

CS FOR HOUSE BILL NO. 173(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/21/01
Referred: Finance

Sponsor(s): REPRESENTATIVES JOULE, Cissna, Crawford, Croft, Davies, Harris, Hayes, Kapsner, Lancaster, Wilson, Guess, Scalzi, Kerttula, Morgan, Stevens

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to establishing a screening, tracking, and intervention program related to**
2 **the hearing ability of newborns and infants; providing an exemption to licensure as an**
3 **audiologist for certain persons performing hearing screening tests; relating to insurance**
4 **coverage for newborn and infant hearing screening; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 LEGISLATIVE FINDINGS. The legislature finds that

9 (1) hearing loss occurs in newborns and infants more frequently than any other
10 health condition for which newborn or infant screening is required;

11 (2) 80 percent of the language ability of a child is established by the time the
12 child is 18 months of age, and appropriate language training is vitally important to the healthy
13 development of cognitive, social, emotional, and academic skills;

14 (3) early detection of hearing loss in a child and early intervention and

1 treatment have been demonstrated to be highly effective in facilitating a child's healthy
2 development in a manner consistent with the child's age and cognitive ability;

3 (4) children with hearing loss who do not receive early intervention and
4 treatment frequently require special education services, and these services are publicly funded
5 for the vast majority of children with hearing needs in the state; and

6 (5) appropriate testing and identification of newborns and infants with hearing
7 loss will facilitate early intervention and treatment and may serve the public purpose of
8 promoting the healthy development of children while reducing public expenditures.

9 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 LEGISLATIVE INTENT. Subject to the availability of appropriations to implement
12 AS 47.20.300 - 47.20.390, enacted by sec. 6 of this Act, the Department of Health and Social
13 Services shall implement the program required by this Act so that at least 90 percent of all
14 newborns and infants in the state are being screened for hearing loss by January 1, 2003.

15 * **Sec. 3.** AS 08.11.120(b) is amended to read:

16 (b) Notwithstanding the provisions of this chapter,

17 (1) a nurse licensed under AS 08.68 may perform hearing sensitivity
18 evaluations;

19 (2) an individual licensed as a hearing aid dealer under AS 08.55 may
20 deal in hearing aids;

21 (3) an individual holding a class A certificate issued by the Conference
22 of Executives of American Schools of the Deaf may teach the hearing impaired;

23 (4) an individual may engage in the testing of hearing as part of a
24 hearing conservation program that complies with the regulations of the Occupational
25 Safety and Health Administration of the federal government if the individual is
26 certified to do the testing by a state or federal agency acceptable to the Occupational
27 Safety and Health Administration;

28 **(5) an individual may perform a hearing screening test under**
29 **AS 47.20.310 if authorized to do so under a protocol adopted under**
30 **AS 47.20.310(e) by the Department of Health and Social Services.**

31 * **Sec. 4.** AS 18.50 is amended by adding a new section to read:

1 **Sec. 18.50.162. Notification about hearing screening.** When the bureau
 2 receives a certificate of live birth under AS 18.50.160 for a newborn who was
 3 delivered outside of a hospital, the bureau shall forward the names and addresses of
 4 the parents to the department employees who administer the screening program set out
 5 in AS 47.20.310 - 47.20.390. Those department employees shall notify the child's
 6 parents of the merits of having the child screened for hearing ability.

7 * **Sec. 5.** AS 21.42 is amended by adding a new section to read:

8 **Sec. 21.42.349. Coverage for newborn and infant hearing screening.** (a)
 9 Except for a fraternal benefit society, a health care insurer that offers, issues for
 10 delivery, delivers, or renews in this state a health care insurance plan shall provide
 11 coverage for newborn and infant hearing screening under the schedule described in (b)
 12 of this section if the plan covers services provided to women during pregnancy and
 13 childbirth and the dependents of a covered individual.

14 (b) The minimum coverage required under (a) of this section includes

15 (1) a newborn or infant hearing screening test to be performed within
 16 30 days after the child's birth; and

17 (2) if the initial test under (1) of this subsection determines that the
 18 child may have a hearing impairment, a confirmatory hearing diagnostic test.

19 (c) The coverage required by this section may be subject to standard policy
 20 provisions that are applicable to other benefits, such as deductible or copayment
 21 provisions.

22 * **Sec. 6.** AS 47.20 is amended by adding new sections to read:

23 **Article 2. Newborn and Infant Hearing Screening, Tracking,**
 24 **and Intervention Program.**

25 **Sec. 47.20.300. Department to implement program.** The department shall
 26 plan, develop, and implement a hearing screening, tracking, and intervention program
 27 to facilitate compliance with the requirements of AS 47.20.300 - 47.20.390.

28 **Sec. 47.20.310. Screening requirements.** (a) Subject to (b) of this section,
 29 the physician in attendance at or immediately after the birth of a child in a hospital in
 30 this state, or, if a physician is not in attendance at or immediately after the birth, the
 31 person attending the newborn child in a hospital in this state, shall, unless medically

1 contraindicated, cause the child to be tested to determine whether the child has a
2 potential hearing impairment using the methods determined by the department under
3 (e) of this section. Unless medically contraindicated, the screening shall occur before
4 the newborn is released from the hospital or before the infant is 30 days old,
5 whichever is earlier. Each birthing center that provides maternity and newborn care
6 services shall provide that each newborn in the center's care is referred for an
7 appointment to a licensed audiologist or to a hospital or other newborn hearing
8 screening provider before discharge. Unless medically contraindicated, the screening
9 shall occur before the infant is 30 days old.

10 (b) Notwithstanding (a) of this section, the physician or other person at or
11 immediately after the birth of a child in a hospital or birthing center that averages less
12 than 50 births a year is not required to screen the child as described in (a) of this
13 section but shall, before the newborn is released from the hospital or birthing center,
14 refer the child for screening at another facility or with another provider. Unless
15 medically contraindicated, the screening shall occur before the child is 30 days old.

16 (c) If it is determined by testing that a newborn child may have a hearing
17 impairment, the physician or other person who is required under (a) of this section to
18 cause the child to be tested shall

19 (1) refer the child for confirmatory testing; and

20 (2) make reasonable efforts to promptly notify the child's parent that
21 the child may have a hearing impairment and explain to the parent the potential effect
22 of the impairment on the development of the child's speech and language skills.

23 (d) When the Bureau of Vital Statistics receives a certificate of live birth
24 under AS 18.50.160 for a newborn who was delivered at a place other than a hospital,
25 the bureau shall notify the department employees who administer AS 47.20.300 -
26 47.20.390; the department employees shall notify the child's parents of the merits of
27 having a hearing screening performed, and the department shall provide information to
28 the parents to assist the parents in accomplishing the hearing testing within 30 days
29 after the child's birth.

30 (e) The hearing testing required under this section shall use protocols
31 established by the department. At a minimum, the protocols must include the use of at

1 least one of the following physiologic technologies: automated or diagnostic auditory
 2 brainstem response (ABR) or otoacoustic emissions (OAE). The department shall
 3 consider updating the protocols as information is provided to the department that new
 4 physiologic technologies or improvements to existing physiologic technologies will
 5 substantially enhance newborn and infant hearing assessment.

6 (f) Notwithstanding (a) of this section, a physician or other person required to
 7 cause a newborn hearing screening test under this section is exempt from this
 8 requirement if the parent of the newborn child objects to the testing procedure on the
 9 grounds that the procedure conflicts with the religious tenets and practices of the
 10 parent. The parent shall sign a statement that the parent knowingly refuses the
 11 services, and the physician or other person shall have a copy of the signed statement
 12 retained in the hospital records of the birth.

13 **Sec. 47.20.320. Reporting and tracking program.** (a) The department shall
 14 develop and implement a reporting and tracking system for newborns and infants
 15 tested for hearing loss in order to provide the department with information and data to
 16 effectively plan, establish, monitor, and evaluate the newborn and infant hearing
 17 screening, tracking, and intervention program. Evaluation of the program must
 18 include evaluation of the initial hearing screening, follow-up components, and the use
 19 and availability of the system of services for newborns and infants who are deaf or
 20 hard of hearing and their families.

21 (b) A physician or other person attending the birth in the state, or a hospital on
 22 behalf of a physician or other person attending the birth, shall report information
 23 related to hearing screening required under (a) of this section as specified by the
 24 department. Persons providing audiological confirmatory testing and diagnostic
 25 services for newborns and infants whose hearing was tested under AS 47.20.310 shall
 26 report information as specified by the department in regulation.

27 (c) The information received under (b) of this section shall be compiled and
 28 maintained by the department in the tracking system. The information shall be kept
 29 confidential in accordance with the applicable provisions of 20 U.S.C. 1439
 30 (Individuals with Disabilities Education Act), as amended by P.L. 105-17. Data
 31 collected by the department that was obtained from the medical records of the

1 newborn or infant shall be for the confidential use of the department and are not public
 2 records subject to disclosure under AS 40.25.110. Aggregate statistical data without
 3 identifying information compiled from the information received is public information.

4 (d) A hospital or other health facility, clinical laboratory, audiologist,
 5 physician, registered nurse, officer or employee of a health facility or clinical
 6 laboratory, or an employee of an audiologist, physician, or registered nurse is not
 7 criminally or civilly liable for furnishing information in good faith to the department
 8 or its designee under this section. The furnishing of information in accordance with
 9 this section is not a violation of AS 08 or AS 18 or regulations adopted under AS 08 or
 10 AS 18 for licensees under those statutes.

11 **Sec. 47.20.330. Intervention program.** (a) The department shall establish
 12 guidelines for the provision of follow-up care for newborn and infant children in the
 13 state who have been identified as having or being at risk of developing a hearing loss.
 14 The services recommended must include appropriate follow-up care for newborns and
 15 infants with abnormal or inconclusive test results, such as diagnostic evaluation,
 16 referral, and coordination of early intervention service programs if the newborn or
 17 infant is found to have a hearing loss.

18 (b) The parents of all newborns and infants diagnosed with a hearing loss, as
 19 reported to the department, shall be provided by the department with written
 20 information on the availability of follow-up care through community resources and
 21 government agencies, including those provided in accordance with 20 U.S.C. 1400 -
 22 1491 (Individuals with Disabilities Education Act), as amended. Information provided
 23 by the department must include listings of local and statewide nonprofit deaf and hard
 24 of hearing consumer-based organizations, parent support organizations affiliated with
 25 deafness, counseling and educational services, and programs offered through the
 26 department and the Department of Education and Early Development.

27 **Sec. 47.20.340. Outreach campaign.** The department shall conduct a
 28 community outreach and awareness campaign to inform medical providers, pregnant
 29 women, and families of newborns and infants of the newborn and infant hearing
 30 screening, tracking, and intervention program and the value of early hearing testing.

31 **Sec. 47.20.350. Report.** The department shall prepare an annual report for the

1 governor about the newborn and infant hearing screening, tracking, and intervention
 2 program administered under AS 47.20.300 - 47.20.390. The report must include
 3 recommendations on improving the testing program, including strategies to increase
 4 the rate of early screening and the use of appropriate early intervention techniques.
 5 The department shall notify the legislature that the report is available.

6 **Sec. 47.20.390. Definitions.** In AS 47.20.300 - 47.20.390,

7 (1) "commissioner" means the commissioner of health and social
 8 services;

9 (2) "department" means the Department of Health and Social Services;

10 (3) "follow-up care" means all of the following:

11 (A) services necessary to diagnose and confirm a hearing loss;

12 (B) ongoing audiological services to monitor hearing;

13 (C) communication services, including aural rehabilitation,
 14 speech, language, social, and psychological services;

15 (D) support services for the infant and family; and

16 (E) early intervention services described in 20 U.S.C. 1431 -
 17 1445 (Individuals with Disabilities Education Act), as amended by P.L. 105-
 18 17;

19 (4) "hearing loss" means a hearing loss of 30 decibels or greater in the
 20 frequency region important for speech recognition and comprehension in one or both
 21 ears, approximately 500 through 4000 Hz;

22 (5) "infant" means a child 30 days to 24 months old;

23 (6) "newborn" means a child less than 30 days old;

24 (7) "parent" means a natural parent, stepparent, adoptive parent, legal
 25 guardian, or other legal custodian of the child;

26 (8) "program" means the newborn and infant hearing, tracking, and
 27 intervention screening program established under AS 47.20.300 - 47.20.390.

28 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 29 read:

30 **TRANSITION: REGULATIONS.** Notwithstanding sec. 9 of this Act, the
 31 Department of Health and Social Services may proceed to develop and adopt regulations

1 required to implement this Act. The regulations take effect under AS 44.62 (Administrative
2 Procedure Act), but not before the effective date of the relevant provision of this Act.

3 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 INSTRUCTION TO REVISOR. In AS 47.20.060 - 47.20.290, the revisor shall delete
6 "this chapter" and insert "AS 47.20.060 - 47.20.290."

7 * **Sec. 9.** AS 47.20.300, enacted by sec. 6 of this Act, and secs. 7 and 8 of this Act take
8 effect immediately under AS 01.10.070(c).

9 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2002.