

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1684

By: Newell

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6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Sections 13-124, 13-124.1, 13-125, 13-126, 13-127,
9 13-128 and 13-129, which relate to the Oklahoma Early
10 Intervention Act; establishing sliding scale for
11 certain services; specifying eligibility
12 requirements; providing limitation; specifying use of
13 fees; directing State Department of Health to develop
14 collection program; removing certain management cost
15 provisions from interagency contract requirements;
16 removing certain restrictions for indirect costs;
17 updating statutory references; and providing an
18 effective date.

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24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2001, Section 13-124, is
amended to read as follows:

Section 13-124. A. The State Department of Education is hereby
designated as the lead agency for general administration,
supervision and monitoring of programs and activities receiving
federal funds under Part H C of the Individuals with Disabilities
Education Act (IDEA) and state funds appropriated for early
intervention services. To ensure compliance with Part H C of the

1 ~~Individuals with Disabilities Education Act~~ (IDEA) and its
2 implementing regulations, the State Department of Education is
3 authorized to monitor and enforce any obligations imposed on
4 agencies participating under Part ~~H~~ C of the IDEA.

5 B. In accordance with Part ~~H~~ C of the ~~Individuals with~~
6 ~~Disabilities Education Act~~ (IDEA), the Oklahoma Commission on
7 Children and Youth shall administer the Interagency Coordinating
8 Council for Early Childhood Intervention which shall advise and
9 assist the lead agency in fulfillment of its responsibilities.

10 C. The State Department of Education, the State Department of
11 Health, the Department of Human Services, the Department of Mental
12 Health and Substance Abuse Services and other publicly funded
13 services shall continue to provide all services within their
14 respective statutory and constitutional responsibilities to the
15 eligible population except as otherwise provided in Section 13-101
16 of this title. State and local interagency agreements will
17 delineate responsibility for local and regional procedural
18 safeguards, provision of service and related issues. Funds provided
19 for implementation of the Oklahoma Early Intervention Act, ~~Sections~~
20 ~~13-121 through 13-129~~ of this title, shall not be used to satisfy a
21 financial commitment for services which would have been paid for or
22 provided by another public or private source, but shall be utilized
23 solely for the enactment of Part ~~H~~ C of the ~~Individuals with~~
24 ~~Disabilities Education Act~~ (IDEA) and the Oklahoma Early

1 Intervention Act. Such funds may be used whenever considered
2 necessary to prevent delay in the receipt of appropriate early
3 intervention services by the infant or toddler or family in a timely
4 fashion. Funds provided for implementation of the Oklahoma Early
5 Intervention Act may be used to pay the provider of services pending
6 reimbursement from the agency which has the ultimate responsibility.

7 D. 1. The State Board of Health may promulgate rules that
8 establish a schedule of family cost-participation fees for early
9 intervention services. Such fees shall not include services to be
10 provided to families at no cost pursuant to Part C of the IDEA.
11 Fees shall be based on a sliding scale that includes, but is not
12 limited to:

- 13 a. adjusted gross income,
- 14 b. family size,
- 15 c. financial hardship, and
- 16 d. Medicaid eligibility,

17 provided, no fee shall be established for any family making less
18 than or equal to one hundred eighty-five percent (185%) of the
19 federal poverty guidelines in adjusted gross income.

20 2. All amounts generated by the family cost-participation fees
21 shall be used to cover any costs associated with the early
22 intervention services program.

23 3. The State Department of Health shall develop a program for
24 the collection of the family cost-participation fees.

1 E. Pursuant to the requirements of Part ~~H~~ C of the ~~Individuals~~
2 ~~with Disabilities Education Act~~ (IDEA), all financial resources from
3 federal, state, local and private sources shall be coordinated to
4 fund early intervention services. In order to determine the most
5 effective utilization and achieve coordination, a joint funding plan
6 shall be submitted to the Governor, the Speaker of the House of
7 Representatives, and the Senate President Pro Tempore by the State
8 Department of Education, the State Department of Health, the
9 Department of Human Services and the Department of Mental Health and
10 Substance Abuse Services on or before October 1. The individual
11 components of such plan as they relate to individual agencies shall
12 be incorporated annually into each affected agency's budget request
13 in accordance with the provisions of Section ~~41.29~~ 34.36 of Title 62
14 of the Oklahoma Statutes. Such plan shall include, but not be
15 limited to:

16 1. Utilization of State Aid funds appropriated to the State
17 Board of Education for the purpose of providing early intervention
18 services or provided pursuant to the State Aid Formula for special
19 education services and related services to children with
20 disabilities;

21 2. Publicly funded personnel and programs in the State
22 Department of Education, the State Department of Health, the
23 Department of Human Services and the Department of Mental Health and
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1 Substance Abuse Services who are currently serving the eligible
2 population;

3 3. Feasibility of utilization of federal Title V funds;

4 4. Utilization of new state funds as may be appropriated by the
5 Legislature for fiscal year 1990 for the purpose of early
6 intervention, and of additional new funds needed to fully implement
7 early intervention services in accordance with the State of
8 Oklahoma's implementation of Part H C of the ~~Individuals with~~
9 ~~Disabilities Education Act~~ (IDEA);

10 5. Amendments to expansion of the Medicaid State Plan to
11 include early intervention services for eligible children utilizing
12 state funds designated for early intervention for the purpose of
13 matching federal funds;

14 6. Feasibility of application for federal funds appropriated
15 pursuant to P.L. 89-313; and

16 7. Utilization of funds received under Part H C of the
17 ~~Individuals with Disabilities Education Act~~ (IDEA).

18 ~~E.~~ F. The State Department of Education, the State Department
19 of Health, the Department of Human Services and the Department of
20 Mental Health and Substance Abuse Services shall be authorized to
21 transfer funds enumerated in subsection ~~D~~ E of this section to the
22 Oklahoma Early Intervention Revolving Fund created in Section 13-
23 124.1 of this title to the extent that transfers of such funds are

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1 authorized by and directed to the fund by the joint funding plan of
2 the Oklahoma Early Intervention Act or by state or federal law.

3 ~~F.~~ G. Monies appropriated to an affected agency and monies
4 identified in the joint funding plan for the purpose of providing
5 early intervention services shall be used by the agency exclusively
6 for the purpose of providing early intervention services.

7 G. H. For purposes of implementing the provisions of the
8 Oklahoma Early Intervention Act, the board of education of any
9 school district in this state may execute an agreement with a
10 city/county health department or county health department to share
11 appropriate facilities.

12 SECTION 2. AMENDATORY 70 O.S. 2001, Section 13-124.1, is
13 amended to read as follows:

14 Section 13-124.1 There is hereby created in the State Treasury
15 a revolving fund for the State Department of Education to be
16 designated the "Oklahoma Early Intervention Revolving Fund". The
17 fund shall be a continuing fund, not subject to fiscal year
18 limitations, and shall consist of those monies appropriated to the
19 fund by law or deposited in the fund pursuant to direction or
20 authorization by the joint funding plan required in Section 13-124
21 of this title. All monies accruing to the credit of said fund are
22 hereby appropriated and may be budgeted and expended by the State
23 Department of Education for the purpose of providing early
24 intervention services to children with disabilities in accordance

1 with Part ~~H~~ C of the Individuals with Disabilities Education Act
2 (IDEA) and the Oklahoma Early Intervention Act. Expenditures from
3 said fund shall be made upon warrants issued by the State Treasurer
4 against claims filed as prescribed by law with the Director of the
5 Office of State Finance for approval and payment.

6 SECTION 3. AMENDATORY 70 O.S. 2001, Section 13-125, is
7 amended to read as follows:

8 Section 13-125. A contract shall be entered into between the
9 State Department of Education and the ~~Oklahoma~~ State Department of
10 Health specifying the provision or arrangement of early intervention
11 services by the ~~Oklahoma~~ State Department of Health. Such contract
12 shall include, but not be limited to:

13 1. A delineation of individual and shared responsibilities for
14 planning, administration and funding, multi-disciplinary
15 evaluations, development of an individual family service plan,
16 service delivery, procedural safeguards and liability of both
17 agencies;

18 2. Specification of the numbers and types of personnel to be
19 provided under the contract; and

20 3. Provisions to be made by the ~~Oklahoma~~ State Department of
21 Health for provision of services not available at a local level and
22 authorization to subcontract with other public or private service
23 providers, ~~and~~

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1 ~~4. Specification of all management and indirect costs~~
2 ~~associated with the Oklahoma State Department of Health's provision~~
3 ~~of early intervention services that are authorized for payment under~~
4 ~~the contract. Allowable management costs shall be limited to~~
5 ~~itemized early intervention specific travel, dedicated or shared~~
6 ~~personnel and maintenance and operations costs. Indirect costs~~
7 ~~shall not exceed those authorized by the indirect cost formula~~
8 ~~approved by the State Department of Education for the contract~~
9 ~~period. All other administrative, management or infrastructure cost~~
10 ~~recover methodologies shall be specifically disallowed for payment~~
11 ~~under the contract.~~

12 SECTION 4. AMENDATORY 70 O.S. 2001, Section 13-126, is
13 amended to read as follows:

14 Section 13-126. Procedural safeguards shall be established in
15 fulfillment of the requirements of Part ~~H~~ C of the Individuals with
16 Disabilities Education Act (IDEA) through interagency agreements
17 involving the State Department of Education, the ~~Oklahoma~~ State
18 Department of Health, the Department of Human Services, the
19 Department of Mental Health and Substance Abuse Services and other
20 publicly funded services as appropriate.

21 SECTION 5. AMENDATORY 70 O.S. 2001, Section 13-127, is
22 amended to read as follows:

23 Section 13-127. The legal requirements for timely payment and
24 reimbursement for services under contract pursuant to Sections ~~41.4a~~

1 34.71 through ~~41.4d~~ 34.74 of Title 62 of the Oklahoma Statutes shall
2 govern the services, programs and activities for the State of
3 Oklahoma's implementation of Part ~~H~~ C of the Individuals with
4 Disabilities Education Act (IDEA).

5 SECTION 6. AMENDATORY 70 O.S. 2001, Section 13-128, is
6 amended to read as follows:

7 Section 13-128. The data collection requirements concerning
8 children with disabilities which are currently utilized by the State
9 Department of Education upon the effective date of this act shall
10 also be utilized to meet the data collection and reporting
11 requirements for the State of Oklahoma under Part ~~H~~ C of the
12 Individuals with Disabilities Education Act (IDEA). Further, the
13 ~~Oklahoma~~ State Department of Health, the Department of Human
14 Services and the Department of Mental Health and Substance Abuse
15 Services shall fulfill the data collection and reporting
16 requirements established by the United States Department of
17 Education pursuant to Part ~~H~~ C of the ~~Individuals with Disabilities~~
18 ~~Education Act (IDEA)~~ for early intervention services provided by
19 their respective agencies pursuant to the purposes of the Oklahoma
20 Early Intervention Act, ~~Section 13-121 et seq. of this title.~~ The
21 lead agency shall provide technical assistance to the agencies in
22 this endeavor.

23 SECTION 7. AMENDATORY 70 O.S. 2001, Section 13-129, is
24 amended to read as follows:

1 Section 13-129. A. The Interagency Coordinating Council for
2 Early Childhood Intervention shall assist the State Department of
3 Education in revising the Oklahoma State Plan for Special Education
4 to include areas addressing requirements under Part ~~H~~ C of the
5 Individuals with Disabilities Education Act (IDEA) necessary for
6 full implementation of ~~this act~~ the Oklahoma Early Intervention Act.
7 Such revision shall be completed by April 1, 1990.

8 B. Contingent upon the enactment of legislation authorizing
9 implementation of an annual budget submitted which is based upon a
10 joint funding plan provided in subsection ~~D~~ E of Section 13-124 of
11 this title, services in compliance with this act and Part ~~H~~ C of the
12 ~~Individuals with Disabilities Education Act (IDEA)~~ shall be in
13 effect no later than July 1, 1990. Subject to such contingency all
14 children eligible for services pursuant to the provisions of Section
15 13-123 of this title shall be served beginning July 1, 1991.

16 SECTION 8. This act shall become effective November 1, 2011.

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