

108TH CONGRESS  
1ST SESSION

# H. R. 1237

To amend part C of the Individuals with Disabilities Education Act to improve early intervention programs for infants and toddlers with disabilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

Mr. KENNEDY of Rhode Island introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend part C of the Individuals with Disabilities Education Act to improve early intervention programs for infants and toddlers with disabilities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCES.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Early Intervention Improvement Act”.

6       (b) **REFERENCES.**—Except as otherwise provided,  
7       whenever in this Act an amendment or repeal is expressed  
8       in terms of an amendment to, or repeal of, a title, chapter,

1 part, subpart, section, subsection, or other provision, the  
2 reference shall be considered to be made to a title, chapter,  
3 part, subpart, section, subsection, or other provisions of  
4 the Individuals with Disabilities Education Act (20 U.S.C.  
5 1400 et seq.).

6 **SEC. 2. INCENTIVE GRANTS TO REWARD STATES MEETING**  
7 **PERFORMANCE OBJECTIVES.**

8 Section 643 (20 U.S.C. 1443) is amended—

9 (1) in subsection (c), by striking “subsections  
10 (a) and (b)” and inserting “subsections (a) through  
11 (c)”;

12 (2) in subsection (d), by striking “(c),” and in-  
13 serting “(d),”;

14 (3) by redesignating subsections (c) and (d) as  
15 subsections (d) and (e), respectively; and

16 (4) by inserting after subsection (b) the fol-  
17 lowing:

18 “(c) INCENTIVE GRANTS TO REWARD STATES  
19 MEETING PERFORMANCE OBJECTIVES.—

20 “(1) RESERVATION OF FUNDS.—From the sum  
21 appropriated to carry out this part for fiscal year  
22 2005 and subsequent fiscal years, the Secretary  
23 shall reserve the following amounts for the purpose  
24 of making grants under this subsection:

25 “(A) For fiscal year 2005, the lesser of—

1           “(i) the amount (if any) by which the  
2           sum appropriated to carry out this part for  
3           fiscal year 2005 exceeds the sum appro-  
4           priated to carry out this part for fiscal  
5           year 2004; and

6           “(ii) 3 percent of the sum appro-  
7           priated to carry out this part for fiscal  
8           year 2005.

9           “(B) For fiscal year 2006, the lesser of—

10           “(i) the amount (if any) by which the  
11           sum appropriated to carry out this part for  
12           fiscal year 2006 exceeds the sum appro-  
13           priated to carry out this part for fiscal  
14           year 2004; and

15           “(ii) 4 percent of the sum appro-  
16           priated to carry out this part for fiscal  
17           year 2006.

18           “(C) For fiscal year 2007, the lesser of—

19           “(i) the amount (if any) by which the  
20           sum appropriated to carry out this part for  
21           fiscal year 2007 exceeds the sum appro-  
22           priated to carry out this part for fiscal  
23           year 2004; and

1           “(ii) 5 percent of the sum appro-  
2           priated to carry out this part for fiscal  
3           year 2007.

4           “(D) For fiscal year 2008 and subsequent  
5           fiscal years, the lesser of—

6                   “(i) the amount (if any) by which the  
7                   sum appropriated to carry out this part for  
8                   the fiscal year concerned exceeds the sum  
9                   appropriated to carry out this part for fis-  
10                  cal year 2004; and

11                   “(ii) 6 percent of the sum appro-  
12                   priated to carry out this part for the fiscal  
13                   year concerned.

14           “(2) QUALITY INCENTIVE GRANTS.—

15                   “(A) IN GENERAL.—The Secretary shall  
16                   use 75 percent of the amount reserved under  
17                   paragraph (1) to make grants to States that  
18                   operate high-quality programs under this part,  
19                   as determined by performance objectives devel-  
20                   oped by the Secretary for this purpose.

21                   “(B) STATE PERFORMANCE OBJEC-  
22                   TIVES.—Such performance objectives shall be  
23                   based on the part C focused monitoring bench-  
24                   marks developed through the Secretary’s Con-

1           tinuing Improvement Monitoring Process and  
2           shall include the following:

3                   “(i) A performance objective based on  
4                   the percentage of children under the age of  
5                   3 residing in the State who are served by  
6                   a program under this part.

7                   “(ii) A performance objective based on  
8                   the percentage of children under the age of  
9                   1 residing in the State who are served by  
10                  a program under this part or the number  
11                  of children served by this program who are  
12                  enrolled before their 1st birthday.

13                  “(iii) A performance objective to  
14                  measure the percentage of infants and tod-  
15                  dlers with an individualized family service  
16                  plan described in section 636 who dem-  
17                  onstrate improved functional abilities.

18                  “(iv) A performance objective to  
19                  measure the percentage of children making  
20                  a successful transition to the preschool  
21                  program under section 619 or other appro-  
22                  priate programs.

23                  “(3) GRANTS TO SERVE AT-RISK INFANTS AND  
24                  TODDLERS.—

1           “(A) IN GENERAL.—The Secretary shall  
2 use 25 percent of the amount reserved under  
3 paragraph (1) to make grants to States that—

4           “(i) are eligible to receive a grant  
5 under paragraph (2);

6           “(ii) render at-risk infants and tod-  
7 dlers eligible for early intervention services  
8 in accordance with this part; and

9           “(iii) provide at least 3.5 percent of  
10 the children under the age of 3 years resid-  
11 ing in the State with early intervention  
12 services in accordance with this part.

13           “(B) COUNTING CHILDREN SERVED  
14 UNDER OTHER PROGRAMS.—At the request of a  
15 State, the Secretary may certify that a program  
16 administered by a State other than this part  
17 provides at-risk infants and toddlers with sub-  
18 stantially the same services as are available  
19 under this part. In such a case, the Secretary  
20 may—

21           “(i) disregard subparagraph (A)(ii);

22           and

23           “(ii) count such at-risk infants and  
24 toddlers in determining whether the State

1 satisfies the requirement of subparagraph  
2 (A)(iii).

3 “(4) ALLOCATION.—In making grants under  
4 paragraphs (2) and (3), the Secretary shall allot  
5 funds in proportion to the relative amounts allotted  
6 under subsection (d) to the States eligible for such  
7 grants.”.

8 **SEC. 3. TRANSITION FROM PART C TO SECTION 619.**

9 (a) IN GENERAL.—

10 (1) RELATIONSHIP OF PARTS B AND C.—Sec-  
11 tion 619(h) (20 U.S.C. 1419(h)) is amended to read  
12 as follows:

13 “(h) RELATIONSHIP TO PART C.—

14 “(1) PART C INAPPLICABLE.—Part C of this  
15 Act does not apply to any child with a disability re-  
16 ceiving a free appropriate public education, in ac-  
17 cordance with this part, with funds received under  
18 this section.

19 “(2) TRANSITION FROM PART C.—In the case  
20 of a child with a disability who was served under  
21 part C and who is eligible for special education and  
22 related services in accordance with this part, con-  
23 sistent with the child’s goals (as stated in the IEP),  
24 the special education and related services provided to  
25 the child shall include services that are substantially

1 similar (including in terms of frequency and the en-  
2 vironment in which they are provided) to those in  
3 the child’s last individualized family service plan  
4 under section 636, unless the IEP Team agrees oth-  
5 erwise and documents the reasons for its decision in  
6 the IEP.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) STATE ELIGIBILITY UNDER PART B.—

9 Section 612(a)(9) (20 U.S.C. 1412(a)(9)) is  
10 amended by striking “implemented for the  
11 child.” and inserting “implemented for the child  
12 in a manner consistent with section  
13 619(h)(2).”.

14 (B) REQUIREMENT THAT IEP BE IN EF-

15 FECT.—Section 614(d)(2)(B) (20 U.S.C.  
16 1414(d)(2)(B)) is amended by striking “In the  
17 case of” and inserting “Subject to section  
18 619(h)(2), in the case of”.

19 (b) STATE-LEVEL PRESCHOOL ACTIVITIES.—Section

20 619(f) (20 U.S.C. 1419(f)) is amended—

21 (1) in paragraph (4), by striking “or” at the  
22 end;

23 (2) in paragraph (5), by striking the period at  
24 the end and inserting “; or”; and

25 (3) by adding at the end the following:

1           “(6) to continue service coordination or case  
2           management services for families that received such  
3           services under part C.”.

4   **SEC. 4. PERMANENT AUTHORIZATION.**

5           Section 645 (20 U.S.C. 1445) is amended to read as  
6 follows:

7   **“SEC. 645. AUTHORIZATION OF APPROPRIATIONS.**

8           For the purpose of carrying out this part, there are  
9 authorized to be appropriated \$500,000,000 for fiscal year  
10 2004 and such sums as may be necessary for each suc-  
11 ceeding fiscal year.”.

12   **SEC. 5. CHANGE IN ELIGIBILITY FOR SERVICES.**

13           Section 632(5)(A)(ii) (20 U.S.C. 1432(5)(A)(ii)) is  
14 amended by inserting “, or a family condition character-  
15 ized by diagnosed serious maternal depression, confirmed  
16 parental substance abuse, or documented family violence  
17 (including child abuse),” after “mental condition”.

18   **SEC. 6. IMPROVED CHILD FIND SYSTEM.**

19           (a) IN GENERAL.—

20           (1) REFERRAL OF ABUSED OR NEGLECTED IN-  
21 FANTS AND TODDLERS FOR EVALUATION.—Section  
22 635(a)(5) (20 U.S.C. 1435(a)(5)) is amended by in-  
23 serting before the period at the end the following: “,  
24 and including a requirement, based on a State pol-  
25 icy, that all children under 3 years of age who are

1 involved in a substantiated case of child abuse or ne-  
2 glect are referred to the system described in section  
3 633 for evaluation and, if appropriate, receipt of  
4 early intervention services”.

5 (2) CONSTRUCTION.—Section 635 (20 U.S.C.  
6 1435) is amended by adding at the end the fol-  
7 lowing:

8 “(c) CONSTRUCTION.—Nothing in subsection (a)(5)  
9 shall be construed to alter the responsibility of a State  
10 under title XIX of the Social Security Act (42 U.S.C.  
11 1396 et seq.) with respect to early and periodic screening,  
12 diagnostic, and treatment services (as defined in section  
13 1905(r) of such Act (42 U.S.C. 1396d(r)).”.

14 (b) APPLICATION REQUIREMENT.—Section 637(a)(3)  
15 (20 U.S.C. 1437(a)(3)) is amended—

16 (1) in subparagraph (A), by striking “and” at  
17 the end;

18 (2) in subparagraph (B), by striking the period  
19 at the end and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(C) a description of the State’s child find  
22 system, including procedures to ensure that in-  
23 fants and toddlers in the child welfare system  
24 are referred as required by section 635(a)(5).”.

1 **SEC. 7. IMPROVED COORDINATION AMONG STATE AGEN-**  
2 **CIES.**

3 (a) COORDINATION WITH MENTAL HEALTH SYS-  
4 TEM.—Section 637(a) (20 U.S.C. 1437(a)) is amended—

5 (1) in paragraph (8), by striking “and” at the  
6 end;

7 (2) by redesignating paragraph (9) as para-  
8 graph (10); and

9 (3) by inserting after paragraph (8) the fol-  
10 lowing:

11 “(9) a description of efforts of the system de-  
12 scribed in section 633 to coordinate with the State  
13 mental health system in the identification of infants  
14 and toddlers with disabilities and delivery of early  
15 intervention services; and”.

16 (b) STATE INTERAGENCY COORDINATING COUN-  
17 CIL.—Section 641(b)(1) (20 U.S.C. 1441(b)(1)) is amend-  
18 ed by adding at the end the following:

19 “(J) CHILD WELFARE AGENCY.—At least  
20 one member shall be from the State agency re-  
21 sponsible for child welfare, specifically the agen-  
22 cy with jurisdiction over child protective serv-  
23 ices for children who have been abused or ne-  
24 glected, and shall have sufficient authority to  
25 engage in policy planning and implementation  
26 on behalf of such agency.

1           “(K) MENTAL HEALTH AGENCY.—At least  
2           one member shall be from the State agency re-  
3           sponsible for children’s mental health, and shall  
4           have sufficient authority to engage in policy  
5           planning and implementation on behalf of such  
6           agency.”.

7 **SEC. 8. IMPROVED SERVICES.**

8           Section 632(4) (20 U.S.C. 1432(4)) is amended—

9           (1) in subparagraph (E)—

10           (A) in clause (xiii), by striking “and” at  
11           the end;

12           (B) by redesignating clause (xiv) as clause  
13           (xv); and

14           (C) by inserting after clause (xiii) the fol-  
15           lowing:

16           “(xiv) parent-child and family ther-  
17           apy; and”;

18           (2) by amending subparagraph (G) to read as  
19           follows:

20           “(G) to the maximum extent appropriate,  
21           are provided in natural environments, which are  
22           settings in which an infant or toddler with a  
23           disability’s peers without disabilities are typi-  
24           cally found, including the infant or toddler’s  
25           home, a child care program, an Early Head

1 Start program implemented under section 645A  
2 of the Head Start Act (42 U.S.C. 9840a), and  
3 other appropriate settings; and”.

4 **SEC. 9. EARLY INTERVENTION PERSONNEL TRAINING AND**  
5 **PROFESSIONAL DEVELOPMENT.**

6 (a) REQUIREMENTS FOR STATEWIDE SYSTEM.—Sec-  
7 tion 635(a)(8) (20 U.S.C. 1435(a)(8)) is amended—

8 (1) in subparagraph (C), by striking “and” at  
9 the end;

10 (2) in subparagraph (D), by striking the period  
11 at the end and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(E) training personnel in the emotional  
14 and social development of young children.”.

15 (b) NATIONAL ACTIVITIES.—Part D of the Individ-  
16 uals with Disabilities Education Act (20 U.S.C. 1451 et  
17 seq.) is amended—

18 (1) in section 651(a)(4)—

19 (A) by inserting “the lead State agency for  
20 part C,” after “in partnership with”; and

21 (B) by inserting a comma after “local edu-  
22 cational agencies”;

23 (2) in section 652(b)(1)(A)—

24 (A) by inserting “the lead State agency for  
25 part C,” after “in partnership with”; and

1 (B) by inserting a comma after “local edu-  
2 cational agencies”;

3 (3) in section 652(b)(1)(B), by striking clause  
4 (vii) and redesignating clauses (viii) through (xi) as  
5 clauses (vii) through (x), respectively;

6 (4) in section 653(b)(2)(B)—

7 (A) in the matter preceding clause (i), by  
8 inserting “from birth through age 21” after  
9 “children with disabilities”; and

10 (B) in clause (i), by striking “and” at the  
11 end;

12 (C) in clause (ii)—

13 (i) by striking “clause (i)” and insert-  
14 ing “clauses (i) and (ii)”; and

15 (ii) by adding “and” at the end;

16 (D) by redesignating clauses (i) and (ii) as  
17 clauses (ii) and (iii), respectively; and

18 (E) by inserting before clause (ii) (as so  
19 redesignated) the following:

20 “(i) the number of personnel pro-  
21 viding early intervention services and spe-  
22 cial education and related services to chil-  
23 dren from birth through age 5;”;

24 (5) in section 653(c)—

1 (A) in paragraph (1)(A)(i), by inserting  
2 “the lead State agency for part C,” after  
3 “State educational agency,”; and

4 (B) in paragraph (3)—

5 (i) in subparagraph (C), by striking  
6 “and schools” and inserting “, schools, and  
7 providers of child care, preschool, and  
8 early intervention services”; and

9 (ii) in subparagraph (D)—

10 (I) in the matter preceding clause  
11 (i), by inserting “child care, pre-  
12 school,” after “related services,”;

13 (II) in clause (vii), by inserting  
14 “providers of child care, preschool,  
15 and early intervention services,” after  
16 “teachers,”;

17 (III) in clause (viii), by inserting  
18 “child care, preschool education, and  
19 early intervention,” after “in the  
20 fields of”; and

21 (IV) in clause (x), by inserting  
22 “child care, preschool, early interven-  
23 tion,” after “parents and”; and

24 (6) in section 654(b)(1)(A), by inserting “, and  
25 child care, preschool, and early intervention per-



1 U.S.C. 9831 et seq.), child welfare personnel, and  
2 personnel administering block grants for temporary  
3 assistance for needy families under part A of title IV  
4 of the Social Security Act (42 U.S.C. 601 et seq.),  
5 in order to improve their familiarity with the State  
6 system described in section 633 and their ability to  
7 make appropriate referrals to such system.

8 “(b) PREFERENCE.—

9 “(1) IN GENERAL.—In providing assistance  
10 under subsection (a), the Secretary shall give pref-  
11 erence to applicants that propose to develop and im-  
12 plement coordinated training for State agency per-  
13 sonnel, including personnel from State agencies with  
14 jurisdiction over mental health, child care, early  
15 childhood education, programs under the Head Start  
16 Act, child welfare, substance abuse, domestic vio-  
17 lence, and block grants for temporary assistance for  
18 needy families under part A of title IV of the Social  
19 Security Act, and other State personnel having fre-  
20 quent contact with children under 3 years of age and  
21 their families.

22 “(2) OBJECTIVES.—The objectives of such co-  
23 ordinated training shall be to foster integrated serv-  
24 ices by improving the ability of State agencies—

1           “(A) to make appropriate referrals to other  
2 agencies;

3           “(B) to coordinate services when nec-  
4 essary; and

5           “(C) to serve as a resource for other agen-  
6 cies in program development and implementa-  
7 tion.

8           “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to carry out this section  
10 such sums as may be necessary for each of fiscal years  
11 2004 through 2008.”.

12           (b) CLERICAL AMENDMENT.— The table of contents  
13 is amended by inserting after the item relating to section  
14 673 the following:

“Sec. 673A. Training and professional development for personnel providing  
early intervention services.”.

15 **SEC. 11. MODEL DEFINITION OF DEVELOPMENTAL DELAY;**  
16 **POPULATION ESTIMATE.**

17           (a) IN GENERAL.—The Secretary of Education shall  
18 enter into appropriate arrangements with the National  
19 Academy of Sciences to commission the Academy—

20           (1) to develop a model meaning for “develop-  
21 mental delay” (as defined in section 632 of the Indi-  
22 viduals with Disabilities Education Act (20 U.S.C.  
23 1432)) for States to use in establishing eligibility for

1 early intervention services under part C of such Act;  
2 and

3 (2) to estimate the percentage of each State's  
4 population who would receive such services if such  
5 model were to be adopted by the State.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated \$700,000 to carry out  
8 this section for fiscal year 2004.

9 **SEC. 12. SERVICE COORDINATION FOR INFANTS, TOD-**  
10 **DLERS, AND PRESCHOOL CHILDREN.**

11 The Federal Interagency Coordinating Council estab-  
12 lished under section 644 of the Individuals with Disabil-  
13 ities Education Act (20 U.S.C. 1444) shall consider mech-  
14 anisms for providing service coordination from birth  
15 through age 5 for infants, toddlers, and children served  
16 under part C and section 619 of such Act. Such council  
17 shall submit a report to the Congress not later than 12  
18 months after the date of the enactment of this Act con-  
19 taining recommendations for providing such coordination.

20 **SEC. 13. EFFECTIVE DATE.**

21 The amendments made by this Act shall take effect  
22 on October 1, 2003.

○