

**HEALTH AND SAFETY CODE SECTIONS RELATING TO NEWBORN HEARING
SCREENING WITH AMENDMENTS REQUIRED BY ASSEMBLY BILL (AB) 2651,
CHAPTER 335, STATUTES OF 2006**

Article 5 (commencing with Section 123800) of Chapter 3 of part 2 of Division 106 of the Health and Safety code, as amended by AB 2780, Chapter 310, statutes of 1998

123975.

- (a) The department, in consultation with selected representatives of participating neonatal intensive care units, shall establish a system to screen all newborns and infants for hearing loss as defined in subdivision (e) of Section 124116 and create and maintain a system of assessment and followup services for newborns and infants identified by the screening in approved neonatal intensive care units participating in the California Children's Services Program. Screening, assessment and followup services and reporting of these services shall be provided in a manner consistent with Article 6.5 (commencing with Section 124115) of Chapter 3. This section shall not be applicable to a newborn child whose parent or guardian objects to the tests on the ground that the tests conflict with his or her religious beliefs or practices.
- (b) It is the intent of the Legislature, in enacting this section, to ensure the establishment and maintenance of protocols and quality of standards.
- (c) The department shall implement this section for newborns and infants in neonatal intensive care units participating in the California Children's Services Program.

Article 6.5 (commencing with Section 124115) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, as established by AB 2780, Chapter 310, statutes of 1998 and amended by AB 2651.

Article 6.5. Newborn and Infant Hearing Screening, Tracking, and Intervention Program

124115.

This article shall be known, and may be cited as, the Newborn and Infant Hearing Screening, Tracking and Intervention Act.

124115.5.

- (a) The Legislature finds and declares all of the following:
 - (1) Hearing loss occurs in newborns more frequently than any other health condition for which newborn screening is currently required.
 - (2) Early detection of hearing loss, early intervention, and followup services before six months of age, have been demonstrated to be highly effective in facilitating the development of a child's health and communication and cognitive skills.

- (3) The State of California supports the National Healthy People 2000 goals, which promote early identification of children with hearing loss.
- (4) Children of all ages can receive reliable and valid screening for hearing loss in a cost-effective manner.
- (5) Appropriate screening and identification of newborns and infants with hearing loss will facilitate early intervention during this critical time for development of communication, and may, therefore, serve the public purposes of promoting the healthy development of children and reducing public expenditure for healthcare and special education and related services.

(b) The purposes of this article shall be to do all of the following:

- (1) Provide early detection of hearing loss in newborns, as soon after birth as possible, to enable children who fail a hearing screening and their families and other caregivers to obtain needed confirmatory tests or multidisciplinary evaluation, or both, and intervention services, at the earliest opportunity.
- (2) Prevent or mitigate delays of language and communication that could lead to academic failures associated with late identification of hearing loss.
- (3) Provide the state with the information necessary to effectively plan, establish, and evaluate a comprehensive system of appropriate services for parents with newborns and infants who have a hearing loss.

124116.

As used in this article:

- (a) "Birth admission" means the time after birth that the newborn remains in the hospital nursery prior to discharge.
- (b) "CCS" means the California Children's Services program administered through the State Department of Health Services.
- (c) "Department" means the State Department of Health Services.
- (d) "Followup services" means all of the following:
 - (1) All services necessary to diagnose and confirm a hearing loss.
 - (2) Ongoing audiological services to monitor hearing.
 - (3) Communication services, including, but not limited to, aural rehabilitation, speech, language, social, and psychological services.
 - (4) Necessary support of the infant and family.
- (e) "Hearing loss" means a hearing loss of 30 decibels or greater in the frequency region important for speech recognition and comprehension in one or both ears (from 500 through 4000 Hz). However, as technology allows for changes to this definition through the detection of less severe hearing loss, the department may modify this definition by regulation.
- (f) "Infant" means a child 29 days through 12 months old.
- (g) "Intervention services" means the early intervention services described in Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).
- (h) "Newborn" means a child less than 29 days old.

- (i) "Newborn hearing screening services" means those hearing screening tests that are necessary to achieve the identification of all newborns and infants with a hearing loss.
- (j) "Parent" means a natural parent, adoptive parent, or legal guardian of a child.

124116.5.

- (a) (1) Every general acute care hospital with licensed perinatal services in this state shall administer to every newborn, upon birth admission, a hearing screening test for the identification of hearing loss, using protocols approved by the department or its designee.
- (2) In order to meet the department's certification criteria, a general acute care hospital shall be responsible for developing a screening program that provides competent hearing screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newborn's discharge from a newborn nursery unit, refers infants with abnormal screening results, maintains and reports data as required by the department, and provides physician and family-parent education.
- (b) A hearing screening test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, licensed audiologist, or an appropriately trained individual who is supervised in the performance of the test by a licensed health care professional.
- (c) Every general acute care hospital that has not been approved by the California Children Services (CCS) program and that has licensed perinatal services that provides care in less than 100 births annually shall, if it does not directly provide a hearing screening test, enter into an agreement with an outpatient infant hearing screening provider certified by the department to provide hearing screening tests.
- (d) This section shall not apply to any newborn whose parent or guardian objects to the test on the grounds that the test is in violation of his or her beliefs.

124117.

The department or its designee shall approve hospitals for participation as newborn hearing screening providers. These facilities shall then receive payment from the department for the newborn hearing screening services provided to newborns and infants eligible for the Medi-Cal or CCS programs in accordance with this article.

124118.

The department or its designee shall provide every general acute care hospital that has licensed perinatal services, or neonatal intensive care unit (NICU), as specified in Section 123975, written information on the current and most effective means available to screen the hearing of newborns and infants, and shall provide technical assistance and consultation to these hospitals in developing a system of screening each newborn and infant receiving care

at the facility. The information shall also include the mechanism for referral of newborns and infants with abnormal test results.

24118.5.

- (a) The department shall establish a system of early hearing detection and intervention centers that shall provide technical assistance and consultation to hospitals in the startup and ongoing implementation of a facility hearing screening program and followup system.
- (b) The early hearing detection and intervention centers shall be chosen by the department according to standards and criteria developed by the California Children's Services (CCS) Program. Each center shall be responsible for a separate geographic catchment area as determined by the program.
- (c) Each center shall be required to develop a system that shall provide outreach and education to hospitals in its catchment area, approve hospitals on behalf of the department for participation as newborn hearing screening providers, maintain a data base of all newborns and infants screened in the catchment area, ensure appropriate follow up for newborns and infants with an abnormal hearing screen including diagnostic evaluation and referral to intervention service programs if the newborn or infant is found to have a hearing loss, and provide coordination with the CCS and local early intervention programs as defined in Title 14 (commencing with Section 95000) of the Government Code.

124119.

- (a) The department shall develop and implement a reporting and tracking system for newborns and infants tested for hearing loss.
- (b) The system shall provide the department with information and data to effectively plan, establish, monitor, and evaluate the Newborn and Infant Hearing Screening, Tracking and Intervention Program, including the screening and followup components, as well as the comprehensive system of services for newborns and infants who are deaf or hard-of-hearing and their families.
- (c) Every general acute care hospital with licensed perinatal services, or NICU in this state shall report to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.
- (d) All providers of audiological follow up and diagnostic services provided under this article shall report to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.
- (e) The information compiled and maintained in the tracking system shall be kept confidential in accordance with Chapter 5 (commencing with Section 10850) of Part 1 of Division 9 of the Welfare and Institutions Code, the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the

Civil Code), and the applicable requirements and provisions of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

- (f) Data collected by the tracking system obtained directly from the medical records of the newborn or infant shall be for the confidential use of the department and for the persons or public or private entities that the department determines are necessary to carry out the intent of the reporting and tracking system.
- (g) A health facility, clinical laboratory, audiologist, physician, registered nurse, or any other officer or employee of a health facility or laboratory or employee of an audiologist or physician, shall not be criminally or civilly liable for furnishing information to the department or its designee pursuant to the requirements of this section.

124119.5.

Parents of all newborns and infants diagnosed with a hearing loss shall be provided written information on the availability of community resources and services for children with hearing loss, including those provided in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), through the reporting and tracking system followup procedures. Information shall include listings of local and statewide nonprofit deaf and hard-of-hearing consumer-based organizations, parent support organizations affiliated with deafness, and programs offered through the State Department of Social Services, Office of Deaf Access, State Department of Developmental Services, and the State Department of Education.

124120.

The department may conduct a community outreach and awareness campaign to inform medical providers, pregnant women, and the families of newborns and infants on the availability of the newborn hearing screening program and the value of early hearing testing. The outreach and awareness campaign shall be conducted by an independent contractor.

124120.5.

A newborn hearing screening test shall not be performed without the written consent of the parent.