

**EARLY INTERVENTION AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Derrin Owens**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to early intervention for hearing loss.

**Highlighted Provisions:**

This bill:

- ▶ requires a medical provider to report results of newborn tests for hearing loss to the Utah Schools for the Deaf and the Blind;
- ▶ requires that the Newborn Hearing Screening Committee include a representative from the Utah Schools for the Deaf and the Blind;
- ▶ requires the Utah Schools for the Deaf and the Blind to provide early intervention educational services to certain children; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

ENACTS:



28 **53A-25b-308**, Utah Code Annotated 1953



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

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

32 **26-10-6. Testing of newborn infants.**

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

- 36 (a) phenylketonuria (PKU);
- 37 (b) other heritable disorders which may result in an intellectual or physical disability or  
38 death and for which:

- 39 (i) a preventive measure or treatment is available; and
- 40 (ii) there exists a reliable laboratory diagnostic test method;
- 41 (c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss;

42 and

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

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

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

- 47 (a) materials supplied by the department to conduct tests required under Subsection (1);
- 48 (b) tests required under Subsection (1) conducted by the department;
- 49 (c) laboratory analyses by the department of tests conducted under Subsection (1); and
- 50 (d) the administrative cost of follow-up contacts with the parents or guardians of tested

51 infants.

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

- 54 (a) auditory brainstem response;
- 55 (b) automated auditory brainstem response; and
- 56 (c) evoked otoacoustic emissions.

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

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

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

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

64 (i) a parent or guardian of the infant; and

65 (ii) the Utah Schools for the Deaf and the Blind, created in Section [53A-25b-103](#).

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

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

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

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

70 (c) The committee shall be composed of at least [~~11~~] 12 members appointed by the  
 71 executive director, including:

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

73 (ii) one pediatrician;

74 (iii) one family practitioner;

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

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

77 (vi) one representative of hospital neonatal nurseries;

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

79 the department;

80 (viii) one public health nurse;

81 (ix) one consumer; [~~and~~]

82 (x) the executive director or [~~his~~] the executive director's designee[-]; and

83 (xi) the superintendent of the Utah Schools for the Deaf and the Blind or the  
 84 superintendent's designee.

85 (d) Of the initial members of the committee, the executive director shall appoint as  
 86 nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments  
 87 shall be for four-year terms except:

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

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

90 expire every two years.

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

93 (f) The committee shall appoint a chairman from its membership.

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

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

97 (i) Section 63A-3-106;

98 (ii) Section 63A-3-107; and

99 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
100 63A-3-107.

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

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

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

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

109 Section 2. Section 53A-25b-301 is amended to read:

110 **53A-25b-301. Eligibility for services of the Utah Schools for the Deaf and the**  
111 **Blind.**

112 (1) Except as provided in Subsections (3) [~~and~~], (4), and (5), a person is eligible to  
113 receive services of the Utah Schools for the Deaf and the Blind if the person is:

114 (a) a resident of Utah;

115 (b) younger than 22 years of age;

116 (c) referred to the Utah Schools for the Deaf and the Blind by the person's school  
117 district of residence or a local early intervention program; and

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

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

120 (ii) the Section 504 eligibility determination process.

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

- 123 (i) ophthalmological and audiological documentation;
- 124 (ii) functional vision or hearing assessments and evaluations; or
- 125 (iii) informed clinical opinion conducted by a person with expertise in deafness,  
126 blindness, or deafblindness.

127 (b) Informed clinical opinion shall be:

- 128 (i) included in the determination of eligibility when documentation is incomplete or not  
129 conclusive; and
- 130 (ii) based on pertinent records related to the person's current health status and medical  
131 history, an evaluation and observations of the person's level of sensory functioning, and the  
132 needs of the family.

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

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

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

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

143 (b) The rules shall require the payment of tuition for services provided to a  
144 nonresident.

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

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

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

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

152 (b) [~~The board~~] may make rules to allow a resident of Utah who is neither deaf, blind,  
153 nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the student:

- 154 (i) is younger than 22 years of age and has an IEP; or
- 155 (ii) is younger than 19 years of age.

156 Section 3. Section **53A-25b-308** is enacted to read:

157 **53A-25b-308. Early intervention services.**

158 (1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall, after  
159 receiving notification of results of a test for hearing loss from a medical provider under Section  
160 26-10-6, provide early intervention educational services for an individual:

161 (a) who has been tested for hearing loss, by a medical provider, in accordance with  
162 Section 26-10-6; and

163 (b) whose results of the test for hearing loss suggest that additional diagnostic  
164 procedures or medical interventions are necessary.

165 (2) The Utah Schools for the Deaf and the Blind may not provide services described in  
166 Subsection (1) until after receiving permission to provide the services from the individual's  
167 parent or guardian.

168 (3) The Utah Schools for the Deaf and the Blind shall provide the early intervention  
169 services described in Subsection (1) for the individual until the individual reaches age three.