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SENATE BILL NO. 1188

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws

on January 19, 2005)

(Patron Prior to Substitute—Senator Locke)

A *BILL to amend and reenact §§ 2.2-2664, 2.2-5300, 2.2-5304, and 2.2-5305 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 2.2-5304.1, and to repeal § 2.2-5306 of the Code of Virginia, relating to the Virginia Interagency Coordinating Council; establishment of local early intervention systems.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2664, 2.2-5300, 2.2-5304, and 2.2-5305 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 2.2-5304.1 as follows:

§ 2.2-2664. Virginia Interagency Coordinating Council; purpose; membership; duties.

A. The Virginia Interagency Coordinating Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to promote and coordinate early intervention services in the Commonwealth.

B. The membership and operation of the Council shall be as required by Part H C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471-1431 et seq.). The Commissioner of the Department of Health, the Director of the Department for the Deaf and Hard-of-Hearing, the Superintendent of Public Instruction, the Director of the Department of Medical Assistance Services, the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Commissioner of the Department of Social Services, the Commissioner of the Department for the Blind and Vision Impaired, the Director of the Virginia Office for Protection and Advocacy, and the Commissioner of the Bureau of Insurance within the State Corporation Commission shall each appoint one person from his agency to serve as the agency's representative on the Council.

Agency representatives shall regularly inform their agency head of the Council's activities and the status of the implementation of an early intervention services system in the Commonwealth.

C. The Council's duties shall include advising and assisting the *state* lead agency in the following:

1. Performing its responsibilities for the early intervention services system;
2. Identifying sources of fiscal and other support for early intervention services, recommending financial responsibility arrangements among agencies, and promoting interagency agreements;
3. Developing strategies to encourage full participation, coordination, and cooperation of all appropriate agencies;
4. Resolving interagency disputes;
5. Gathering information about problems that impede timely and effective service delivery and taking steps to ensure that any identified policy problems are resolved;
6. Preparing federal grant applications; and
7. Preparing and submitting an annual report to the Governor and the U.S. Secretary of Education on the status of early intervention services within the Commonwealth.

§ 2.2-5300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Council" means the Virginia Interagency Coordinating Council created pursuant to § 2.2-2664.

"Early intervention services" means services provided through Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.), as amended, designed to meet the developmental needs of each child and the needs of the family related to enhancing the child's development and provided to children from birth to age three who have (i) a ~~twenty-five~~ 25 percent developmental delay in one or more areas of development, (ii) atypical development, or (iii) a ~~handicapping~~ *diagnosed physical or mental condition that has a high probability of resulting in a developmental delay*. Early intervention services provided in the child's home and in accordance with this chapter shall not be construed to be home health services as referenced in § 32.1-162.7.

"Participating agencies" means the Departments of Health, of Education, of Medical Assistance Services, of Mental Health, Mental Retardation and Substance Abuse Services, and of Social Services; the Departments for the Deaf and Hard-of-Hearing and for the Blind and Vision Impaired; the Virginia Office for Protection and Advocacy; and the Bureau of Insurance within the State Corporation Commission.

§ 2.2-5304. State lead agency's duties.

To facilitate the implementation of an early intervention services system and to ensure compliance with federal requirements, the Governor shall appoint a lead agency. The duties of the lead agency shall

60 include:

61 1. Promulgating regulations and adopting the policies and procedures as necessary to implement an
62 early intervention services system and assure consistent and equitable access to such services, including,
63 but not limited to, uniform statewide procedures on or before January 1, 2002, for public and private
64 providers to determine parental liability and to charge fees for early intervention services in accordance
65 with federal law and regulations, in consultation with other participating agencies; the regulations shall
66 be adopted in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.);

67 2. *Contracting with local lead agencies for implementation of local early intervention systems*
68 *statewide;*

69 3. Providing technical assistance to localities in the establishment and operation of local interagency
70 ~~coordinating councils~~ local early intervention systems, including local lead agencies, local interagency
71 ~~coordinating councils,~~ and early intervention service providers; and

72 3.4. Establishing an interagency system of monitoring and supervising the early intervention services
73 system.

74 § 2.2-5304.1. Local lead agencies.

75 A. To facilitate implementation of local early intervention systems statewide, the state lead agency
76 shall contract with local lead agencies selected by the local early intervention coordinating council. If
77 the local early intervention coordinating council is unable to select a local lead agency, the state lead
78 agency shall assist in making the determination.

79 B. The local lead agency shall have the power and duty to:

80 1. Establish and administer a local system of early intervention services in compliance with Part C
81 of the Individuals With Disabilities Education Act (20 U.S.C. § 1431 et seq.) and all relevant state
82 policies and procedures;

83 2. Implement consistent and uniform policies and procedures for public and private providers to
84 determine parental liability and to charge fees for early intervention services pursuant to regulations,
85 policies, and procedures adopted by the state lead agency in § 2.2-5304; and

86 3. Manage relevant state and federal early intervention funds allocated from the state lead agency
87 for the local early intervention system, including contracting or otherwise arranging for services with
88 local early intervention services providers.

89 C. Localities shall not be mandated to provide funding for any costs under this chapter, either
90 directly or through participating local public agencies.

91 § 2.2-5305. Local interagency coordinating councils.

92 A. The lead agency, in consultation with the Virginia Interagency Coordinating Council, shall
93 establish local interagency councils on a statewide basis to advise and assist the local lead agencies and
94 to enable early intervention service providers to establish working relationships that will increase the
95 efficiency and effectiveness of early intervention services. The membership of local interagency councils
96 shall include designees from the following agencies who are authorized to make funding and policy
97 decisions: community services boards, departments of health, departments of social services, and local
98 school divisions. These designees shall designate additional council members as follows: at least one
99 parent representative who is not an employee of any public or private program that serves infants and
100 toddlers with disabilities; representatives from community providers of early intervention services; and
101 representatives from other service providers as deemed appropriate. Every county and city may appoint a
102 representative to the respective local interagency coordinating council.

103 B. The duties of local interagency coordinating councils shall include assisting and advising the
104 local lead agency in the following:

105 1. Identifying existing early intervention services and resources;

106 2. Identifying gaps in the service delivery system and developing strategies to address these gaps;

107 3. Identifying alternative funding sources;

108 4. Facilitating the development of interagency agreements and supporting the development of service
109 coalitions;

110 5. ~~Assisting in the implementation of~~ Implementing policies and procedures that will promote
111 interagency collaboration; and

112 6. Developing local procedures and determining mechanisms for implementing policies and
113 procedures in accordance with state and federal statutes and regulations.; and

114 7. ~~Implementing consistent and uniform policies and procedures on or before January 1, 2002, for~~
115 ~~public and private providers to determine parental liability and to charge fees for early intervention~~
116 ~~services pursuant to regulations, policies and procedures adopted by the lead agency in § 2.2-5304.~~

117 C. Localities shall not be mandated to fund any costs under this chapter either directly or through
118 participating local public agencies.

119 2. That § 2.2-5306 of the Code of Virginia is repealed.