

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 320 & 445
90TH GENERAL ASSEMBLY

Reported from the Committee on Public Health, April 20, 1999, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 320 & 445 Do Pass.

ANNE C. WALKER, Chief Clerk

L1067.07C

AN ACT

To repeal section 191.859, RSMo 1994, relating to assistive technology, and to enact in lieu thereof fifteen new sections relating to programs for the disabled.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 191.859, RSMo 1994, is repealed and fifteen new sections enacted in lieu thereof, to be known as sections 162.1130, 162.1133, 162.1136, 162.1139, 162.1142, 170.132, 191.250, 191.253, 191.256, 191.259, 191.265, 191.859, 376.685, 1 and 2, to read as follows:

162.1130. As used in sections 162.1130 to 162.1145, the following terms mean:

(1) **"Appraisal", an evaluation of a child's current level of performance in the context of cognitive skills and the ability to master academic skills of literacy such as reading, comprehension, composition and mathematics;**

(2) **"Blindness skills specialist in education", any individual certified pursuant to rules of the department of elementary and secondary education who has reasonable knowledge of instructional techniques for the teaching of Braille reading and writing, orientation and mobility, assistive technology and other alternative skills of blindness;**

(3) **"Braille", the six-dot, two-grade tactile system used by blind persons for reading and writing;**

(4) **"Eligible student", any blind or visually-impaired child, including any student who has a visual acuity of 20/200 or less in the better eye with conventional correction, or has a limited field of vision such that the widest diameter of the visual field subtends an angular distance not greater than twenty degrees, and who is eligible for special education services for the visually-impaired as defined in the department of elementary and secondary education state plan;**

(5) **"IEP", a plan or set of goals designed to meet the specific short and long-term educational needs of a student and address academic, activities of daily living and transitional issues to enable a child to maximize his ability to function competently and independently;**

(6) **"Literacy", an ability to read, write and speak in English, compute and solve**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

problems at levels of proficiency necessary to function on the job and independently, to achieve one's goals and develop one's knowledge and potential;

(7) "Teacher assistant for the blind", an individual, with knowledge of one or more alternative skills of blindness, including proficiency in the reading and writing of Braille, producing Braille materials or providing instruction in alternative techniques of blindness.

162.1133. 1. The division of special education within the department of elementary and secondary education shall develop and coordinate a program to provide a blindness skills specialist available at each regional professional development center.

2. The duties of a blindness skills specialist shall include the following:

(1) To act as a resource for school districts under the regional office of professional development with regard to eligible students;

(2) To make programming and placement recommendations to schools under the regional office of professional development using assessments and information developed within the IEP process;

(3) To provide in-service training in alternative techniques of blindness to classroom teachers and teachers assistants for the blind engaged in the education of eligible students;

(4) To provide parents of eligible students with referrals and information regarding services available within the state;

(5) To coordinate services available from other entities who serve eligible students and the families of eligible students;

(6) To assist and support local school districts in providing special education and related services for eligible students;

(7) To support the application of appropriate technology in the education of eligible students;

(8) To contribute to the development and implementation of in-service training, regionally and statewide, which responds to the needs of educators, other professionals and parents pertaining to the needs of eligible students, which include, but are not limited to, high expectations with regard to academic and vocational performance, facilitation of the discussions of Braille instruction during IEP conferences, introduction of appropriate technology, development of blindness skills and daily living skills.

3. A task force on blind student academic and vocational performance is hereby established and shall be comprised of members appointed by the commissioner of education, in cooperation with the director of the department of social services, to represent consumer organizations, parents, teachers, public school special education administrators, school building principals, rehabilitation services for the blind, the Missouri school for the blind, employers, and others interested in quality services for blind students. This task force shall develop goals and objectives to guide the improvement of special education, related services, vocational training, transition from school to work, rehabilitation services, independent living and employment outcomes for eligible students.

162.1136. 1. The division of special education within the department of elementary and secondary education shall conduct an annual study of the educational status of eligible students and report the findings of that study no later than December first of each year to the speaker of the house of representatives and the president pro tem of the senate and to the standing committee of jurisdiction in each chamber.

2. The report shall contain information pertaining to literacy of blind and visually-impaired children including:

- (1) The methodology of the study;**
- (2) The percentage of eligible students in the study who read Braille, print, or large print;**
- (3) The number of students who have a visual impairment sufficient to meet the definition eligible student, as defined in section 162.1130;**
- (4) The number of students currently reading Braille, large print and standard print. The report shall also detail how many eligible students there are by age, grade level, ungraded and with multiple handicaps, who are enrolled in public school, or in the Missouri school for the blind, respectively;**
- (5) The number of Braille-reading students who no longer receive any instruction in Braille reading and writing but do receive materials in Braille and Braille-related services;**
- (6) The number of certified vision teachers or teachers of the blind or visually-impaired who are currently employed in the field in the state of Missouri;**
- (7) The number of eligible students who use a slate and stylus and/or other devices in writing Braille;**
- (8) The number of eligible students educated in the general education classroom, in an itinerant or resource classroom, in a self-contained classroom or in a separate educational facility;**
- (9) The graduation rate of eligible students compared to those students who are not disabled;**
- (10) The number of eligible students who did not meet graduation requirements but were terminated from formal education having reached age twenty-one years;**
- (11) The number of eligible students who received transition planning services with the cooperation of the division of vocational rehabilitation or rehabilitation services for the blind as part of their IEP;**
- (12) The number of eligible students referred to rehabilitation services for the blind or division of vocational rehabilitation.**

162.1139. The division of special education within the department of elementary and secondary education shall develop a system of joint referral with rehabilitation services for the blind. All children identified by a school district or the division of special education as eligible students, upon receipt of written documentation of parental consent or consent of the student if the student is at least eighteen years of age, shall be referred to rehabilitation services for the blind. All children identified by rehabilitation services for the blind as being eligible for services will be referred, upon receipt of written documentation of parental consent or consent of the student if the student is at least eighteen years of age, to the local school district and the division of special education of the department of elementary and secondary education.

162.1142. There is hereby created in the state treasury the "Blindness Skills Specialist Fund" which shall be administered by the division of special education within the department of elementary and secondary education. Moneys in the fund shall, upon appropriation, be used to establish and maintain the blindness skills specialist program pursuant to section 162.1136.

170.132. All public elementary, secondary and post-secondary schools shall preferentially procure educational materials, including text books and collateral materials, from vendors who make the materials available in either Braille format or electronic format which is computer-readable in a form approved by the department of elementary and secondary education, or both, at no greater cost than for regular materials.

191.250. 1. Effective January 1, 2002, every infant born in this state shall be screened for hearing loss in accordance with the provisions of sections 191.250 to 191.265 and section 376.685, RSMo.

2. The screening procedure shall include the use of at least one of the following physiological technologies:

- (1)** Automated or diagnostic auditory brainstem response (ABR);
- (2)** Otoacoustic emissions (OAE); or
- (3)** Other technologies approved by the department of health.

3. Every newborn delivered on or after January 1, 2002, in an ambulatory surgical center or hospital shall be screened for hearing loss prior to discharge of the infant from the facility. Such facilities shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health in a manner prescribed by the department.

4. If a newborn is delivered in a place other than the facilities listed in subsection 3 of this section, the physician or person who professionally undertakes the pediatric care of the infant shall ensure that the newborn hearing screening is performed within three months of the date of the infant's birth. Such physicians and persons shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health in a manner prescribed by the department.

5. The provisions of this section shall not apply if the parents of the newborn or infant object to such testing on the grounds that such tests conflict with their religious tenets and practices.

6. As provided in subsection 5 of this section, the parent of any child who fails to have the hearing screening test administered after notice of the requirement for such test shall have such refusal documented in writing. Such physicians, persons or administrators shall obtain the written refusal and make such refusal part of the medical record of the infant, and shall report such refusal to the department of health in a manner prescribed by the department.

7. The physician or person who professionally undertakes the pediatric care of the newborn, and administrators of ambulatory surgical centers or hospitals shall provide to the parents or guardians of newborns a written packet of educational information developed and supplied by the department of health describing the screening, how it is conducted, the nature of the hearing loss, and the possible consequences of treatment and nontreatment for hearing loss prior to administering the screening.

8. All facilities or persons described in subsections 3 and 4 of this section who voluntarily provide hearing screening to newborns prior to January 1, 2002, shall report such screening results to the department of health in a manner prescribed by the department.

9. All facilities or persons described in subsections 3 and 4 of this section shall provide the parents or guardians of newborns who fail the hearing screening with

educational materials that:

(1) Communicate the importance of obtaining further hearing screening or diagnostic audiological assessment to confirm or rule out hearing loss;

(2) Identify community resources available to provide rescreening and diagnostic audiological assessments; and

(3) Provide other information as prescribed by the department of health.

10. Any person who acts in good faith in complying with the provisions of this section by reporting the newborn hearing screening results to the department of health shall not be civilly or criminally liable for furnishing the information required by this section.

11. The department of health shall provide audiological and administrative technical support to facilities and persons implementing the requirements of this section, including, but not limited to, assistance in:

(1) Selecting state-of-the-art newborn hearing screening equipment;

(2) Developing and implementing newborn hearing screening procedures that result in appropriate failure rates;

(3) Developing and implementing training for individuals administering screening procedures;

(4) Developing and distributing educational materials for families;

(5) Identifying community resources for delivery of rescreening and pediatric audiological assessment services; and

(6) Implementing reporting requirements.

Such audiological technical support shall be provided by individuals qualified to administer newborn and infant hearing screening, rescreening and diagnostic audiological assessment.

191.253. 1. The department of health shall establish and maintain a newborn hearing screening surveillance and monitoring system for newborns who have been reported with possible hearing loss for the purpose of confirming the presence or absence of hearing loss, and referring those with hearing loss for early intervention services.

2. The department of health shall establish standards and follow-up procedures for all newborns reported with possible hearing loss pursuant to the provisions of section 191.250. Such standards and procedures shall include, but not be limited to:

(1) Rescreening;

(2) Diagnostic audiological assessment;

(3) Individuals qualified to administer rescreening and diagnostic audiological assessment;

(4) Time lines for administering rescreening and diagnostic pediatric audiological assessment; and

(5) Time lines and content of contacts to be made by the surveillance and monitoring system.

3. The results of rescreening and diagnostic audiological assessment procedures shall be reported to the department of health in a manner prescribed by the department. Any person who acts in good faith in complying with this section in reporting rescreening or diagnostic audiological assessment procedures to the department of health, or the

parents or guardians of a newborn shall not be civilly or criminally liable for furnishing the information required by this section.

4. Any newborn with a confirmed hearing loss in the surveillance and monitoring system shall be referred to the appropriate point of contact for the Part C of the Individuals with Disabilities Education Act (IDEA) system of early intervention services (First Steps) and shall be reported to the Missouri commission for the deaf for census purposes.

5. Except as provided in this section, the information contained in the surveillance and monitoring system shall be confidential and shall not be divulged or made public in a manner that discloses the identity of an individual. The department of health may disclose and exchange such information as is necessary to provide follow-up services for newborns identified with hearing loss to the following persons without a parent's or guardian's written release:

(1) Employees of public agencies, departments and political subdivisions who need to know such information to carry out their public duties; or

(2) Health care professionals or their agents who undertake the pediatric care of the newborn.

If any person discloses such information for any other purposes, such person is guilty of an unauthorized release of confidential information and the person who discloses is liable for civil damages.

191.256. The IDEA Part C data system shall monitor the delivery of early intervention services to those infants identified by the newborn hearing screening program and report annually to the department of health. Information collected shall be sufficient to document the early intervention services provided, including the type of amplification or other assistive technologies, and the status of outcomes as identified on the individualized family service plan (IFSP).

191.259. 1. There is hereby established a "Newborn Hearing Screening Advisory Committee".

2. The committee shall advise and assist the department of health in:

(1) Developing rules, regulations and standards for screening, rescreening and diagnostic audiological assessment;

(2) Developing forms for reporting screening, rescreening and diagnostic audiological assessment results to the surveillance and monitoring system;

(3) Designing a technical assistance program to support facilities implementing the screening program and those conducting rescreening and diagnostic audiological assessment;

(4) Developing educational materials to be provided to families; and

(5) Evaluating program outcomes to increase effectiveness and efficiency.

The committee shall also report information concerning the newborn hearing screening program to the state interagency coordinating council, as requested, to ensure coordination of programs within the state's early intervention system, and to identify and eliminate areas of duplication.

3. The committee shall be composed of the following sixteen members, with no less

than two such members being deaf or hard of hearing, appointed by the director of the department of health:

(1) Three consumers, including one deaf individual who experienced hearing loss in early childhood, one hard of hearing individual who experienced hearing loss in early childhood and one parent of a child with a hearing loss;

(2) Two audiologists who have experience in evaluation and intervention of infants and young children;

(3) Two physicians who have experience in the care of infants and young children, one of which shall be a pediatrician;

(4) One representative of an organization with experience in providing early intervention services for children with hearing loss;

(5) One representative of the Missouri school for the deaf;

(6) One representative of a hospital with experience in the care of newborns;

(7) One representative of the Missouri commission for the deaf;

(8) One representative from each of the departments of health, elementary and secondary education, mental health, social services and insurance.

4. The department of health member shall chair the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

5. The department of health shall provide technical and administrative support services as required by the committee. Such services shall include technical support from individuals qualified to administer infant hearing screening, rescreening and diagnostic audiological assessments.

6. Members of the committee shall receive no compensation for their services as members but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

7. The committee shall adopt written bylaws to govern its activities.

8. The newborn hearing screening advisory committee shall be terminated on August 28, 2001.

191.265. 1. The director of the department of health may promulgate rules and regulations to implement the provisions of sections 191.250, 191.253 and 191.259. The director of the department of elementary and secondary education may promulgate rules and regulations to implement the provisions of section 191.256. The directors of the departments of insurance and social services may promulgate rules and regulations to implement the provisions of section 376.685, RSMo.

2. No rule or portion of a rule promulgated pursuant to the provisions of sections 191.250 to 191.265 or section 376.685, RSMo, shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

191.859. [1.] The council shall serve as an advocate for policies, regulations and programs to establish a consumer-responsive, comprehensive assistive technology service delivery system. The council shall:

(1) Promote awareness of the needs of individuals with disabilities for assistive technology devices and services and the efficacy of providing such devices and services to allow persons with disabilities to be productive and independent;

(2) Gain an understanding of current policies, practices, and procedures that facilitate or

impede the availability or provision of assistive technology and recommend methods to streamline such policies;

(3) Research and study data from the major public and private providers of assistive technology regarding numbers and types of devices and services delivered;

(4) Establish interagency coordination mechanisms among state agencies and public and private entities that provide assistive technology devices and services in an effort to eliminate gaps and reduce duplication of such services to individuals with disabilities;

(5) Foster the capacity of public and private entities to provide assistive technology devices and services so that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology as needed to function independently and productively;

(6) Recommend specific methods to increase availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;

(7) Report annually by January first to the governor and the general assembly on council activities and the results of its studies and recommendations to increase access to assistive technology.

[2. Sections 191.850 to 191.859 shall expire on December 31, 2003.]

376.685. 1. Each policy issued by an entity offering individual and group health insurance which provides coverage on an expense-incurred basis, individual or group health service, or indemnity contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group health arrangements to the extent not preempted by federal law, and all health care plans provided by managed health care delivery entities of any type or description that are delivered, issued for delivery, continued or renewed in this state shall provide coverage for the newborn hearing screening required in section 191.250, RSMo.

2. The health care service required by this section shall not be subject to any greater deductible or copayment than other similar health care services provided by the policy, contract or plan.

3. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy or any other supplemental policy as determined by the director of the department of insurance.

4. Coverage for newborn hearing screening and any necessary rescreening and audiological assessment shall be provided to newborns eligible for medical assistance pursuant to section 208.151, RSMo, and the children's health program pursuant to sections 208.631 to 208.660, RSMo, with payment for the newborn hearing screening required in section 191.250, RSMo, and any necessary rescreening, audiological assessment and follow-up, and amplification as described in section 191.253, RSMo.

Section 1. 1. The Missouri assistive technology advisory council shall establish an assistive technology loan program that utilizes any appropriation and grant moneys received pursuant to subsection 2 of this section to provide loans for the purchase of assistive technology devices and services, as defined in section 191.850, RSMo.

2. After July 1, 2000, and upon appropriation and upon the state's receipt of any federal matching grant moneys pursuant to the federal Assistive Technology Act of 1998, the loan program shall provide loans for the first fiscal year following the receipt of any

such appropriation and grant moneys. The state treasurer shall provide the assistive technology council with information on the amount of moneys in the fund at the beginning of each fiscal year. The council shall divide such moneys into four equal quarterly shares to ensure that the loan program will provide loans throughout the entire fiscal year. Any repayments or interest earned during a fiscal year shall not be used for loans in the current fiscal year, but shall be carried over for use in the next fiscal year.

3. The interest rates for loans shall be no-interest or low-interest as compared to commercial lending rates and shall be established by the council based on the borrower's ability to pay. Loan repayment periods shall not exceed ten years.

4. The council shall:

(1) Promulgate rules relating to borrower eligibility, interest rates, repayment terms and other matters necessary to implement the purpose of this section, including limits on the number and amounts of loans to assure the continued solvency of the fund; and

(2) File annual reports with the governor and general assembly which shall include an accounting of the loans and repayments to the fund during the preceding fiscal year.

5. The council may enter into contracts as necessary to carry out the purposes of this section, including but not limited to contracts with disability organizations and lending institutions.

6. By no later than January 1, 2000, the council shall submit a report to the general assembly regarding any rules proposed or promulgated for the implementation of this program.

7. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

Section 2. 1. In order to allow Missourians with disabilities to take advantage of the federal Assistive Technology Act of 1998, there is hereby created in the state treasury the "Assistive Technology Loan Revolving Fund" which shall be administered by the Missouri assistive technology advisory council and the state treasurer.

2. Moneys in the fund shall, upon appropriation, be used to establish and maintain the assistive technology loan program established in section 1 of this act.

3. The fund shall consist of any moneys appropriated to the fund, repayments of principal and interest by qualified borrowers, and interest earned on the moneys in the fund.

4. The fund may accept federal, state and other public funds, public or private grants, contributions and loans to the fund with the approval of the Missouri assistive technology advisory council.

5. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the general revenue fund at the end of the biennium.