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*Bill Analysis*  
Legislative Service Commission

## **Sub. H.B. 150\***

124th General Assembly

(As Reported by S. Health, Human Services, & Aging)

**Reps. Schuring, Hollister, Kearns, Womer Benjamin, Willamowski, Goodman, Boccieri, D. Miller, Redfern, Carmichael, Cirelli, S. Smith, Metelsky, Ford, DePiero, Barrett, Allen, Woodard, Ogg, Barnes, Britton, Young, Patton, Sullivan, R. Miller, Jolivette, Fessler, Evans, Hagan, Strahorn, Peterson, Kilbane, Metzger, Seitz, Flannery, Coates, Schmidt, White, Setzer, Sykes, Latell, Rhine, Widowfield, G. Smith, Lendrum, Olman, Krupinski, Clancy, Key, Niehaus, Hoops, Salerno, Wilson, Faber, Driehaus, Oakar, Beatty, Jones**

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### **BILL SUMMARY**

- Eliminates the existing newborn hearing screening program and replaces it with a statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment.
- Requires that the program include a hearing screening of each infant or newborn born in a hospital or freestanding birthing center before discharge unless the newborn or infant is transferred to another hospital.
- Requires that the newborn hearing screening use a physiologic test that incorporates the methods specified in rules adopted by the Public Health Council.
- Expands the membership of the Infant Hearing Subcommittee of the Medically Handicapped Children's Medical Advisory Council and expands its duties consistent with the program the bill establishes.
- Requires the Subcommittee to collect information on newborn hearing screening and issue an annual report and the Department of Health to provide support in compiling the reports.

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*\* This analysis was prepared before the report of the Senate Health, Human Services, and Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Requires the Public Health Council to adopt rules governing the program no later than six months after the bill's effective date.
- Provides that by June 30, 2004, all hospitals and freestanding birthing centers must administer physiologic hearing screenings in place of high risk questionnaires.

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## CONTENT AND OPERATION

### Current law

Current law requires the Ohio Department of Health to establish and maintain newborn infant hearing impairment risk criteria and develop a high-risk questionnaire to identify infants who are at risk of hearing impairment. The Public Health Council is required to adopt rules establishing a program administered by the Department of Health that requires risk screening of each infant in a hospital nursery to determine whether the infant meets the risk criteria established by the Department.<sup>1</sup> The rules must include a provision that no infant may be required to undergo a risk screening if the infant's parent, guardian, or custodian objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices. (Revised Code § 3701.504.)

Each hospital is required by current law to provide risk screening of newborn infants. The rules adopted by the Public Health Council specify that a hospital must provide the risk screening before the infant is discharged into the care of a parent, guardian, or custodian or before the infant attains six months of age, whichever occurs sooner. (Ohio Administrative Code § 3701-46-02(A).) The high-risk questionnaire used to identify possible infant hearing loss consists of two parts: the first is to be completed by the infant's parents and second by the hospital. (O.A.C. 3701-46-02(B)(2) and (4).) A hospital is required to distribute the questionnaire to the parents of newborn infants, collect the questionnaire, and review the results of the questionnaire and determine if the infant is at risk of hearing impairment. (O.A.C. 3701-46-02(B)(1), (3), and (5).) The review of the questionnaire must be performed by an individual who has successfully completed instruction provided by the Director of Health in interpreting the questionnaire. (O.A.C. 3701-46-02(B)(5).)

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<sup>1</sup> *The Public Health Council consists of seven members appointed by the Governor. It is responsible for adopting rules in a number of public health areas, but has no executive or administrative duties. A risk screening is the identification of infants who are at risk of hearing impairment through the use of the high-risk questionnaire developed by the Department.*

A hospital that completes the risk screening must maintain the completed questionnaire in the infant's medical record. (O.A.C. 3701-46-02(C).) It must promptly notify the primary care physician and the Department of Health of (1) the name of any infant who is identified by a risk screening as at risk for hearing impairment and (2) the name and address of the infant's parent, guardian, or custodian. (R.C. § 3701.505(A).) If an infant is identified as at risk for hearing impairment and the hospital provides hearing assessment, it is required to provide a hearing assessment for the infant; otherwise the hospital must provide the infant's parent, guardian, or custodian with a list of hospitals, clinics, or other facilities that provide hearing assessment and are located within a reasonable distance of the address of the parent, guardian, or custodian.<sup>2</sup> (R.C. § 3701.505(B).)

### **The bill**

#### **Statewide program to identify newborn and infant hearing impairment**

(secs. 3701.503, 3701.504, and 3701.505)

The bill requires the Department of Health to establish and maintain a statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment.<sup>3</sup> The bill also requires the Department to establish appropriate protocols for the treatment and follow-up care of newborns and infants with hearing impairment. The program must be incorporated into early intervention activities the Department undertakes in compliance with the federal Individuals with Disabilities Education Act.

The Public Health Council is to adopt rules governing the program, which must include a hearing screening of each infant or newborn born in a hospital or freestanding birthing center before discharge unless the newborn or infant is transferred to another hospital.<sup>4</sup> In the case of an infant who is transferred to

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<sup>2</sup> A hearing assessment is the use of audiological procedures by or under the supervision of an audiologist, neurologist, or otolaryngologist to identify infants who are at risk of hearing impairment.

<sup>3</sup> "Newborn" is defined by the bill as a child who is less than 30 days old. The bill defines an "infant" as a child who is at least 30 days but less than 24 months old. "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension. (R.C. § 3701.503(G), (H), and (I).)

<sup>4</sup> A "hospital" is a hospital that has a maternity unit or newborn nursery. A "freestanding birthing center" is any facility in which deliveries routinely occur that is not licensed

another hospital, the hospital to which the infant is transferred is required to conduct a hearing screening when medically appropriate.

The bill defines "hearing screening" as the identification of newborns and infants who have a hearing impairment through the use of a physiologic test that incorporates the methods specified in rules adopted by the Public Health Council. The physiologic test must be performed under the direction of an audiologist or physician or in collaboration with a physician. No hearing screening is required if the infant or newborn's parent, guardian, or custodian objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices. The Public Health Council must provide for situations in which the parent, guardian, or custodian objects to the screening for other than religious reasons. Each hospital and freestanding birthing center must promptly notify the attending physician and the Department of Health of the screening results for each infant or newborn screened.

Current law requires each hospital that provides hearing assessments to provide to the infant's parent, guardian, or custodian a list of nearby facilities that provide hearing evaluations. A hearing evaluation is evaluation through the use of audiological procedures by a licensed audiologist or physician. Under the bill, hospitals are not required to provide the list of facilities to the parents of infants. However, the bill requires any hospital, clinic, or other facility performing a hearing evaluation on an infant or newborn to report the results of the evaluation to the newborn or infant's attending physician.

#### **Hearing screening equipment**

The bill provides that the Public Health Council's rules can require only that hearing screening equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment. The bill authorizes the Department to assist hospitals and freestanding birthing centers in the acquisition of equipment by providing information on grant opportunities and loans, by mass purchasing equipment, or by establishing a grant system if funds are available.

#### **Who may conduct hearing screenings**

Under the bill, a physician, audiologist, or person under the direction of an audiologist or physician or in collaboration with a physician may conduct a hearing screening. The Public Health Council is required to adopt rules that

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*under the Revised Code as a level one, two, or three maternity unit or a limited maternity unit. (R.C. §§ 3701.503 and 3702.51(Z).)*



specify the training requirements for people who will conduct hearing screenings. A minimum educational level may not be established for people who conduct hearing screenings.

**Reimbursement for infant hearing screening**

(sec. 3701.505(C))

Existing law provides that any facility providing a hearing assessment required by law before an infant attains nine months of age is to be reimbursed by the Department of Health at a rate determined by the Director if the infant's parents are financially unable to pay for the assessment and the facility is not reimbursed by a third-party payer. The bill requires instead that the Department reimburse any hospital or freestanding birthing center providing a hearing screening mandated by the bill, if both of the following are the case:

- (1) The screening is performed before the newborn or infant is discharged, or in the base of a newborn not born in or admitted to a hospital, before the newborn is 30 days old;
- (2) The parent, guardian, or custodian is financially unable to pay for the hearing screening, and the hospital is not reimbursed by a third-party payer.

**Coverage for hearing screenings**

(secs. 3923.55 and 3923.56)

Current law requires sickness and accident insurance policies and employee benefit plans that provide coverage for family members and benefits for children to include benefits for child supervision services for children from birth to age nine. The benefits for child health supervision services that are provided to a child from birth to age one are not required to exceed a maximum of \$500.

The bill provides that child supervision services include newborn hearing screenings required under section 3701.504 of the Revised Code. The coverage for hearing screenings must not exceed \$75 of the \$500 maximum coverage limit.

**Distribution of information on infant hearing loss**

(sec. 3701.506)

Current law requires the Department of Health to prepare and distribute to all hospitals required to provide infant risk screenings information describing factors or conditions of hearing loss and the effect of hearing loss on an infant or child's language development. The bill expands this requirement to include

freestanding birthing centers and boards of health and also provides that the information is to include information on the importance of hearing screening, hearing evaluation, early intervention, and follow-up care for newborns and infants.<sup>5</sup>

Current law provides that when a newborn who is at risk of hearing impairment is discharged, the hospital must give the infant's parent, guardian, or custodian the information on hearing loss prepared by the Department. The bill provides that a hospital or freestanding birthing center must give the information to the parent, guardian, or custodian of each newborn or infant born in the hospital or center, but does not specify when it is to be provided. Boards of health are required by the bill to provide this information to parents, guardians, and custodians of newborns not born in a hospital or freestanding birthing center.

### **Infant Hearing Screening Subcommittee**

(sec. 3701.507)

Current law requires the Medically Handicapped Children's Medical Advisory Council to appoint a permanent Infant Hearing Screening Subcommittee.<sup>6</sup>

### **Composition of the Subcommittee**

Under current law, the Subcommittee consists of at least eight members appointed by the Council: an otolaryngologist, a neonatologist, a pediatrician, a neurologist, a hospital administrator, one or more audiologists experienced in infant hearing assessment, a licensed speech pathologist, and a parent of a hearing-impaired child. Under the bill, the Subcommittee is comprised of at least 22 members, including all of those listed above. The additional members are: at least one additional audiologist, an additional parent, a geneticist, an epidemiologist, an adult who is deaf or hearing impaired, a representative from an organization for the deaf or hearing impaired, a family advocate, a nurse from a well-baby neonatal nursery, a nurse from a special care neonatal nursery, a teacher of the deaf who works with infants and toddlers, a representative of the health insurance industry, a representative of the Bureau of Children with Medical Handicaps, a representative of the Department of Education, and a representative of the Department of Job and

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<sup>5</sup> "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in certain cities.

<sup>6</sup> The Council consists of members appointed by the Director of Health. Its duty is to advise the Director on matters related to the Program for Medically Handicapped Children.

Family Services who has responsibilities regarding Medicaid. The Council has discretion to appoint any other person to the Subcommittee.

**Duties of the Subcommittee**

Under current law, the Subcommittee is required to consult with the Director of Health regarding the administration, development, and implementation of the infant hearing screening program and advise and make recommendations regarding proposed rules. In its role as consultant to the Director, the Subcommittee must advise and make recommendations regarding all of the following:

(1) The establishment of newborn infant hearing impairment risk criteria and development of a high-risk questionnaire;

(2) Identification of locations where assessment of infants may be conducted;

(3) Recommendations for methods and techniques of risk screening and hearing assessment;

(4) Referral, data recording, and compilation, and procedures to encourage follow-up hearing assessments;

(5) Maintenance of a register of infants determined to be at high risk for hearing impairment;

(6) Preparation of any information the Public Health Council requires the Department of Health to provide.

The bill requires that the Subcommittee advise and make recommendations concerning all of the following:

(1) The establishment of the statewide hearing screening, tracking, and early intervention program;

(2) The identification of locations where hearing evaluations may be conducted;

(3) Methods and techniques of hearing screening and hearing evaluation;

(4) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;

(5) Maintenance of a register of newborns and infants who do not pass the hearing screening;



(6) Preparation of the information that the bill requires be provided to hospitals, freestanding birthing centers, and parents, and any information the Public Health Council requires the Department of Health to provide.

**Rules**

(secs. 3701.505 and 3701.508; Section 3)

The bill creates a transition period to allow hospitals and birthing centers time to convert from the former screening method to the new one. The Public Health Council must adopt rules governing the program not later than six months after the bill's effective date. Hospitals and freestanding birthing centers may continue to administer high risk questionnaires until June 30, 2004. Hospitals and freestanding birthing centers may begin physiologic screenings at any time after the rules are adopted. Once a hospital or center complies with the new program, it is no longer required to administer high risk questionnaires. A facility must continue to administer high risk questionnaires until it complies with the new program. The Department may grant a one-year extension to a facility to comply with the new program if the facility demonstrates justifiable cause.

**Mandatory reporting by hospitals**

(sec. 3701.509)

The bill requires each hospital and freestanding birthing center to provide to the Department of Health for use by the Infant Hearing Screening Subcommittee information specifying all of the following:

- (1) The number of newborns born in each hospital or freestanding birthing center;
- (2) The number of newborns born in the hospital or birthing center who received a hearing screening and the number of newborns or infants not screened because they were transferred to another hospital;
- (3) The number of newborns and infants referred to the hospital or freestanding birthing center for a screening;
- (4) The number of newborns born in the hospital or freestanding birthing center who did not pass the hearing screening.

The bill requires that the Subcommittee, with the support of the Department of Health compile and summarize the information submitted to it by hospitals and centers and, beginning with the first year after the bill becomes effective, annually prepare and transmit a report to the Director of Health, the Speaker of the House

of Representatives, and the President of the Senate. The Council must make its report available to the public.

The bill provides that the Department and all members of the Subcommittee must maintain the confidentiality of patient-identifying information submitted to them by hospitals and freestanding birthing centers. The Department may provide patient-identifying information to necessary entities to implement the state tracking and intervention program required by the bill. Any entity receiving patient-identifying information must maintain the confidentiality of the information. The information is not a public record, except to the extent that information is used in preparing the reports required by the bill.

**Technical changes**

(sec. 3701.508)

The bill makes a number of technical corrections and changes, including reorganization of the relevant Revised Code sections so that the Public Health Council's rulemaking authority appears in a distinct section.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-08-01	p. 219
Reported, H. Health & Family Services	10-11-01	p. 907
Passed House (95-2)	10-16-01	p. 923
Reported, S. Health, Human Services, and Aging	---	---

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