

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 Children, Families, and Elder Affairs

BILL: SPB 7034

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Prenatal Services and Early Childhood Development

DATE: November 16, 2015 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hendon	Hendon		Pre-meeting

I. Summary:

SPB 7034 revises the Early Steps program in the Department of Health. The program provides screening and early intervention services to parents with infants and toddlers who have or may have a developmental delay. The program is funded with both state and federal funds.

The bill expands the duties of the department’s clearinghouse for information on early intervention services for parents and service providers. The bill provides goals for the Early Steps program, defines terms, and assigns duties to the department as well as the local Early Steps offices. The bill sets eligibility criteria for the program. The bill requires a statewide plan, performance standards and an accountability report each year. The bill designates the Florida Interagency Coordinating Council for Infants and Toddlers as the state interagency coordination council required under federal law. The bill provides procedures for the successful transition of children from the Early Steps to the local school districts. Finally, the bill repeals outdated sections of statute relating to the Early Steps program.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Florida’s Early Steps Program has its foundation in federal law. The Individuals with Disabilities Education Act (IDEA) was originally enacted by Congress in 1975 to ensure that children with disabilities have the opportunity to receive a free appropriate public education, just like other children. The law has been revised many times over the years. The most recent amendments expanded the program to pre-school children and were passed by Congress in December 2004 with final regulations published in August 2006 (Part B for school-aged children) and in September 2011 (Part C, for babies and toddlers).

The Early Steps Program (Part C of the IDEA) provides services to families with infants and toddlers from birth to three years of age who have or at risk of developmental delays or

disabilities.¹ The federal government created grants to assist states in providing early intervention programs under Part C of the IDEA.² The program has no financial eligibility requirements and is an entitlement to any eligible child.³ Florida's Early Steps Program is administered by Children's Medical Services within the Department of Health. The department contracts with hospitals and non-profit organizations such as the Easter Seals across the state for coordination and delivery of services.⁴

Part 303 of Section 34 Code of Federal Regulations are the federal rules governing early intervention programs for infants and toddlers with disabilities. The rules provide the purpose of the early intervention program, the activities that may be supported, the children that are eligible to be served, the types of services available, and the definition of service coordination activities and use of service coordinators.

Subpart D of Part 303 provides for a statewide system of early intervention services. This system must include a public awareness program; a comprehensive "child find" system that includes referral procedures; and procedures and timelines for a comprehensive, multidisciplinary evaluations of children and an identification of family needs. States must also develop policies and procedures for individualized family support plans (IFSP). Early Steps lead agencies must ensure the IFSP is developed and implemented for each eligible child.

The federal law allows for early intervention services for an eligible child and the child's family to begin before the completion of the evaluation and assessment under certain conditions. While each agency or person involved in the provision of early intervention services is responsible for making good faith efforts to assist the eligible child in achieving the outcomes in the IFSP, the law states that any agency or person cannot be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

States must establish qualifications for personnel providing early intervention services to eligible children and families.⁵ States must have standards to ensure that necessary personnel carry out the purposes of the program and are appropriately and adequately prepared and trained.⁶ Parents must give written consent before the Early Steps program may evaluate, assess, and provide early intervention services to a child.⁷ In the event parents do not give consent, reasonable efforts should be made to ensure the parent is aware of the nature of the evaluation, assessment and services available and understands that without consent the child will not be able to receive the evaluation, assessment or services.⁸

The federal rule requires that service providers give written notice to parents before the provider initiates or changes the identification, evaluation, or placement of the child, or provides the

¹ s. 391.302, F.S.

² 34 *Code of Federal Regulations* Part 303

³ *Id.*

⁴ Office of Program Policy Analysis & Government Accountability. Florida Legislature, Early Steps Has Revised Reimbursement Rates but Needs to Assess Impact of Expanded Outreach on Child Participation, Report No. 08-44, (July 2008) <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0844rpt.pdf>.

⁵ 34 CFR. s. 303.361

⁶ *Id.*

⁷ 34 CFR. s 303.404

⁸ *Id.*

appropriate early intervention services to the child and the child's family.⁹ Procedures to resolve disputes through a mediation process, at a minimum, must be available whenever a parent requests a hearing.¹⁰ The mediation process is voluntary, must be conducted by a qualified mediator, and cannot be used to deny or delay a parent's right to a due process hearing.¹¹ Mediation must be timely scheduled, any agreement reached by the parties to the dispute must be in writing, and discussions that occur during mediation are confidential and cannot be used as evidence in any subsequent proceeding.¹² The state must bear the cost of the mediation process.¹³ During the mediation, the child must continue to receive early intervention services currently being provided.¹⁴ If the complaint involves an application for initial services, the child must receive any services that are not in dispute.¹⁵

State policy must specify which functions and services will be provided at no cost to all parents and which will be subject to a system of payments.¹⁶ The inability of parents of an eligible child to pay for services must not result in a denial of services to the child or the child's family.¹⁷ States may establish a schedule of sliding fees for early intervention services but some functions such as evaluation and assessment, and service coordination are not subject to fees.¹⁸

Funds provided by the federal grant may be used only for early intervention services for an eligible child who is not entitled to these services under any other Federal, State, local or private source.¹⁹ Interim payments to avoid delay in providing needed services to an eligible child are allowed but the agency that has ultimate responsibility for the payment must reimburse the program.²⁰

Each State that receives financial assistance for the program must establish a State Interagency Coordinating Council. The Council must be appointed by the Governor and membership must reasonably represent the population of the State.²¹ The Council is to advise and assist the lead agency in:

- the development and implementation of the policies that constitute the statewide system,
- achieving the full participation, coordination and cooperation of all appropriate public agencies in the State, and
- the integration of services for infants and toddlers with disabilities and at-risk toddlers and their families regardless of whether at-risk infants and toddlers are eligible for early intervention services.²²

⁹ 34 CFR s. 303.403

¹⁰ 34 CFR s. 303.419

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ 34 CFR s. 303.425

¹⁵ *Id.*

¹⁶ 34 CFR s. 303.520

¹⁷ *Id.*

¹⁸ 34 CFR s. 303.521

¹⁹ 34 CFR s.303.527

²⁰ *Id.*

²¹ 34 CFR s. 303.600

²² 34 CFR s. 303.650

Eligible infants and toddlers are identified through referrals from hospitals, healthcare providers, and childcare staff who may interact on a regular basis with infants and toddlers. Parents may also contact the state's program directly for an evaluation and assessment. Before any evaluation can be conducted, parental consent is required. Evaluations and assessments must be completed within 45 days of the referral.²³

Early intervention skills for this population focus on 5 areas:

- Physical (reaching, rolling, crawling, and walking),
- Cognitive (thinking, learning, and solving problems),
- Communication (talking, listening, and understanding),
- Social/emotional (playing and feeling secure and happy), and
- Adaptive/self-help (eating and dressing).²⁴

States must have various components under 20 U.S.C. 1435, which broadly covers administrative, oversight and regulatory functions, such as:

- Policies to ensure appropriate delivery of early intervention services to infants, toddlers and their families,
- Individualized family service plans (IFSP) for each infant or toddler with a disability,
- A properly functioning administrative structure that identifies eligible infants and toddlers using a rigorous definition of "developmental delay," makes referrals, centrally collects information, provides directory of services and resources, incorporates data, and has a comprehensive system for personnel development,
- A single line of responsibility in a lead agency designated by the Governor, including financial responsibility, provision of services, resolution of disputes, and development of procedures to ensure timeliness of services, and
- A state interagency coordination council.

The IDEA requires that early intervention services be provided, to the maximum extent appropriate, in natural environments such as the child's home.²⁵ Florida has increased the delivery of services in the home or community based setting since 2008, but still falls below the national average for home-based services.²⁶

Allocation of federal funds to the states annually are based on the number of children in the general population aged birth through age 2 in each state using United States Census Bureau

²³ Center for Parent Information and Resources, *Basics of the Early Intervention Process under Part C of the IDEA - Handout I*, http://www.parentcenterhub.org/wp-content/uploads/repo_items/legacy/partc/handout1.pdf (last visited: Nov. 16, 2015).

²⁴ Center for Parent Information and Resources, *Overview of Early Intervention - What is Early Intervention?* <http://www.parentcenterhub.org/repository/ei-overview/> (last visited: Nov. 16, 2015).

²⁵ U.S. Department of Education, Office of Special Education (OSEP), *Grants for Infants and Families, Part C of IDEA, Grants for Infants and Toddlers*, <http://www2.ed.gov/programs/osepeip/index.html> (last visited: Nov. 16, 2015).

²⁶ U.S. Department of Education, *36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2014*, pg. 120-121, <http://www2.ed.gov/about/reports/annual/osep/2014/parts-b-c/36th-idea-arc.pdf> (last visited: Nov. 16, 2015).

data.²⁷ Federal data indicates that Florida served 1.9 percent of the population of infants and toddlers from birth through age 2 in 2012 or 12,036.²⁸

III. Effect of Proposed Changes:

Section 1 amends s. 383.141, F.S., to provide additional direction to the information clearinghouse administered by the Department of Health (department). The bill requires the clearinghouse to provide comprehensive information to educate parents and providers of early intervention services. The department is directed to refer to children with developmental disabilities or delays as children with “unique abilities” whenever possible in the clearinghouse. The department is to provide education and training to parents and providers through the clearinghouse. The clearinghouse is to promote public awareness of intervention services available to parents of children with developmental disabilities or delays.

Section 2 amends s. 391.025, F.S., to rename the Florida Infants and Toddlers Early Intervention Program under the Children’s Medical Services program as the Early Steps program.

Section 3 amends s. 391.026, F.S., to add to the department’s responsibilities the administration of the Early Steps program.

Section 4 amends s. 391.301, F.S., to update the legislative intent of the Early Steps program and to establish goals for the program. The program must:

- Enhance the development of infants and toddlers,
- Increase the awareness among parents and health care providers of the importance of the first three years of life for the development of the brain,
- Affirm the importance of the family in early intervention services,
- Provide comprehensive and coordinated services,
- Ensure timely evaluation of infants and toddlers and provide individual planning for intervention services.
- Improve the capacity of health care providers to serve children with unique needs, and
- Ensure program and financial accountability.

Section 5 amends s. 391.302, F.S., to add definitions for “developmental delay”, “developmental disability”, “habilitative services and devices”, and “local program office” of the Early Steps program.

Section 6 amends s. 391.308, F.S., to provide additional structure and guidance for the Early Steps program. The bill establishes performance standards for the program relating to services and referrals, individualized family support plans, and outcomes for infants and toddlers served.

The bill provides new duties to the department for the Early Steps program. The bill requires the department to:

²⁷ U.S. Department of Education, Office of Special Education (OSEP), *Grants for Infants and Families, Part C of IDEA, Grants for Infants and Toddlers*, <http://www2.ed.gov/programs/osepeip/index.html> (last visited: Nov. 16, 2015).

²⁸ U.S. Department of Education, *36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2014*, pg. 261, <http://www2.ed.gov/about/reports/annual/osep/2014/parts-b-c/36th-idea-arc.pdf> (last visited: Nov. 16, 2015).

- Develop a statewide plan for the program,
- Ensure that screening is continued at hospitals providing Level II and Level III neonatal intensive care,
- Establish standards and qualifications for service providers used by the program,
- Develop uniform procedures to determine eligibility for the program,
- Provide a statewide format for individualized family support plans,
- Promote interagency cooperation with the Medicaid program and the Department of Education,
- Provide guidance to local program offices for coordinating Early Step program benefits with other programs such as Medicaid and private insurance.
- Provide an appeals procedure for parents whose infant or toddler is determined not to be eligible for Early Steps services,
- Competitively procure local offices to administer the Early Steps program,
- Establish performance measures and standards to evaluate local Early Step offices, and
- Provide technical assistance to local Early Step offices.

The bill establishes eligibility for the Early Steps program. The eligibility criteria is based on federal law and funds appropriated by the General Appropriations Act. All infant and toddlers are eligible for evaluation for developmental disabilities. Infants and toddlers with a developmental disability based on a specific condition or based on an informed clinical opinion are eligible. In addition, infants and toddlers with a specific score on a standardized evaluation instrument are eligible for Early Steps.

The bill provides duties to the Early Steps offices. These offices must:

- Evaluate a child within 45 days after referral,
- Notify parents if the child is eligible for services, and provide information on the appeal process,
- Make interagency agreements with local school districts and local Medicaid managed care organizations,
- Provide services directly or procure early intervention services,
- Provide services in the natural environment to the extent possible,
- Develop an individualized family support plan for each child served in the program,
- Assess the progress of the child in meeting the goals of the individualized family support plan,
- Provide service coordination services to ensure that services are provided,
- Make agreements with local Medicaid managed care organizations,
- Make agreements with local private insurers, and
- Provide data required by the department to assess the performance of the program.

The bill requires the department to report each year to the Governor and legislature on the performance of the Early Steps program.

The bill designates the Florida Interagency Coordinating Council for Infants and Toddlers as the state interagency coordination council required under federal law.

The bill provides requirements to the local Early Steps offices to improve the transition to the local school district where the child may need special education or related services.

Section 7 amends s. 413.092, F.S., relating to the Blind Babies program to conform the name change of the Florida Infants and Toddlers Early Intervention Program to the Early Steps program.

Section 8 amends s. 1003.575, F.S., relating to assistive technology devices for special education to conform the name change of the Florida Infants and Toddlers Early Intervention Program to the Early Steps program.

Section 9 repeals s. 391.303, F.S., relating to program requirements of the Florida Infants and Toddlers Early Intervention Program.

Section 10 repeals s. 391.304, F.S., relating to program coordination of the Florida Infants and Toddlers Early Intervention Program.

Section 11 repeals s. 391.305, F.S., relating to program standards for the Florida Infants and Toddlers Early Intervention Program.

Section 12 repeals s. 391.306, F.S., relating to funding and contracts for the Florida Infants and Toddlers Early Intervention Program.

Section 13 repeals s. 391.307, F.S., relating to program reviews under the Florida Infants and Toddlers Early Intervention Program.

Section 14 provides an effective date of July 1, 2016.

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:

Additional guidance provided for the administration of the Early Steps program may result in additional opportunities for private providers of early childhood interventions.

C. Government Sector Impact:

The bill is not expected to have a fiscal impact on the Department of Health. Many of the provisions of the bill are already required under federal law. Eligibility for the program is dependent on the funding appropriated in the General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.141, 391.025, 391.026, 391.301, 391.302, 391.308, 413.092, 1003.575,

This bill repeals the following sections of the Florida Statutes: 391.303, 391.304, 391.305, 391.306, and 391.307.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.