

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

**BILL:** CS/SB 1240

**INTRODUCER:** Health Policy Committee; and Senator Richter and others

**SUBJECT:** Children Who Are Deaf or Hard of Hearing

**DATE:** March 20, 2013      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	<b>Fav/CS</b>
2.			ED	
3.			AHS	
4.			AP	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB1240 requires a health care provider to provide an opportunity for a child’s parent or legal guardian to provide contact information so that he or she may receive information from specified service providers when a hearing loss is identified. The Department of Health (DOH) is required to register service providers and institutions based on standards developed with the Department of Education (DOE). A parent or legal guardian may request services from a participating service provider. The level of services received is based on the child’s individualized education program or individual and family service plan and the child is eligible until age 7 or after completion of grade 2, whichever occurs first.

This bill creates an unnumbered section in the Florida Statute.

**II. Present Situation:**

**Deaf or Hard of Hearing**

Hearing loss is the most common birth defect with three out of every 1000 newborns being found to have a permanent hearing problem that causes them to be at high risk for developing

communication delays unless early help is provided to their families. Florida can expect approximately 600 new children to be confirmed as hearing impaired annually. Early intervention and quality education is necessary to prevent developmental delays in language and learning. By the time a child with hearing loss graduates from high school, more than \$400,000 per child can be saved in special education costs if the child is identified early and given appropriate educational, medical, and audio logical services.<sup>1</sup>

“Deaf” means having a hearing impairment of such severity that an individual must depend on visual tactile methods, or both, to communicate. “Hard of hearing” means having a hearing impairment that results in a loss of hearing functions to an individual and in which the individual: relies on residual hearing that may be sufficient to process linguistic information through audition with or without amplification under favorable listening conditions; depends on visual methods to communicate; depends on assistive listening devices; or has an impairment with other auditory disabling conditions.<sup>2</sup>

### **Newborn and Infant Hearing Screening**

Since October 1, 2000, newborn hearing screenings have been required, unless the parent objects, for all newborns in Florida.<sup>3</sup> The intent of this requirement is “to provide a statewide comprehensive and coordinated interdisciplinary program of early hearing impairment screening, identification, and follow up care for newborns. The goal is to screen all newborns for hearing impairment in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development.”<sup>4</sup>

The screening of a newborn’s hearing is ideally completed before the newborn is discharged from the hospital. When a newborn is delivered in a facility other than a hospital, the parents must be instructed on the importance of having the hearing screening performed and must be given information to assist them in having the screening performed within 3 months after the child’s birth. Any person who is not covered through insurance, enrolled in Medicaid, or cannot afford the costs for testing must be given a list of newborn hearing screening providers who provide the necessary testing free of charge.

Screenings must be conducted by a licensed audiologist, a physician, or other newborn hearing screening provider who has completed documented training specifically for newborn hearing screening.<sup>5</sup>

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<sup>1</sup> Florida Coordinating Council for the Deaf and Hard of Hearing website found at: < <http://www.fccdhh.org/services/birth-to-3-years.html>> (Last visited on March 15, 2013).

<sup>2</sup> s. 413.271, F.S.

<sup>3</sup> See s. 383.145, F.S.

<sup>4</sup> Florida Newborn Screening Program <<http://www.doh.state.fl.us/cms/NewbornScreening/nbscreen-hearing.html>>(Last visited on March 18, 2013) and s. 383.145, F.S.

<sup>5</sup> s. 383.145(3)(e), F.S.

## **Newborn Screening Referral<sup>6</sup>**

Currently, DOH provides written and verbal information to families about the different communication options for their child. The DOH also publishes a reference guide which was last updated, May 2011.

Any child who is diagnosed as having a permanent hearing impairment must be referred to a primary care physician for medical management, treatment, and follow-up services. Children from birth to age three who have a developmental delay or an established condition (such as hearing loss) that is likely to lead to developmental delay may be referred to and enrolled in the DOH Children's Medical Services Early Steps program. Referrals may come from many sources, including the parents. Early steps does not serve children over age three.

For a child eligible for Early Steps, services needed to enhance the child's development, as well as the appropriate service providers must be determined through the Individualized Family Support Plan process as dictated by the federal Individuals with Disabilities Education Act (IDEA). Services for these children are provided by Children's Medical Services credentialed providers. In accordance with the IDEA requirements governing the Early Steps program, Early Steps must ensure that appropriate early intervention services are available to all eligible infants and toddlers in the state, as authorized on an Individualized Family Support Plan.

## **Individual and Family Service Plan**

The "Individual and family service plan" as defined in s. 411.202, F.S., is not the Early Steps Individualized Family Support Plan. The Individual and family service plan is a written individualized plan describing the developmental status of the high-risk child and the therapies and services needed to enhance both the high-risk child's growth and development and family functioning, and *shall include the contents of the written Individualized Family Service Plan.*<sup>7</sup>

## **Individualized Education Program**

An individualized education program is a written statement developed for a student eligible for special education services under the federal Individuals with Disabilities Education Act.<sup>8,9</sup>

## **Continuum of Comprehensive Services**

The DOH and the DOE participate in interagency coordination for the continuum of prevention and early assistance for high-risk and handicapped children. Under the Florida Prevention, Early Assistance, and Early Childhood Act,<sup>10</sup> a high-risk and handicapped child includes a preschool child who is, among other things, speech impaired, language impaired, deaf, or hard of hearing. Information and referral<sup>11</sup> is a component of this continuum and includes:

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<sup>6</sup> DOH Bill Analysis for SB 1240 dated March 7, 2013, on file with the Senate Health Policy Committee.

<sup>7</sup> s.411.202 (11), F.S.

<sup>8</sup> s. 1003.55 (3)(c), F.S.

<sup>9</sup> See s. s. 602(a)(20), Part A of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1401(a).

<sup>10</sup> See ss. 411.201 – 411.205, F.S.

<sup>11</sup> s. 411.203(2), F.S.

- Providing information about available services and programs to families of high-risk and handicapped children,
- Providing information about service options and providing technical assistance to aid families in the decision-making process, and
- Directing the family to appropriate services and programs to meet identified needs.

### **Florida Education Finance Program**

The base student allocation for the Florida Education Finance Program for kindergarten through grade 12 is determined annually by the Legislature and is prescribed in the current year's General Appropriations Act.<sup>12</sup>

A matrix of services is developed for students with disabilities who are funded at the highest level of need, support levels 4 and 5, based on needs identified in a student's Individual Education Program (IEP). Consistent with the services identified through the IEP, a matrix of services is used to determine which one of two cost factors would apply to each eligible exceptional education student and the support level needed. The matrix document contains checklists of services in each of the five domains (curriculum and learning environment; social/emotional behavior; independent functioning; health care; and communication) and a special considerations section. The sum of these domain ratings and any special considerations points corresponds to one of the two cost factors.<sup>13</sup>

### **III. Effect of Proposed Changes:**

The bill creates an undesignated section of law relating to instruction of children who are deaf or hard of hearing. The bill provides findings that children who are deaf or hard of hearing are entitled to an individual and family services plan or an individualized education program to better accommodate the specific needs of the child and his or her family. The bills also finds that instruction of these children should be expanded to include center-based programs and services and that allowing the child's parent or guardian the opportunity to provide contact information to registered service providers will enhance access to information about critical services and service providers.

The DOH and the DOE are to cooperatively develop standards for the selection of registered service providers or institutions to provide the services or instruction identified in this bill to children who are deaf or hard of hearing. The bill lists the type of services that the registered providers or institutions may offer to include: diagnostic and evaluation services, speech and language pathology services, services provided by a certified listening and spoken language specialist, or other services as approved by department rule.

The DOH is required to register service providers or institutions that are currently licensed, approved, or accredited by the Florida Kindergarten Council, the Florida Council of Independent Schools, the John M. McKay Scholarships for Students with Disabilities Program, or the Office

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<sup>12</sup> Section 1011.62, F.S.

<sup>13</sup> See Budget Committee Bill Analysis for CS/SB 1656 (2011) on file with the Senate Health Policy Committee.

of Early Learning, in addition to newborn screening providers offering services pursuant to the newborn and infant hearing screening provisions in s. 383.145, F.S. Other institutions or direct services providers may not participate unless the DOH approves them for inclusion on the list of registered providers.

At the time the hearing loss is identified, a health care provider is required to offer a child's parent or legal guardian the opportunity to provide contact information in the form of a mailing address or an e-mail address so that he or she may receive information from specified service providers. A parent or legal guardian of a deaf or hard of hearing child may request services from a registered service provider or institution. The level of services is determined by the child's individualized education program or individual and family service plan.

The child is eligible for services until the end of the school year in which he or she reaches age 7 or after completion of second grade, whichever occurs first. The amount allocated for a child eligible for services must be equivalent to the base student allocation in the Florida Education Finance Program multiplied by the support level V cost factor specified in the matrix of services for school funding in s. 1011.62, F.S.

The bill requires the DOH to adopt rules for the standards for the selection of service providers and other rules that are necessary to implement and administer this bill.

The effective date of this bill is July 1, 2013.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Potentially the list of service providers registered by the DOH might be limited, thereby providing those listed with enhanced business opportunities and adversely affecting those not listed on the registry.

**C. Government Sector Impact:**

Registration capability of service providers and institutions will need to be added to an existing system within the DOH or a new system will need to be developed, the cost of which is indeterminate.<sup>14</sup>

CS/SB 1240 discusses allocating funds for each child according to the base student allocation in the Florida Education Finance Program per s. 1011.62, F.S. The bill does not address which agency would receive the allocation. The DOH does not receive funds through Florida Education Finance Program<sup>15</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The authority and manner for a health care provider to transmit the email address or mailing address to either the DOH to make available to the registered services providers or directly to registered service providers or institutions is not addressed in the bill.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on March 20, 2013:**

The CS removes the word “and” and replaces it with the word “or” when identifying the types of service providers from whom the patient might receive correspondence.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>14</sup> The DOH’s bill analysis did not provide a fiscal analysis.

<sup>15</sup> *Supra* note 6.