

SENATE BILL NO. 265

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 9, 2022)

(Patron Prior to Substitute--Senator Hashmi)

A BILL to amend the Code of Virginia by adding a section numbered 22.1-217.04, relating to language development for children who are deaf or hard of hearing; assessment resources for parents and educators; advisory committee; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-217.04 as follows:

§ 22.1-217.04. Language development for children who are deaf or hard of hearing; assessment resources for parents and educators; advisory committee; report.

A. For the purposes of this section, "language developmental milestones" means milestones of development aligned to the existing instrument used to assess the development of children with disabilities pursuant to federal law.

B. 1. The Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall establish an advisory committee for the purpose of soliciting input from members on the selection of language developmental milestones for inclusion in a resource for use by parents of a child from birth to age five who is identified as deaf or hard of hearing to monitor and track the child's expressive and receptive language acquisition and developmental stages toward English literacy. The advisory committee shall consist of 16 nonlegislative citizen members, nine of which shall be voting members as described in subdivision 2 and seven of which shall be nonvoting members as described in subdivision 3. The majority of members shall be deaf or hard of hearing, and all of the members shall have experience in the field of education of individuals who are deaf or hard of hearing. The advisory committee shall have a balance of members who personally,

26 professionally, or parentally use the dual languages of American Sign Language and English and members
27 who personally, professionally, or parentally use only spoken English.

28 2. The nine voting members of the committee shall be as follows:

29 a. One parent of a child who is deaf or hard of hearing who has chosen American Sign Language
30 as the primary language for his child;

31 b. One parent of a child who is deaf or hard of hearing who has chosen spoken language as the
32 communication mode for his child;

33 c. One parent of a child who is deaf or hard of hearing who has chosen cued speech as the
34 communication mode for his child;

35 d. One teacher for the deaf or hard-of-hearing or developmental specialist who possesses the
36 highest skill level in the development of American Sign Language competence with experience in early
37 intervention;

38 e. One teacher for the deaf or hard-of-hearing or developmental specialist who possesses the
39 highest skill level in the development of spoken language competence for children with hearing loss with
40 experience in early intervention;

41 f. One teacher for the deaf or hard-of-hearing or early intervention specialist who possesses the
42 highest skill level in the development of cued speech or language competence with experience in early
43 intervention;

44 g. One speech-language pathologist who possesses the highest skill level in the development of
45 American Sign Language with experience in early intervention;

46 h. One speech-language pathologist who possesses the highest skill level in the development of
47 spoken language for children with hearing loss with experience in early intervention; and

48 i. One service coordinator from early intervention with experience in providing families with
49 unbiased information regarding communication methodologies available to families.

50 3. The seven nonvoting members of the committee shall be representatives of each of the following
51 agencies or committees, as determined by the agency head or committee chair:

52 a. The Virginia Early Hearing Detection and Intervention Program Advisory Committee;

- 53 b. The Virginia School for the Deaf and the Blind;
- 54 c. The Infant and Toddler Connection of Virginia;
- 55 d. The Virginia Department of Education;
- 56 e. The Center for Family Involvement at the Virginia Commonwealth University Partnership for
- 57 People with Disabilities;
- 58 f. The Virginia Department for the Deaf and Hard of Hearing; and
- 59 g. The Virginia Association of the Deaf.
- 60 C. No later than March 1, 2023, the Department, in coordination with the Department for the Deaf
- 61 and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall provide
- 62 the advisory committee established pursuant to subsection B with a list of all existing language
- 63 developmental milestones from standardized norms and any relevant information regarding such language
- 64 developmental milestones for possible inclusion in the parent resource set forth in subsection D. No later
- 65 than June 1, 2023, the advisory committee shall recommend language developmental milestones for
- 66 inclusion in the parent resource and may make recommendations for tools or assessments to be included
- 67 in an educator resource set forth in subsection E for use in assessing the language and literacy development
- 68 of children from birth to age five who are deaf or hard of hearing. No later than June 30, 2023, the
- 69 Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department
- 70 of Behavioral Health and Developmental Services, shall select language developmental milestones for
- 71 inclusion in the parent resource and inform the advisory committee of its selections.
- 72 D. The Department, in coordination the Department for the Deaf and Hard-of-Hearing and the
- 73 Department of Behavioral Health and Developmental Services, shall, after considering the
- 74 recommendations submitted by the advisory committee, select language developmental milestones for
- 75 inclusion in a resource, and develop such resource, for use by parents of a child from birth to age five who
- 76 is identified as deaf or hard of hearing to monitor and track the child's expressive and receptive language
- 77 acquisition and developmental stages toward English literacy. Such parent resource shall:
- 78 1. Be appropriate for use, in both content and administration, with children who use American
- 79 Sign Language, English, or both;

80 2. Present the language development milestones selected pursuant to subsection C in terms of
81 typical development of all children in a particular age range;

82 3. Be written for clarity and ease of use by parents;

83 4. Be aligned to the Department's existing infant, toddler, and preschool guidelines; the existing
84 instrument used to assess the development of children with disabilities pursuant to federal law; and state
85 standards in English language arts;

86 5. Make clear that parents have the right to select American Sign Language, English, or both for
87 their child's language acquisition and developmental milestones;

88 6. Make clear that the parent resource is not a formal assessment of language and literacy
89 development and that parents' observations of their child may differ from formal assessment data
90 presented at an Individual Family Service Plan (IFSP) or Individualized Education Program (IEP)
91 meeting;

92 7. Explain that parents may bring the parent resource to an IFSP or IEP meeting for purposes of
93 sharing their observations about their child's development; and

94 8. Include fair, balanced, and comprehensive information about American Sign Language and
95 English and respective communication modes as well as available services and programs.

96 The Department, the Department for the Deaf and Hard-of-Hearing, and the Department of
97 Behavioral Health and Developmental Services shall jointly disseminate the resource to parents of
98 children from birth to age five who are deaf or hard of hearing.

99 E. The Department, in coordination with the Department for the Deaf and Hard-of-Hearing and
100 the Department of Behavioral Health and Developmental Services, shall, after considering any
101 recommendations submitted by the advisory committee, select existing tools or assessments for early
102 intervention specialists and educators for use in assessing the language and literacy development of
103 children from birth to age five who are deaf or hard of hearing. Such tools or assessments shall:

104 1. Be in a format that shows stages of language and literacy development;

105 2. Be selected for use by educators to track the expressive and receptive language acquisition and
106 developmental stages toward English literacy of children from birth to age five who are deaf or hard of
107 hearing; and

108 3. Be appropriate, in both content and administration, for use with children who are deaf or hard
109 of hearing and who use American Sign Language, English, or both.

110 The Department, the Department for the Deaf and Hard-of-Hearing, and the Department of
111 Behavioral Health and Developmental Services shall jointly disseminate the tools or assessments selected
112 pursuant to this subsection to local educational agencies and provide materials and training on their use.
113 Such tools or assessments may be used by a child's IFSP or IEP team, as applicable, to track the expressive
114 and receptive language acquisition and developmental stages toward English literacy of such child or to
115 establish or modify IFSP or IEP plans.

116 F. In addition to the powers and duties set forth above, the advisory committee may:

117 1. Advise the Department, the Department for the Deaf and Hard-of-Hearing, and the Department
118 of Behavioral Health and Developmental Services or its contractor on the content and administration of
119 the existing instrument used to assess the development of children who are deaf or hard of hearing in order
120 to ensure the appropriate use of such instrument for the assessment of the language and literacy
121 development of children from birth to age five who are deaf or hard of hearing; and

122 2. Make recommendations regarding future research to improve the measurement of the language
123 and literacy development of children from birth to age five who are deaf or hard of hearing.

124 G. If a child from birth to age five who is deaf or hard of hearing does not demonstrate progress in
125 expressive and receptive language skills as measured by one of the educator tools or assessments selected
126 pursuant to subsection E or by the existing instrument used to assess the development of children who are
127 deaf or hard of hearing, such child's IFSP or IEP team, as applicable, shall explain in detail the reasons
128 why the child is not meeting or progressing toward the language developmental milestones and shall
129 recommend specific strategies, services, and programs that shall be provided to assist the child's progress
130 toward English literacy.

131 H. No later than August 1, 2023, and no later than August 1 of each year thereafter, the Department,
132 in coordination with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral
133 Health and Developmental Services, shall produce a report, using existing data reported in compliance
134 with the federally required state performance plan on students with disabilities, that compares the language
135 and literacy development of children from birth to age five who are deaf or hard of hearing with the
136 language and literacy development of their peers who are not deaf or hard of hearing and shall make such
137 report available to the public on its website.

138 I. The Department, the Department for the Deaf and Hard-of-Hearing, and the Department of
139 Behavioral Health and Developmental Services shall comply with the provisions of the federal Individuals
140 with Disabilities Education Act (20 U.S.C. § 1400 et seq.) and the Family Educational Rights and Privacy
141 Act (20 U.S.C. § 1232g) in carrying out the provisions of this section.

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