

1 **UTAH SCHOOLS FOR THE DEAF AND THE BLIND**
2 **REFERRAL AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Derrin R. Owens**

6 Senate Sponsor: Howard A. Stephenson

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to educational services for an individual with a
11 hearing loss.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires reporting results of a test for hearing loss to the Utah Schools for the Deaf
15 and the Blind **→ and an early intervention program ←** under certain circumstances;

16 ▶ requires the Utah Schools for the Deaf and the Blind to provide educational services
17 to certain individuals; and

18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **26-10-6**, as last amended by Laws of Utah 2013, Chapter 132

26 **53A-25b-301**, as enacted by Laws of Utah 2009, Chapter 294

27 ENACTS:



28 **26-10-12**, Utah Code Annotated 1953

29 **53A-25b-308**, Utah Code Annotated 1953

30

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **26-10-6** is amended to read:

33 **26-10-6. Testing of newborn infants.**

34 (1) Except in the case where parents object on the grounds that they are members of a
35 specified, well-recognized religious organization whose teachings are contrary to the tests
36 required by this section, [~~each~~] a newborn infant shall be tested for:

37 (a) phenylketonuria (PKU);

38 (b) other heritable disorders which may result in an intellectual or physical disability or
39 death and for which:

40 (i) a preventive measure or treatment is available; and

41 (ii) there exists a reliable laboratory diagnostic test method;

42 (c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss;

43 and

44 (ii) an infant born in a setting other than a hospital with 100 or more live births
45 annually, hearing loss; and

46 (d) [~~beginning October 1, 2014,~~] critical congenital heart defects using pulse oximetry.

47 (2) In accordance with Section **26-1-6**, the department may charge fees for:

48 (a) materials supplied by the department to conduct tests required under Subsection (1);

49 (b) tests required under Subsection (1) conducted by the department;

50 (c) laboratory analyses by the department of tests conducted under Subsection (1); and

51 (d) the administrative cost of follow-up contacts with the parents or guardians of tested
52 infants.

53 (3) Tests for hearing loss [~~under~~] described in Subsection (1) shall be based on one or
54 more methods approved by the Newborn Hearing Screening Committee, including:

55 (a) auditory brainstem response;

56 (b) automated auditory brainstem response; and

57 (c) evoked otoacoustic emissions.

58 (4) Results of tests for hearing loss [~~under~~] described in Subsection (1) shall be

59 reported to:

60 ~~[(a) parents when results of tests for hearing loss under Subsection (1) suggest that~~
 61 ~~additional diagnostic procedures or medical interventions are necessary; and]~~

62 ~~[(b)]~~ (a) the department[-]; and

63 (b) when results of tests for hearing loss under Subsection (1) suggest that additional
 64 diagnostic procedures or medical interventions are necessary:

65 (i) a parent or guardian of the infant; ~~§~~→ [and]

65a (ii) an early intervention program administered by the department in accordance with

65b Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and ~~←~~§

66 §→ [(ii)] (iii) ←§ the Utah Schools for the Deaf and the Blind, created in Section

66a [53A-25b-103](#).

67 (5) (a) There is established the Newborn Hearing Screening Committee.

68 (b) The committee shall advise the department on:

69 (i) the validity and cost of newborn infant hearing loss testing procedures; and

70 (ii) rules promulgated by the department to implement this section.

71 (c) The committee shall be composed of at least 11 members appointed by the

72 executive director, including:

73 (i) one representative of the health insurance industry;

74 (ii) one pediatrician;

75 (iii) one family practitioner;

76 (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;

77 (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;

78 (vi) one representative of hospital neonatal nurseries;

79 (vii) one representative of the Early Intervention Baby Watch Program administered by

80 the department;

81 (viii) one public health nurse;

82 (ix) one consumer; and

83 (x) the executive director or ~~[his]~~ the executive director's designee.

84 (d) Of the initial members of the committee, the executive director shall appoint as

85 nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments

86 shall be for four-year terms except:

87 (i) for those members who have been appointed to complete an unexpired term; and

88 (ii) as necessary to ensure that as nearly as possible the terms of half the appointments

89 expire every two years.

90 (e) A majority of the members constitute a quorum, and a vote of the majority of the
91 members present constitutes an action of the committee.

92 (f) The committee shall appoint a chairman from [its] the committee's membership.

93 (g) The committee shall meet at least quarterly.

94 (h) A member may not receive compensation or benefits for the member's service, but
95 may receive per diem and travel expenses in accordance with:

96 (i) Section [63A-3-106](#);

97 (ii) Section [63A-3-107](#); and

98 (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
99 [63A-3-107](#).

100 (i) The department shall provide staff for the committee.

101 (6) [~~Prior to~~] Before implementing the test required by Subsection (1)(d), the
102 department shall conduct a pilot program for testing newborns for critical congenital heart
103 defects using pulse oximetry. The pilot program shall include the development of:

104 (a) appropriate oxygen saturation levels that would indicate a need for further medical
105 follow-up; and

106 (b) the best methods for implementing the pulse oximetry screening in newborn care
107 units.

108 Section 2. Section **26-10-12** is enacted to read:

109 **26-10-12. Reporting results of a test for hearing loss.**

110 (1) As used in this section, "health care provider" means the same as that term is
111 defined in Section [78B-3-403](#).

112 (2) ~~Ĥ~~ → ~~[A]~~ **Except as provided in Subsection (3), a** ← ~~Ĥ~~ health care provider shall report
112a results of a test for hearing loss to the Utah
113 Schools for the Deaf and the Blind if:

114 (a) the results suggest that additional diagnostic procedures or medical interventions
115 are necessary; and

116 (b) the individual tested for hearing loss is under the age of 22.

116a ~~Ĥ~~ → **(3) A health care provider may not make the report of an individual's results described**
116b **in Subsection (2) if the health care provider receives a request to not make the report from:**

116c **(a) the individual, if the individual is not a minor; or**

116d **(b) the individual's parent or guardian, if the individual is a minor.** ← ~~Ĥ~~

117 Section 3. Section **53A-25b-301** is amended to read:

118 **53A-25b-301. Eligibility for services of the Utah Schools for the Deaf and the**
119 **Blind.**

120 (1) Except as provided in Subsections (3) [~~and~~], (4), and (5), a person is eligible to

121 receive services of the Utah Schools for the Deaf and the Blind if the person is:

122 (a) a resident of Utah;

123 (b) younger than 22 years of age;

124 (c) referred to the Utah Schools for the Deaf and the Blind by the person's school

125 district of residence or a local early intervention program; and

126 (d) identified as deaf, blind, or deafblind through:

127 (i) the special education eligibility determination process; or

128 (ii) the Section 504 eligibility determination process.

129 (2) (a) In diagnosing a person younger than age three who is deafblind, the following
130 information may be used:

131 (i) ophthalmological and audiological documentation;

132 (ii) functional vision or hearing assessments and evaluations; or

133 (iii) informed clinical opinion conducted by a person with expertise in deafness,
134 blindness, or deafblindness.

135 (b) Informed clinical opinion shall be:

136 (i) included in the determination of eligibility when documentation is incomplete or not
137 conclusive; and

138 (ii) based on pertinent records related to the [person's] individual's current health status
139 and medical history, an evaluation and observations of the [person's] individual's level of
140 sensory functioning, and the needs of the family.

141 (3) (a) A student who qualifies for special education shall have services and placement
142 determinations made through the IEP process.

143 (b) A student who qualifies for accommodations under Section 504 shall have services
144 and placement determinations made through the Section 504 team process.

145 (c) A parent or legal guardian of a child who is deaf, blind, or deafblind shall make the
146 final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind
147 program or in a school district or charter school program subject to special education federal
148 regulations regarding due process.

149 (4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the
150 Blind in accordance with rules of the board.

151 (b) The rules shall require the payment of tuition for services provided to a

152 nonresident.

153 (5) An individual is eligible to receive services from the Utah Schools for the Deaf and
154 the Blind under circumstances described in Section 53A-25b-308.

155 [~~(5) (a) The board shall make rules in accordance with this chapter and]~~

156 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
157 this chapter, the board:

158 (a) shall make rules that determine the eligibility of students to be served by the Utah
159 Schools for the Deaf and the Blind[-]; and

160 (b) [~~The board~~] may make rules to allow a resident of Utah who is neither deaf, blind,
161 nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the
162 student[:] is younger than 22 years of age.

163 [~~(i) is younger than 22 years of age and has an IEP; or]~~

164 [~~(ii) is younger than 19 years of age.]~~

165 Section 4. Section **53A-25b-308** is enacted to read:

166 **53A-25b-308. Educational services for an individual with a hearing loss.**

167 (1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide
168 educational services to an individual:

169 (a) who seeks to receive the educational services; and

170 (b) (i) whose results of a test for hearing loss are reported to the Utah Schools for the
171 Deaf and the Blind in accordance with Section 26-10-6 or 26-10-12; or

172 (ii) who has been diagnosed with a hearing loss by a physician or an audiologist.

173 (2) If the individual who will receive the services described in Subsection (1) is a
174 minor, the Utah Schools for the Deaf and the Blind may not provide the services to the
175 individual until after receiving permission from the individual's parent or guardian.

Legislative Review Note
Office of Legislative Research and General Counsel