL NO. 104

(By Senator Burdette, Mr. President, et al.)

PASSED March 9, 1991
In Effect 90 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.

The Legislature hereby finds and declares that early intervention services for children who are developmentally delayed is essential in helping to maximize each child's potential and is in the best interest of the state. These early intervention services will reduce future educational costs, minimize the likelihood of having to provide institutional care and enhance the capacity of families to meet the special needs of the children. In order to meet this important need, a statewide comprehensive, coordinated, interagency program of early intervention services is required for children and the families of children from birth to thirty-six months of age who are developmentally delayed. By facilitating coordination of payment for early intervention services from various public and private sources, enhancing the capacity to provide quality early intervention services, and expanding and improving existing services, the interagency program will ensure that children who are developmentally delayed will receive necessary services which are cost effective.


Unless the context clearly otherwise indicates, as used in this article:

(a) "Cabinet" means the governor's cabinet on children and families.

(b) "Council" means the governor's early intervention interagency coordinating council.

(c) "Department" means the department of health and human resources.

(d) "Early intervention services" means development services which:

(1) Are designed to meet the developmental needs of developmentally delayed infants and toddlers and the needs of the family related to enhancing the child's
development;
(2) Are selected in collaboration with the parents;
(3) Are provided under public supervision in conformity with an individualized family service plan, and at no cost to families;
(4) Meet the state's early intervention standards, as established by the department of health and human resources with the assistance of the governor's early intervention interagency coordinating council;
(5) Include audiology case management, family training, counseling and home visits, health services necessary to enable a child to benefit from other early intervention services, medical services only for diagnostic or evaluation purposes, nursing services, nutrition services, occupational therapy, physical therapy, psychological services, social work services, special instruction, speech-language pathology and transportation; and
(6) Are provided by licensed or otherwise qualified personnel, including audiologists, nurses, nutritionists, occupational therapists, physical therapists, physicians, psychologists, social workers, special educators, speech-language pathologists and paraprofessionals appropriately trained and supervised.
(e) "Infants and toddlers with developmental delay" means children from birth to thirty-six months of age who need early intervention services for any of the following reasons:
(1) They are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Cognitive development, physical development, language and speech development, psycho-social development or self-help skills; or
(2) They have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.
§16-5K-3. Responsibilities of the department of health and human resources.

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

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

1 (1) To carry out the general administration, supervision and monitoring of early intervention programs and activities;

2 (2) To resolve complaints regarding the requirements of Public Law 99-457;

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

4 (4) To enter into formal interagency agreements with other state agencies involved in early intervention; and

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

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

(d) The department of health and human resources and the department of education shall enter into a formal interagency agreement regarding early intervention services. The agreement shall define the financial responsibility of each agency, describe the transition of services to children and their families between service systems, and establish procedures for resolving disputes.

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

1 (a) The governor’s early intervention interagency coordinating council is hereby established. The council
is composed of fifteen members appointed by the governor with additional ex officio members representing specific agencies serving infants and toddlers with developmental delays.

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

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

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

(3) At least one member of the House of Delegates recommended by the speaker of the House of Delegates and one member of the Senate recommended by the Senate president;

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

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

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

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

(1) To advise and assist the department of health and human resources in the development and implementation of early intervention policies;

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

(3) To collaborate with the governor’s cabinet on children and families in the coordination of early intervention services with other programs and services for children and families;
(4) To assist the department in the effective implementation of a statewide system of early intervention services;

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

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

(7) To prepare and submit an annual report to the governor, the Legislature and the United States secretary of education on the status of early intervention programs within the state.

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

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

(b) Within available resources, as determined by the department, appropriate early intervention services shall be made available to eligible children and their families.
The Joint Committee on Enrolled Bills hereby certifies
that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect, ninety days from passage.

In the Senate, this the .......... day of .........., 1991.

Governor