

HUMAN RESOURCES CODE

TITLE 3. FACILITIES AND SERVICES FOR CHILDREN

SUBTITLE B. SERVICES FOR CHILDREN

CHAPTER 73. EARLY CHILDHOOD INTERVENTION SERVICES

Sec. 73.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of Assistive and Rehabilitative Services.

(3) "Developmental delay" means a significant variation in normal development as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(A) cognitive development;

(B) physical development;

(C) communication development;

(D) social or emotional development; or

(E) adaptive development.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Added by Acts 1983, 68th Leg., p.1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.304, eff. April 2, 2015.

Sec. 73.003. STRATEGIC PLAN. The department shall develop and implement a strategic plan for a statewide system of early childhood intervention services, as required by Part C, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.), and its subsequent amendments, to ensure that the provisions of this chapter are properly implemented by the agencies affected.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art.

12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.305, eff. April 2, 2015.

Sec. 73.004. ADVISORY COMMITTEE. (a) The governor shall appoint an advisory committee to assist the department in the performance of its duties under this chapter. The executive commissioner shall establish the size and composition of the committee by rule, consistent with federal regulations and state rules. The commissioner of assistive and rehabilitative services may also appoint ex officio members to serve for specific purposes to assist the department in the performance of its duties under this chapter.

(b) The committee shall meet and serve in accordance with department rules, but the committee shall elect its own presiding officer. The committee may be divided into regional committees to assist the department in community-level program planning and implementation under this chapter.

(c) The advisory committee is not subject to Chapter 2110, Government Code.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.18, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 923, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.306, eff. April 2, 2015.

Sec. 73.0041. ADVISORY COMMITTEE DUTIES. The advisory committee established under Section 73.004 shall perform the duties and responsibilities required of an advisory committee under 20 U.S.C. Section 1441 and its subsequent amendments.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.307, eff. April 2, 2015.

Sec. 73.0045. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner of assistive and rehabilitative services by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.06, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.308, eff. April 2, 2015.

Sec. 73.005. ISSUES RELATED TO INTERVENTION SERVICES; LEGISLATIVE PROPOSALS. (a) The executive commissioner with the advice of the advisory committee shall address contemporary issues affecting intervention services in the state including:

- (1) successful intervention strategies;
- (2) personnel preparation and continuing education;
- (3) screening services;
- (4) day or respite care services;
- (5) public awareness; and
- (6) contemporary research.

(b) The executive commissioner with the advice of the advisory committee shall advise the legislature on legislation that is needed to maintain a statewide system of quality intervention services for children with developmental delay who are under three years of age and the families of those children. The department may develop and submit legislation to the legislature or comment on pending legislation that affects this population.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 8, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.309, eff.

April 2, 2015.

Sec. 73.0051. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT UNDER CHAPTER. (a) The department is the lead agency designated by the governor under Part C, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.), and its subsequent amendments, for the administration, supervision, and monitoring of a statewide comprehensive system of early intervention services that will ensure that all infants and toddlers in this state who are below the age of three and have developmental needs or are at risk of developmental delay receive services that are provided in partnership with their families and in the context of their local community.

(b) The executive commissioner by rule shall:

(1) provide for compliance with the terms and provisions of applicable federal and state laws in the administration of programs and the delivery of services under this chapter;

(2) establish a program to monitor fiscal and program implementation under this chapter; and

(3) establish appropriate sanctions for providers who fail to comply with statutory and regulatory fiscal and program requirements under this chapter.

(c) The department may enter into, administer, and monitor contracts with providers for programs and projects authorized under this chapter.

(d) The department shall periodically monitor program activities and fiscal performance of the entities funded under this chapter to:

(1) determine compliance with federal and state requirements;

(2) assess the performance of the entities in identifying children under three years of age with developmental delay in populations at risk of developmental delay; and

(3) issue reports regarding program monitoring.

(e) The department may apply for and accept gifts, grants, and donations from public and private sources for use in programs

authorized under this chapter. The department shall deposit money received under this section into the state treasury.

(f) The department shall:

(1) cooperate with the commission and other local, state, and federal agencies in the strategic planning, funding, delivery, and monitoring of services authorized under this chapter; and

(2) jointly with the Department of Family and Protective Services develop and implement policies applicable to providers of services authorized under this chapter in situations involving service recipients who are vulnerable to abuse or neglect.

(g) The department shall make periodic reports relating to the department's functions under this chapter as required by law to other agencies, the legislature, appropriate committees, the governor, and the United States secretary of education.

(h) The department shall ensure that all programs and department functions under this chapter are conducted in a nondiscriminatory manner.

(i) The department shall include parents when deciding the appropriate treatment for the needs of their child or children under this chapter. After establishing an initial and ongoing treatment plan for a child, the department shall ensure that the child's parents continue to be included in all decisions relating to the services provided to the child, including the determination of the most appropriate setting for the child to receive services. The department shall ensure that a child's parents receive written notification of the progress toward meeting the child's treatment plan. The notification must include details to assist parents in meeting the child's treatment goals.

(j) The department shall provide services under this chapter in the child's natural environments but must make alternatives available when early intervention cannot be achieved satisfactorily in a natural environment.

(k) The department shall cooperate with the commission to select an appropriate automated system or systems currently used by a state agency to plan, manage, and maintain records of client

services under this chapter. If cost-effective, the department may use the automated system or systems to carry out other appropriate department administrative functions under this chapter.

(1) The executive commissioner by rule may establish a system of payments by families of children receiving services under this chapter, including a schedule of sliding fees, in a manner consistent with 34 C.F.R. Sections 303.13(a)(3), 303.520, and 303.521.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 9, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 33, Sec. 5, eff. Sept. 1, 1999;

Acts 2003, 78th Leg., ch. 198, Sec. 2.114, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.310, eff. April 2, 2015.

Sec. 73.006. REIMBURSEMENT FOR EXPENSES. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(63), eff. April 2, 2015.

(b) The members of the advisory committee are entitled to reimbursement for reasonable and necessary expenses incurred in the performance of advisory committee duties, including reimbursement for child care.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(63), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(63), eff. April 2, 2015.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 747, Sec. 31, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 8.142, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 923, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.311, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec.

4.465(a)(63), eff. April 2, 2015.

Sec. 73.007. PUBLIC AWARENESS AND TRAINING. The department shall develop and implement:

(1) a general public awareness strategy focusing on the importance of prenatal care and early identification of infants and toddlers with developmental delay and the availability of resources to meet their needs; and

(2) a statewide plan for conducting training and technical assistance for service providers, primary referral sources, and families with children under three years of age with developmental delay.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 264, Sec. 22, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.312, eff. April 2, 2015.

Sec. 73.008. EARLY IDENTIFICATION STRATEGY. (a) The department shall develop and implement a statewide strategy for:

(1) the early identification of children under three years of age with developmental delay;

(2) improving the early identification of children under three years of age with developmental delay in populations at risk of developmental delay, through measures such as:

(A) targeting at-risk populations and appropriate geographical regions; and

(B) monitoring the performance of providers of services authorized under this chapter in identifying those children; and

(3) the coordination of programs with other agencies serving children with developmental delay, including the coordination of policy issues that affect children with developmental delay who are three years of age or older.

(b) The strategy must include plans to:

(1) incorporate, strengthen, and expand similar existing local efforts;

(2) incorporate and coordinate screening services currently provided through a public agency;

(3) establish a liaison with primary referral sources, including hospitals, physicians, public health facilities, and day-care facilities, to encourage referrals of children with developmental delay; and

(4) provide active leadership in addressing issues affecting the effectiveness of services for children with developmental delay, including issues such as the provision of respite care and development of incentives to encourage provision of respite care by providers of services authorized under this chapter.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 923, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 33, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.313, eff. April 2, 2015.

Sec. 73.009. REFERRAL FOR SERVICES. (a) The department shall develop and the executive commissioner shall establish policies concerning services described by this section. A child under three years of age and the child's family may be referred for services described by this section if the child is:

(1) identified as having a developmental delay;

(2) suspected of having a developmental delay; or

(3) considered at risk of developmental delay.

(b) For each child referred, the department shall ensure the performance of appropriate medical or developmental screening or evaluation, and if such screening services or evaluation services are not available, the department shall ensure that the child is referred to a public or private program that can meet the child's



needs.

(c) Services under this section shall be provided in a manner that minimizes intrusion into family privacy.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 747, Sec. 32, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 923, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.314, eff. April 2, 2015.

Sec. 73.010. ELIGIBILITY FOR SERVICES. A child is eligible for services under this chapter if the child:

(1) is under three years of age; and

(2) is documented as having developmental delay or has a medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Added by Acts 1983, 68th Leg., p. 1012, ch. 235, art. 4, Sec. 4(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 931, art. 12, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 747, Sec. 33, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.57, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 923, Sec. 15, eff. Sept. 1, 1997.

Sec. 73.011. PROVIDER SELECTION. (a) The department shall select providers of services authorized under this chapter on a best value basis in a manner that:

(1) maximizes federal, private, and local sources of funding; and

(2) promotes competition when possible.

(b) The department shall determine best value as required by Subsection (a) when the department initially awards a contract to a provider and when the department considers renewal of a provider's contract.

(c) In determining whether a provider will provide best value to the department, the department shall consider:

- (1) the past performance of the provider;
- (2) the quality of the provider's services;
- (3) the cost of the provider's services;
- (4) the ability of the provider to maximize federal, private, and local sources of funding;
- (5) the ability of the provider to comply with state and federal program requirements;
- (6) the availability of the provider to deliver required services; and
- (7) any other relevant factor.

Added by Acts 1999, 76th Leg., ch. 33, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.315, eff. April 2, 2015.

Sec. 73.022. FINANCES. (a) The executive commissioner shall:

- (1) ensure compliance with requirements necessary to obtain federal funds in the maximum amount and the most advantageous proportions possible for programs funded under this chapter; and

- (2) seek funding in a manner that maximizes the total amount of money available from federal, private, and local sources for programs funded under this chapter.

(a-1) The department shall:

- (1) apply for, receive, administer, and spend federal and state funds for Part C, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1431 et seq.), and its subsequent amendments, dealing with infants and toddlers from birth to age three with developmental delay and their families; and

- (2) authorize and account for the classification and spending of maintenance of effort and carryover funds from all sources in carrying out the programs funded under this chapter.

(b) All money paid to the department under this chapter shall be deposited in the state treasury and may be used only for the administration of this chapter.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec.

4.465(a)(64), eff. April 2, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(64), eff. April 2, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(64), eff. April 2, 2015.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(117), eff. June 17, 2011.

Added by Acts 1989, 71st Leg., ch. 813, Sec. 6.09, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.58, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 923, Sec. 16, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 33, Sec. 9, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(117), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.316, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.465(a)(64), eff. April 2, 2015.

Sec. 73.024. APPLICATION OF OPEN MEETINGS LAW, OPEN RECORDS LAW, AND ADMINISTRATIVE PROCEDURE LAW TO ADVISORY COMMITTEE. The advisory committee is subject to the requirements of the open meetings law, Chapter [551](#), Government Code, the open records law, Chapter [552](#), Government Code, and Chapter [2001](#), Government Code. Added by Acts 1997, 75th Leg., ch. 923, Sec. 18, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.317, eff. April 2, 2015.