

**CHAPTER 102****(HB 5)**

AN ACT relating to childhood hearing loss.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and 216.2970, unless the context requires otherwise:

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Commission" means the Commission for Children with Special Health Care Needs;
- (3) "**Permanent childhood hearing loss**" ~~["Hard of hearing infant"]~~ means a **hearing deficit identified in infancy or childhood** ~~[child at birth with a significant hearing loss]~~ which prevents the acquisition of speech and language through normal channels;
- (4) "Auditory screening report" means a written evaluation of an auditory screening as required under KRS 216.2970;
- (5) "Infant at high risk **for late onset, progressive hearing loss, or both**" ~~[of hearing loss]~~ means a child at birth who is at a higher risk than normal of **becoming deaf or** ~~[being]~~ hard of hearing **or having progressively worsening hearing** due to one (1) or more of the following factors ~~[present at birth]~~:
  - (a) Family history of a congenital hearing loss;
  - (b) Rubella or virus during pregnancy;
  - (c) **Neonatal intensive care of more than five (5) days** ~~[Congenital ear, nose, or throat anomalies]~~;
  - (d) Below-normal birth weight;
  - (e) **Neonatal intensive care, regardless of the number of days, for any of the following conditions:**
    1. **Extracorporeal membrane oxygenation (ECMO);**
    2. **Assisted ventilation;**
    3. **Exposure to ototoxic medications including but not limited to gentramycin and tobramycin, or loop diuretics, including but not limited to furosemide;**
    4. **Hyperbilirubinemia that requires an exchange transfusion;**
    5. **Syndromes associated with hearing loss and progressive or late onset hearing loss including but not limited to neurofibromatosis, osteopetrosis, and Usher, Waardenburg, Alport, Pendred, and Jervell and Lange-Nielson Syndromes;**
    6. **Congenital ear, nose, or throat anomalies including but not limited to those involving the pinna, ear canal, ear tags, ear pits, and temporal bone;**
    7. **Culture-positive postnatal infections associated with sensorineural hearing loss including, but not limited to, confirmed bacterial and viral meningitis** ~~[Abnormal level of jaundice]~~;
  - (f) ~~[Anoxia or apnea;~~
  - (g) ~~A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration; or~~
  - (h) ~~An auditory screening indicating a hearing loss; or~~
  - (g) **Any other factor identified by the American Medical Association the American Academy of Pediatrics, or the American Academy of Otolaryngology as a cause of late onset or progressive hearing loss.**

➔Section 2. KRS 211.647 is amended to read as follows:

- (1) The commission, on receipt of an auditory screening report of an infant from a hospital or alternative birthing center in accordance with KRS 216.2970 shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days.
- (2) The commission shall secure information missing from birth certificates or hospital referral reports which is relevant to identifying infants with a hearing loss.
- (3) *The commission shall establish standards for infant audiological assessment and diagnostic centers based on accepted national standards including but not limited to the "Guidelines for the Audiologic Assessment of Children From Birth to 5 Years of Age" as published by the American Speech-Language-Hearing Association (ASHA) and the "Year 2007 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" as published by the Joint Committee on Infant Hearing (JCIH). The commission may promulgate administrative regulations in accordance with KRS Chapter 13A to establish the standards for the centers.*
- (4) *The commission shall maintain a list of approved infant audiological assessment and diagnostic centers that meet the standards established by the commission. An audiological assessment and diagnostic center included on the list shall meet the standards established by the commission. An approved center may voluntarily choose not to be included on the list.*
- (5) *An approved audiology assessment and diagnostic center shall agree to provide requested data to the commission for each infant evaluated and on any newly identified children ages birth to three (3) years with a permanent childhood hearing loss within forty-eight (48) hours and make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664. A center shall submit documentation to the commission of a referral made to the Kentucky Early Intervention System. A referral received by the Kentucky Early Intervention System from a center shall be considered a referral from the commission.*
- (6) If the ~~audiological~~ ~~hearing~~ evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:
  - (a) Contact the attending physician and parents *and provide information to the parents in an accessible format as supplied by the Kentucky Commission on Deaf and Hard of Hearing*; and
  - (b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.
- (7)~~(4)~~ The commission shall forward a report of *an audiological* ~~a hearing~~ evaluation that indicates a hearing loss, with no information that personally identifies the child, to:
  - (a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and
  - (b) The Kentucky Birth Surveillance Registry for information purposes.
- (8)~~(5)~~ Cumulative demographic data of identified infants with a hearing loss shall be made available to agencies and organizations including~~;~~ but not limited to~~;~~ the Cabinet for Health and Family Services and the Early Childhood Development Authority, requesting the information for planning purposes.

➔Section 3. KRS 216.2970 is amended to read as follows:

- (1) As a condition of licensure or relicensure, all hospitals offering obstetric services and alternative birthing centers with at least forty (40) births per year shall provide an auditory screening for all infants using one (1) of the methods approved by the *Commission for Children with Special Health Care Needs*~~Early Childhood Development Authority~~ by administrative regulation promulgated in accordance with KRS Chapter 13A.
- (2) An auditory screening report that indicates a finding of potential hearing loss shall be forwarded by the hospital or alternative birthing center within twenty-four (24) hours of receipt to the:
  - (a) Attending physician *or healthcare provider*;
  - (b) Parents;~~and~~
  - (c) Commission for Children with Special Health Care Needs for evaluation or referral for further evaluation in accordance with KRS 211.647; *and*

*(d) Audiological assessment and diagnostic center approved by the commission if a follow-up assessment has been scheduled prior to the infant's discharge from the hospital.*

- (3) An auditory screening report that does not indicate a potential hearing loss shall be forwarded within one (1) week to the Commission for Children with Special Health Care Needs with no information that personally identifies the child.

➔Section 4. KRS 213.046 is amended to read as follows:

- (1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.
- (2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.
- (3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:
- (a) Meet with the mother prior to the release from the hospital;
  - (b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;
  - (c) Provide written materials and oral, audio, or video materials about paternity;
  - (d) Provide forms necessary to voluntarily establish paternity;
  - (e) Provide a written and an oral, audio, or video description of the rights and responsibilities, the alternatives to, and the legal consequences of acknowledging paternity;
  - (f) Provide written materials and information concerning genetic paternity testing;
  - (g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;
  - (h) If the parents wish to acknowledge paternity, require the voluntary acknowledgment of paternity obtained through the hospital-based program be signed by both parents and be authenticated by a notary public;
  - (i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;
  - (j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;
  - (k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and
  - (l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

- (4) The voluntary acknowledgment-of-paternity forms designated by the Vital Statistics Branch shall be the only documents having the same weight and authority as a judgment of paternity.

- (5) The Cabinet for Health and Family Services shall:
- (a) Provide to all public and private birthing hospitals in the state written materials *in accessible formats* and audio or video materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;
  - (b) Provide copies of a written description *in accessible formats* and an audio or video description of the rights and responsibilities of acknowledging paternity; and
  - (c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program.
- (6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:
- (a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,
  - (b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,
  - (c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.
- (7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.
- (8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.
- (9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:
- (a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.
  - (b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.
  - (c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.
- (10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:
- (a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.
  - (b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

- (c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.
  - (d) In all other cases, the surname of the child shall be any name chosen by the mother.
- (11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.
  - (12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.
  - (13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.
  - (14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.
  - (15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.
  - (16) When a birth certificate is filed for any birth that occurred outside an institution, the Cabinet for Health and Family Services shall forward information regarding the need for an auditory screening for an infant and a list of options available for obtaining an auditory screening for an infant. The list shall include the Commission for Children with Special Health Care Needs, local health departments as established in KRS Chapter 212, hospitals offering obstetric services, alternative birthing centers required to provide an auditory screening under KRS 216.2970, *audiological assessment and diagnostic centers approved by the Commission for Children with Special Health Care Needs in accordance with Section 2 of this Act* and licensed audiologists, and shall specify the hearing methods approved by the *Commission for Children with Special Health Care Needs* ~~Early Child Development Authority~~ in accordance with KRS 216.2970.

**Signed by the Governor March 27, 2009.**