

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 112
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Family Services April 11, 2007 with recommendation that House Committee Substitute for Senate Substitute for Senate Bill No. 112 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0591L.07C

AN ACT

To repeal sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 162.700, and 376.1218, RSMo, and to enact in lieu thereof eleven new sections relating to special education, with an expiration date for a certain section.

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

Section A. Sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930,
2 162.700, and 376.1218, RSMo, are repealed and eleven new sections enacted in lieu thereof, to
3 be known as sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 160.932,
4 160.933, 162.700, and 376.1218, to read as follows:

160.900. 1. The state of Missouri shall participate in the federal Infant and Toddler
2 Program, Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section
3 1431, et seq., and provide early intervention services to infants and toddlers determined eligible
4 under state regulations.

5 2. The state agency designated by the governor as the lead agency shall be responsible
6 for the administration and implementation of Part C of IDEA through a regional Part C early
7 intervention system and shall promulgate rules implementing the requirements of Part C of IDEA
8 consistent with federal regulations, 34 C.F.R. 303, et seq.

9 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
10 is created under the authority delegated in sections 160.900 to 160.925 shall become effective

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
12 applicable, section 536.028, RSMo. Sections 160.900 to 160.925 and chapter 536, RSMo, are
13 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
14 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
15 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
16 after July 1, 2005, shall be invalid and void.

17 **4. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
18 **provisions of this section shall not sunset.**

160.905. 1. The lead agency shall establish a "State Interagency Coordinating Council"
2 for the state Part C early intervention system. The composition of the council shall include the
3 members required under Part C of the IDEA consistent with federal regulations, 34 C.F.R.
4 303.601, appointed by the governor.

5 2. The state interagency coordinating council shall meet at least quarterly and shall
6 comply with chapter 610, RSMo.

7 3. The state interagency coordinating council shall advise and assist the lead agency
8 pursuant to IDEA requirements, 34 C.F.R. 303.650 to 303.654.

9 4. The state interagency coordinating council shall assist the lead agency in the
10 preparation and submission of an annual report to the governor and to the secretary of the United
11 States Department of Education on the status of infant and toddler early intervention programs
12 in the state and report any recommendations for improvements to such programs.

13 5. The lead agency, in consultation with any other state agencies involved in the Part C
14 early intervention system, shall submit rules and regulations, other than emergency rules and
15 regulations, to the council for review prior to the lead agency's final approval. The council shall
16 review all proposed rules and regulations and report its recommendations thereon to the lead
17 agency within thirty days. The lead agency shall respond to the council's recommendations
18 providing reasons for proposed rules and regulations that are not consistent with the council's
19 recommendations.

20 **6. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
21 **provisions of this section shall not sunset.**

160.910. 1. The lead agency shall maintain a state Part C early intervention system
2 under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq.,
3 for eligible children and families of such children which shall be administered through the
4 regional Part C early intervention system.

5 2. The lead agency shall compile data in the system on the number of eligible children
6 in the state in need of early intervention services, the number of eligible children and their

7 families served, the types of services provided, and other information as deemed necessary by
8 the agency.

9 3. The state Part C early intervention system shall include a comprehensive child-find
10 system and public awareness program to ensure that eligible children are identified, located,
11 referred to the system, and evaluated for eligibility.

12 4. The lead agency shall monitor system expenditures for administrative services and
13 regional offices to ensure maximum utilization of state funds for all children determined to be
14 eligible for early intervention services. The lead agency or its designee shall provide regional
15 offices with the necessary financial data to assist regional offices in monitoring their
16 expenditures and the cost of direct services. Such data shall include the number of children
17 eligible from the most recent child count from that region and monthly data reports on the costs
18 spent by providers in their network.

19 5. The lead agency shall establish a bidding process for determining regional offices
20 across the state. The bidding process shall establish criteria for allowing regions to implement
21 models that will serve the unique needs of their community. Such process shall encourage
22 organizations bidding for a center to demonstrate agreements:

23 (1) With other state and local government entities that provide services to infants and
24 toddlers with developmental disabilities including regional centers as defined in section 633.005,
25 RSMo, and boards established under sections 205.968 to 205.973, RSMo; and

26 (2) To collaborate with established, quality early intervention providers in the region to
27 establish a network for early intervention services.

28 6. The lead agency shall establish a centralized system of provider enrollment to assure
29 that all Part C early intervention system providers meet requirements of Part C regulations and
30 the Missouri state plan.

31 **7. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
32 **provisions of this section shall not sunset.**

160.915. 1. Each regional office shall include in their proposal the following assurances
2 and documentation of their plan to:

3 (1) Provide those functions that are specifically identified under federal and state
4 regulations implementing Part C of IDEA, 20 U.S.C. Section 1431, as functions to be provided
5 at public expense, with no cost to the parent;

6 (2) Contract with established community early intervention providers or hire providers
7 as geographic necessity requires to ensure all services are available and accessible within the
8 region;

9 (3) Implement a system of provider oversight to ensure:

10 (a) That all services are available and accessible within that region including the use of
11 providers hired by the regional office where geographic necessity requires this practice; and

12 (b) Compliance by all providers in the regional office's provider network, including but
13 not limited to upholding the requirements of Part C of IDEA;

14 (4) Include in each child's individual family service plan family-oriented approaches to
15 support the child's developmental goals;

16 (5) Incorporate as the focus of the individualized family service plan best available
17 practices and coaching approaches that support the family's capacity to meet the developmental
18 needs of their child;

19 (6) Develop or maintain resources or utilize multiple funding sources for providing early
20 intervention services for children with disabilities in the region for which they are bidding; and

21 (7) Implement a system for reutilization of assistive technology devices and oversight
22 of assistive technology authorizations.

23 2. The lead agency may determine other assurances and request additional
24 documentation they deem to be necessary and reasonable to achieve the purpose of this section
25 and to comply with applicable federal law and regulation.

26 **3. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
27 **provisions of this section shall not sunset.**

160.920. 1. No funds appropriated to the lead agency for the implementation and
2 administration of sections 160.900 to 160.925 shall be used to satisfy a financial commitment
3 for services that should have been paid from another public or private source. Federal funds
4 available under Part C of the IDEA, 20 U.S.C. Section 1431, et seq., shall be used whenever
5 necessary to prevent the delay of early intervention services to the eligible child or family. When
6 funds are used to reimburse the service provider to prevent a delay of the provision of services,
7 the funds shall be recovered from the public or private source that has ultimate responsibility for
8 the payment.

9 2. Nothing in this section shall be construed to permit any other state agency providing
10 medically related services to reduce medical assistance to eligible children.

11 3. Payments for the provision of direct early intervention services to children and
12 families shall be paid in the manner prescribed by the lead agency.

13 4. The lead agency shall promulgate rules for the reimbursement of services from all
14 third-party payers, both private and public.

15 5. The lead agency or its designee shall, in the first instance and where applicable, seek
16 payment from all third-party payers prior to claiming payment from the state Part C early
17 intervention system for services rendered to eligible children.

18 6. The lead agency or its designee may pay required deductibles, co-payments,
19 coinsurance or other out-of-pocket expenses for a Part C early intervention program eligible child
20 directly to a provider.

21 7. The lead agency shall promulgate rules that establish a schedule of monthly cost
22 participation fees for early intervention services per qualifying family regardless of the number
23 of children participating or the amount of services provided. Such fees shall not include services
24 to be provided to the family at no cost as established in Part C of IDEA, 20 U.S.C. Section 1431,
25 et seq. Fees shall be based on a sliding scale to become effective October 1, 2005, that
26 contemplates the following elements:

27 (1) Adjusted gross income, family size, financial hardship and Medicaid eligibility with
28 the fee implementation beginning at two hundred percent of the federal poverty guidelines;

29 (2) A minimum fee amount of five dollars to the maximum amount of one hundred
30 dollars monthly, with the lead agency retaining the right to revise the fee schedule no earlier than
31 the third year after the family cost participation effective date;

32 (3) An increased fee schedule for parents who have insurance and elect not to assign
33 such right of recovery or indemnification to the lead agency;

34 (4) Procedures for notifying the regional office that a family is not complying with the
35 cost participation fee and procedures for suspending services.

36 8. All amounts generated by family cost participation, insurance reimbursements, and
37 Medicaid reimbursement shall be deposited to the fund created in section 160.925.

38 9. The lead agency may assign the collection of early intervention participation fees,
39 payments, and public or private insurance to a designee, contractor, provider, third-party agent,
40 or designated clearinghouse participating in the Part C early intervention system. Such fees,
41 payments, or insurance amounts shall be paid to the department, its designee, contractor,
42 provider, third-party agent, or designated clearinghouse in a timely manner. Notice of collection
43 procedures, schedule of fees or payments, and guidelines for inability to pay shall be made
44 available to parents of eligible children.

45 **10. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
46 **provisions of this section shall not sunset.**

160.925. 1. There is hereby created in the state treasury the "Part C Early Intervention
2 System Fund" for implementing the provisions of sections 160.900 to 160.925. Moneys
3 deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri
4 Constitution. The state treasurer shall be custodian of the fund and shall disburse moneys from
5 the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in
6 the fund shall be used solely for the administration of sections 160.900 to 160.925.
7 [Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys

8 remaining in the fund at the end of the biennium shall not revert to the credit of the general
9 revenue fund.] The state treasurer shall invest moneys in the fund in the same manner as other
10 funds are invested. Any interest and moneys earned on such investments shall be credited to the
11 fund.

12 **2. At the end of each biennium and after all statutorily or constitutionally required**
13 **transfer of funds have been made, the state treasurer shall transfer the balance in the fund,**
14 **except for gifts, donations, bequests, or money received from a federal source, created in**
15 **subsection 1 of this section in excess of two hundred percent of the previous fiscal year's**
16 **expenditures into the state general revenue fund.**

17 **3. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
18 **provisions of this section shall not sunset.**

160.930. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

2 (1) The provisions of the program authorized under sections 160.900 to 160.925[, section
3 162.700, RSMo,] and section 376.1218, RSMo, shall automatically sunset two years after August
4 28, 2005, unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections 160.900 to
6 160.925[, section 162.700, RSMo,] and section 376.1218, RSMo, shall automatically sunset
7 twelve years after the effective date of the reauthorization of sections 160.900 to 160.925,
8 [section 162.700, RSMo,] and section 376.1218, RSMo; and

9 (3) Sections 160.900 to 160.925[, section 162.700, RSMo,] and section 376.1218,
10 RSMo, shall terminate on September first of the calendar year immediately following the
11 calendar year in which the program authorized under sections 160.900 to 160.925[, section
12 162.700, RSMo,] and section 376.1218, RSMo, is sunset.

160.932. 1. Subject to appropriations, the department of elementary and secondary
2 **education shall implement a pilot program allowing the regional interagency coordinating**
3 **council of the greater St. Louis system point of entry to hire a part-time child-find**
4 **coordinator to conduct the child-find requirements under subsection 3 of section 160.910**
5 **for the region. The part-time child-find coordinator shall be hired, selected, and employed**
6 **by the regional interagency coordinating council of the greater St. Louis system point of**
7 **entry by July 1, 2008.**

8 **2. By September 1, 2010, the greater St. Louis system point of entry shall conduct**
9 **a study on the effect of hiring the child-find coordinator under this section. The study shall**
10 **be submitted to the department, the state interagency coordinating council and the general**
11 **assembly.**

12 **3. The provisions of this section shall expire on September 1, 2011.**

160.933. 1. There is hereby created in the state treasury the "Part C Early Intervention Pilot Program Fund" for implementing the provisions of section 160.932. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri constitution. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for administration of section 160.932. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. At the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in subsection 1 of this section in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.

3. The department of elementary and secondary education shall promulgate rules to implement the provisions of section 160.932. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

162.700. 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for [handicapped] children **with disabilities** three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be [handicapped] **a child with disabilities**, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year beginning on or after July 1, 1991. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for [handicapped] children **with disabilities** three and four years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related

14 services for children three and four years of age with [handicaps] **disabilities**. The planning
15 process shall include public, private, and private not-for-profit agencies which have provided
16 such services for this population. The school district, or school districts, or special school
17 district, shall be responsible for designing an efficient service delivery system which uses the
18 present resources of the local community which may be funded by the department of elementary
19 and secondary education or the department of mental health. School districts may coordinate
20 with public, private, and private not-for-profit agencies presently in existence. The service
21 delivery system shall be consistent with the requirements of the department of elementary and
22 secondary education to provide appropriate special education services in the least restrictive
23 environment.

24 2. Every local school district or, if a special district is in operation, every special school
25 district shall obtain current appropriate diagnostic reports for each [handicapped] **with**
26 **disabilities** child prior to assignment in a special program. These records may be obtained with
27 parental permission from previous medical or psychological evaluation, may be provided by
28 competent personnel of such district or special district, or may be secured by such district from
29 competent and qualified medical, psychological, or other professional personnel.

30 3. Evaluations of private school students suspected of having a disability under the
31 Individuals With Disabilities Education Act will be conducted as appropriate by the school
32 district in which the private school is located or its contractor.

33 4. Where special districts have been formed to serve [handicapped] children **with**
34 **disabilities** under the provisions of sections 162.670 to 162.995, such children shall be educated
35 in programs of the special district, except that component districts may provide education
36 programs for [handicapped] children **with disabilities** ages three and four inclusive in
37 accordance with regulations and standards adopted by the state board of education.

38 5. For the purposes of this act, remedial reading programs are not a special education
39 service as defined by subdivision (4) of section 162.675.

40 6. Any and all state costs required to fund special education services for three- and
41 four-year-old children [pursuant to] **under** this section shall be provided for by a specific,
42 separate appropriation and shall not be funded by a reallocation of money appropriated for the
43 public school foundation program.

44 7. School districts providing early childhood special education shall give consideration
45 to the value of continuing services with Part C early intervention system providers for the
46 remainder of the school year when developing an individualized education program for a student
47 who has received services [pursuant to] **under** Part C of the Individuals With Disabilities
48 Education Act and reaches the age of three years during a regular school year. Services provided

49 shall be only those permissible according to Section 619 of the Individuals with Disabilities
50 Education Act.

51 8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
52 is created under the authority delegated in this section shall become effective only if it complies
53 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
54 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
55 vested with the general assembly [pursuant to] **under** chapter 536, RSMo, to review, to delay
56 the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
57 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall
58 be invalid and void.

376.1218. 1. Any health carrier or health benefit plan that offers or issues health benefit
2 plans, other than Medicaid health benefit plans, which are delivered, issued for delivery,
3 continued, or renewed in this state on or after January 1, 2006, shall provide coverage for early
4 intervention services described in this section that are delivered by early intervention specialists
5 who are health care professionals licensed by the state of Missouri and acting within the scope
6 of their professions for children from birth to age three identified by the Part C early intervention
7 system as eligible for services under Part C of the Individuals with Disabilities Education Act,
8 20 U.S.C. Section 1431, et seq. Such coverage shall be limited to three thousand dollars for each
9 covered child per policy per calendar year, with a maximum of nine thousand dollars per child.

10 2. As used in this section, "health carrier" and "health benefit plan" shall have the same
11 meaning as such terms are defined in section 376.1350.

12 3. In the event that any health benefit plan is found not to be required to provide
13 coverage under subsection 1 of this section because of preemption by a federal law, including
14 but not limited to the act commonly known as ERISA contained in Title 29 of the United States
15 Code, or in the event that subsection 1 of this section is found to be unconstitutional, then the
16 lead agency shall be responsible for payment and provision of any benefit provided under this
17 section.

18 4. For purposes of this section, "early intervention services" means medically necessary
19 speech and language therapy, occupational therapy, physical therapy, and assistive technology
20 devices for children from birth to age three who are identified by the Part C early intervention
21 system as eligible for services under Part C of the Individuals with Disabilities Education Act,
22 20 U.S.C. Section 1431, et seq. Early intervention services shall include services under an active
23 individualized family service plan that enhance functional ability without effecting a cure. An
24 individualized family service plan is a written plan for providing early intervention services to
25 an eligible child and the child's family that is adopted in accordance with 20 U.S.C. Section
26 1436. The Part C early intervention system, on behalf of its contracted regional Part C early

27 intervention system centers and providers, shall be considered the rendering provider of services
28 for purposes of this section.

29 5. No payment made for specified early intervention services shall be applied by the
30 health carrier or health benefit plan against any maximum lifetime aggregate specified in the
31 policy or health benefit plan if the carrier opts to satisfy its obligations under this section under
32 subdivision (2) of subsection 7 of this section. A health benefit plan shall be billed at the
33 applicable Medicaid rate at the time the covered benefit is delivered, and the health benefit plan
34 shall pay the Part C early intervention system at such rate for benefits covered by this section.
35 Services under the Part C early intervention system shall be delivered as prescribed by the
36 individualized family service plan and an electronic claim filed in accordance with the carrier's
37 or plan's standard format. Beginning January 1, 2007, such claims' payments shall be made in
38 accordance with the provisions of sections 376.383 and 376.384.

39 6. The health care service required by this section shall not be subject to any greater
40 deductible, co-payment, or coinsurance than other similar health care services provided by the
41 health benefit plan.

42 7. (1) Subject to the provisions of this section, payments made during a calendar year
43 by a health carrier or group of carriers affiliated by or under common ownership or control to the
44 Part C early intervention system for services provided to children covered by the Part C early
45 intervention system shall not exceed one-half of one percent of the direct written premium for
46 health benefit plans as reported to the department of insurance on the health carrier's most
47 recently filed annual financial statement.

48 (2) In lieu of reimbursing claims under this section, a carrier or group of carriers
49 affiliated by or under common ownership or control may, on behalf of all of the carrier's or
50 carriers' health benefit plan or plans providing coverage under this section, directly pay the Part
51 C early intervention system by January thirty-first of the calendar year an amount equal to
52 one-half of one percent of the direct written premium for health benefit plans as reported to the
53 department of insurance on the health carrier's most recently filed annual financial statement, or
54 five hundred thousand dollars, whichever is less, and such payment shall constitute full and
55 complete satisfaction of the health benefit plan's obligation for the calendar year. Nothing in this
56 subsection shall require a health carrier or health benefit plan providing coverage under this
57 section to amend or modify any provision of an existing policy or plan relating to the payment
58 or reimbursement of claims by the health carrier or health benefit plan.

59 8. This section shall not apply to a supplemental insurance policy, including a life care
60 contract, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare
61 supplement policy, hospitalization-surgical care policy, policy that is individually underwritten

62 or provides such coverage for specific individuals and members of their families, long-term care
63 policy, or short-term major medical policies of six months or less duration.

64 9. Except for health carriers or health benefit plans making payments under subdivision
65 (2) of subsection 7 of this section, the department of insurance shall collect data related to the
66 number of children receiving private insurance coverage under this section and the total amount
67 of moneys paid on behalf of such children by private health carriers or health benefit plans. The
68 department shall report to the general assembly regarding the department's findings no later than
69 January 30, 2007, and annually thereafter.

70 **10. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the**
71 **provisions of this section shall not sunset.**

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