
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 100 Session of
2001

INTRODUCED BY LEMMOND, TOMLINSON, MELLOW, SCHWARTZ, MURPHY,
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STACK, BOSCOLA AND O'PAKE, APRIL 4, 2001

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 13, 2001

AN ACT

1 Establishing the Infant Hearing Education, Assessment, Reporting
2 and Referral Program; and providing for powers and duties of
3 the Department of Health.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Infant
8 Hearing Education, Assessment, Reporting and Referral (IHEARR)
9 Act.

10 Section 2. Legislative findings and purpose.

11 (a) Findings.--The General Assembly finds as follows:

12 (1) Hearing loss occurs in approximately three newborns
13 and infants per 1,000 born in the United States.

14 (2) Hearing loss occurs more frequently than any other
15 health condition for which newborn and infant screening is
16 required.

1 (3) Reliance on either physician observation or parental
2 recognition has not been successful in detecting significant
3 hearing loss and over 50% of newborns and infants with
4 hearing impairments go undetected until the age of two and a
5 half.

6 (4) Infants with hearing loss do not develop normal
7 language skills because 80% of a child's language ability is
8 learned by 18 months of age.

9 (5) The lack of normal language development has a
10 substantial negative effect on a child's cognitive and social
11 development and will interfere with success in school and
12 later in life.

13 (6) Technology is now available to cost-effectively
14 screen for detection of hearing loss in newborns and infants.

15 (7) Screening for hearing loss, coupled with early
16 medical, audiological, educational intervention and
17 treatment, has been demonstrated to be highly effective in
18 facilitating a child's normal development.

19 (8) Children with hearing loss who do not receive early
20 intervention and treatment frequently require the expenditure
21 of public funds for health care and for long-term specialized
22 education services.

23 (9) An established Statewide system for the provision of
24 early intervention services that can be utilized to further
25 the purposes of this act already exists in this Commonwealth.

26 (10) Authoritative and respected government and
27 professional groups, including the National Institutes of
28 Health Consensus Development Panel, the Healthy People 2000
29 Report from the United States Department of Health and Human
30 Services and the Joint Committee on Infant Hearing comprised

1 of representatives from the American Academy of Pediatrics,
2 the American Academy of Audiology, the American Speech-
3 Language-Hearing Association, the American Academy of
4 Otolaryngology-Head and Neck Surgery and the Council for
5 Education of the Deaf, have recommended that all newborns and
6 infants be screened for hearing loss shortly after birth,
7 with appropriate intervention and treatment begun before six
8 months of age.

9 (11) Thirty-two states have passed legislation requiring
10 newborn and infant hearing screening for all children born in
11 the state.

12 (12) The Department of Health has sponsored a successful
13 newborn and infant screening and tracking demonstration
14 initiative since 1999. This initiative has enabled the
15 department to identify the guidelines and protocol necessary
16 for a Statewide universal screening program and reporting
17 system.

18 (13) Even though more than 30 hospitals in this
19 Commonwealth have demonstrated the feasibility and cost-
20 effectiveness of operating newborn and infant hearing
21 screening programs as part of the standard care of babies
22 born in their facilities, less than 30% of all newborns born
23 in this Commonwealth are currently screened for hearing loss
24 before being released from hospitals.

25 (b) Purpose.--The purpose of this act is:

26 (1) to provide infant hearing screening for all newborns
27 born in a hospital or within 30 days of the date of birth for
28 those newborns born outside a hospital, to enable these
29 infants and their families to obtain needed comprehensive,
30 multidisciplinary evaluation, treatment and intervention

1 services at the earliest opportunity and to thus prevent or
2 mitigate the developmental delays and excessive costs
3 associated with late identification of hearing loss; and

4 (2) to provide the Department of Health with the
5 information necessary to effectively plan, establish,
6 administer and evaluate this comprehensive program of
7 appropriate services for newborns, infants and children who
8 have hearing loss.

9 Section 3. Definitions.

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

13 "Advisory committee." The Department of Health's Infant
14 Hearing Screening Advisory Committee.

15 "Birth admission." The time after birth that the newborn
16 remains in the hospital or birth center prior to discharge.

17 "Birth center." A facility not part of a hospital which
18 provides maternity care to childbearing families not requiring
19 hospitalization. A birth center provides a home-like atmosphere
20 for maternity care including prenatal, labor, delivery and
21 postpartum care related to medically uncomplicated pregnancies.

22 "Child." A person up to 21 years of age.

23 "Department." The Department of Health of the Commonwealth.

24 "Early intervention." The existing Statewide system of
25 coordinated, multidisciplinary, interagency programs maintained
26 by the Department of Education, the Department of Health and the
27 Department of Public Welfare to provide appropriate services to
28 all eligible infants, children and their families under the act
29 of December 19, 1990 (P.L.1372, No.212), known as the Early
30 Intervention Services System Act.

1 "Health care facility." Any hospital providing clinically
2 related health services for obstetrical and newborn care, or
3 birth center, both profit and nonprofit and including those
4 operated by an agency, State or local government. The term shall
5 not include an office used primarily for private or group
6 practice by health care practitioners where no reviewable
7 clinically related health services are offered.

8 "Infant." A child 30 days of age up to 24 months of age.

9 "Newborn." A child up to and including 29 days of age.

10 "Parent." A natural parent, stepparent, adoptive parent,
11 legal guardian or legal custodian of a child.

12 "Program." The Infant Hearing Education, Assessment,
13 Reporting and Referral (IHEARR) Program.

14 "Secretary." The Secretary of Health of the Commonwealth.
15 Section 4. Infant Hearing Screening Advisory Committee.

16 The secretary shall appoint a six-member Infant Hearing
17 Screening Advisory Committee within the department. The advisory
18 committee shall advise and make recommendations on issues
19 relating to, but not limited to, program regulation and
20 administration, diagnostic testing, technical support and
21 follow-up. Members of the advisory committee shall serve without
22 compensation but may be reimbursed for necessary travel and
23 other expenses in accordance with applicable law and
24 regulations.

25 Section 5. Newborn and infant hearing education and assessment.

26 (a) General rule.--The department shall establish a program,
27 a component of which shall be a system to screen all newborns in
28 this Commonwealth for hearing loss before leaving a hospital, to
29 screen all newborns who are not born in a hospital within the
30 first 30 days of life and to provide information and instruction

1 to the parents of all newborns and infants on the merits of
2 having the hearing screening performed and of receiving follow-
3 up care.

4 (b) Program administration.--The department shall, in
5 cooperation with the advisory committee, provide technical
6 support, including, but not limited to, audiological and
7 administrative technical support to the health care facilities
8 and persons implementing the requirements of subsection (a).

9 ~~(c) Refusal of test on religious grounds. Screening is not~~ <—
10 ~~required if the parents of the newborn or infant object on~~
11 ~~grounds that the test would conflict with their religious tenets~~
12 ~~or practices.~~

13 (C) REFUSAL OF TEST.--SCREENING IS NOT REQUIRED IF A PARENT <—
14 OF THE NEWBORN OR INFANT OBJECTS TO THE SCREENING FOR ANY
15 REASON. Such refusal shall be documented in writing and made a
16 part of the medical record of the newborn or infant and reported
17 to the department in a manner prescribed by the department.

18 (d) Implementation.--The program shall be implemented as
19 follows:

20 (1) By July 1, 2003, newborn and infant hearing
21 screening is to be conducted on no fewer than 85% of the live
22 births in health care facilities in this Commonwealth during
23 birth admissions, using procedures recommended by the
24 department's advisory committee. If a newborn is born in a
25 location other than a hospital, the parents shall be
26 instructed on the merits of having the hearing screening
27 performed and shall be given information to assist them in
28 having it performed within 30 days of the newborn's birth.
29 The department shall determine the appropriate screening
30 venue for a newborn born outside a hospital.

1 (2) If the number of newborns and infants receiving
2 hearing screening does not equal or exceed 85% of the total
3 number of live births in this Commonwealth on July 1, 2003,
4 as shown in the most recent data collected by the ~~Department~~ ←
5 ~~of Health~~ DEPARTMENT, or falls below 85% annually thereafter, ←
6 the department, in consultation with the advisory committee,
7 shall immediately promulgate regulations to implement a
8 State-administered hearing screening program.

9 (3) By July 1, 2002, every health care facility in this
10 Commonwealth shall provide information and instruct the
11 parents of newborns and infants concerning the importance of
12 screening the hearing of newborns and infants and of
13 receiving follow-up care. An informational packet developed
14 and supplied by the department shall explain in lay terms the
15 importance and process of hearing screening, the likelihood
16 of a newborn or infant having hearing loss, follow-up
17 procedures and available early intervention services. The
18 educational information shall also include a description of
19 the normal auditory, speech and language developmental
20 process in children. This information shall not preclude the
21 health care facility from providing additional material nor
22 shall it be considered a substitute for the hearing
23 screening.

24 (4) By July 1, 2002, every hospital in this Commonwealth
25 shall report to the department, in a manner prescribed by the
26 department, the number of newborns and infants screened and
27 the results of the screening. The department, based on this
28 information, shall report to the General Assembly by January
29 1, 2003, and every January 1 thereafter, the following:

30 (i) The number of hospitals conducting hearing

1 screenings during birth admissions.

2 (ii) The number of live births in hospitals.

3 (iii) The number of newborns screened during birth
4 admissions.

5 (iv) The number of live births in a location other
6 than a hospital.

7 (v) The number of newborns born in a location other
8 than a hospital screened within 30 days of the date of
9 birth.

10 (vi) The number of newborns born in a hospital who
11 passed and the number who did not pass the birth
12 admission screening, if administered.

13 (vii) The number of newborns born in a location
14 other than a hospital who passed and the number who did
15 not pass a screening within 30 days of the date of birth,
16 if administered.

17 (viii) The number of infants who returned for
18 follow-up rescreening.

19 (ix) The number of infants who passed the follow-up
20 rescreening.

21 (x) The number of infants recommended for
22 monitoring, intervention and follow-up care.

23 (5) The department shall determine which hospitals in
24 this Commonwealth are conducting newborn and infant hearing
25 screening on a voluntary basis or as part of the department's
26 demonstration initiative, the number of newborns and infants
27 screened and the results of the screening. The department,
28 based on this information, shall report to the General
29 Assembly by January 1, 2002, the following:

30 (i) The number of hospitals conducting hearing

1 screenings during birth admissions.

2 (ii) The number of live births in hospitals.

3 (iii) The number of newborns screened during birth
4 admissions.

5 (iv) The number of newborns who passed the birth
6 admission screening, if administered.

7 (v) The number of newborns who did not pass the
8 birth admission screening, if administered.

9 (vi) The number of infants who returned for follow-
10 up rescreening.

11 (vii) The number of infants who passed the follow-up
12 rescreening.

13 (viii) The number of infants recommended for
14 monitoring, intervention and follow-up care.

15 Section 6. Reporting and early intervention referral.

16 (a) General rule.--The department, as a component of the
17 program, shall implement a reporting and early intervention
18 referral system that links hearing screening, if necessary, with
19 expert diagnostic services and available early intervention
20 services. It shall be the goal of the Commonwealth to identify
21 100% of newborns and infants with hearing loss within 30 days of
22 the date of birth, to provide timely diagnostic testing, if
23 indicated, and to provide appropriate referral for treatment and
24 intervention before the age of six months.

25 (b) Program administration.--Recognizing the importance of
26 tracking newborns, infants and children with hearing loss for a
27 period of time in order to render appropriate early intervention
28 services, the department shall, in consultation with the
29 advisory committee, provide administrative technical support to
30 the facilities implementing the reporting and early intervention

1 referral system pursuant to this section.

2 (c) Implementation.--The department, in consultation with
3 the advisory committee, shall issue temporary guidelines by July
4 1, 2002, implementing a reporting and early intervention
5 referral system for newborns, infants and children who have been
6 recommended for further monitoring. The temporary guidelines
7 shall expire on June 30, 2003, or upon promulgation of
8 regulations pursuant to section 8, whichever occurs first.

9 Section 7. Confidentiality of records.

10 (a) Limitations on disclosure.--No person, employee or agent
11 of such person who obtains information in the course of this act
12 may disclose or be compelled to disclose the information except
13 to the parent of the infant or child or to the department for
14 statistical recordkeeping or for appropriate treatment referral
15 and early intervention services.

16 (b) Confidentiality.--Data obtained directly from the
17 medical records of a patient shall be considered confidential
18 and shall be for the confidential use of the department in
19 maintaining the tracking system and in providing appropriate
20 services. The information shall be privileged and may not be
21 divulged or made public in any manner that discloses the
22 identity of the patient. Notwithstanding this subsection,
23 anonymous statistical information collected under the tracking
24 system shall be considered public information.

25 (c) Good faith.--Any person who acts in good faith in
26 complying with the provisions of this section by reporting
27 newborn and infant hearing screening results to the department
28 shall not be held civilly or criminally liable for furnishing
29 the information required by this act.

30 Section 8. Regulations.

1 The secretary shall promulgate regulations to implement the
2 provisions of this act.

3 ~~Section 9. Funding.~~ ←

4 ~~(a) Appropriation. The General Assembly shall make such~~
5 ~~appropriations as it deems appropriate to carry out the purposes~~
6 ~~of this act.~~

7 ~~(b) Services and funding sources. The department shall~~

8 SECTION 9. SERVICES AND FUNDING SOURCES. ←

9 THE DEPARTMENT SHALL utilize various services available
10 through the National Center for Hearing Assessment and
11 Management and the National Early Hearing Detection and
12 Intervention Technical Assistance Program and shall submit grant
13 proposals for public and private funding, including, but not
14 limited to, the United States Health Resources and Services
15 Administration, Maternal and Child Health Bureau programs and
16 the Centers for Disease Control and Prevention programs.

17 Section 10. Effective date.

18 This act shall take effect in 90 days.