

1 H.140

2 Introduced by Representatives Masland of Thetford, Berry of Manchester,
3 Briglin of Thetford, Buxton of Tunbridge, Carr of Brandon,
4 Evans of Essex, McCullough of Williston, Olsen of
5 Londonderry, Patt of Worcester, Russell of Rutland City,
6 Stevens of Waterbury, Toleno of Brattleboro, Townsend of
7 South Burlington, and Zagar of Barnard

8 Referred to Committee on

9 Date:

10 Subject: Human services; education; persons who are deaf or hard of hearing;
11 bill of rights; commission

12 Statement of purpose of bill as introduced: This bill proposes to establish a bill
13 of rights for children who are deaf or hard of hearing and to create a
14 commission for persons who are deaf or hard of hearing.

15 An act relating to persons who are deaf or hard of hearing

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec 1. 33 V.S.A. chapter 48 is added to read:

18 CHAPTER 48. CHILDREN WHO ARE DEAF OR HARD OF HEARING

19 § 4801. DEFINITIONS

20 As used in this chapter:

1 (1) “Communication or language mode” means one or a combination of
2 the following systems or methods of communication available to children who
3 are deaf or hard of hearing: American Sign Language; English-based manual
4 or sign systems; oral, aural, speech-based training; spoken and written English,
5 including speech reading or lip reading; and communication with an assistive
6 technology device to facilitate language and learning.

7 (2) “Deaf” means having a severe or complete absence of auditory
8 sensitivity that impairs processing of linguistic information through hearing,
9 with or without amplification, and that adversely affects educational
10 performance.

11 (3) “Hard of hearing” means having some absence of auditory
12 sensitivity with residual hearing, whether permanent or fluctuating, that
13 adversely affects educational performance.

14 § 4802. BILL OF RIGHTS FOR CHILDREN WHO ARE DEAF OR HARD
15 OF HEARING

16 The General Assembly hereby adopts the Bill of Rights for Children Who
17 are Deaf or Hard of Hearing as follows:

18 (1) Each child who is deaf or hard of hearing has a right to appropriate,
19 early, and ongoing assessment of his or her hearing capabilities and
20 communication and language needs.

1 (2) Each child who is deaf or hard of hearing has a right to early
2 intervention and appropriate and ongoing educational opportunities for
3 communication and language development in order to achieve age-appropriate
4 communication proficiency, literacy, and other academic skills.

5 (3) Each child who is deaf or hard of hearing has a right to appropriate
6 and ongoing family supports in order to promote early and consistent
7 communication between family and child and to permit informed participation
8 by the child's parent or guardian in determining the extent, content, and
9 purpose of educational programs.

10 (4) Each child who is deaf or hard of hearing has a right to appropriate
11 educational placement decisions that give full regard to the child's individual
12 communication and language needs, considering age, academic level, learning
13 style, degree of hearing loss, preferred communication or language mode,
14 social and emotional development, and level of family involvement, and, if
15 applicable, to the child's individualized education program provided under the
16 Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, or the
17 child's Section 504 plan provided under the Rehabilitation Act of 1973,
18 29 U.S.C. § 794.

19 (5) Each child who is deaf or hard of hearing has a right to provision of
20 full communication and language access in all educational environments that
21 includes:

1 (A) respect for and consistent use of the child's preferred effective
2 communication or language mode;

3 (B) teachers, interpreters, and other education personnel who
4 understand the unique and diverse needs of children who are deaf or hard of
5 hearing and can communicate directly and proficiently in the child's preferred
6 effective communication or language mode; and

7 (C) access to a sufficient number of communication or language
8 mode peers of approximately the same age and ability level and with whom the
9 child may communicate directly.

10 (6) Each child who is deaf or hard of hearing has a right to ongoing
11 exposure to adult role models who are deaf or hard of hearing and, where
12 appropriate, participation of persons who are deaf or hard of hearing in
13 determining the extent, content, and purpose of educational programs.

14 Sec. 2. COMMISSION FOR PERSONS WHO ARE DEAF OR HARD OF
15 HEARING

16 (a) Creation; purpose. There is created a commission for persons who are
17 deaf or hard of hearing to assess and make recommendations concerning
18 educational services, resources, and opportunities for children within the State
19 who are deaf or hard of hearing and their families and to provide advice on
20 matters of policy concerning persons who are deaf or hard of hearing. The

1 Commission's work shall adhere to the Bill of Rights for Children Who are
2 Deaf or Hard of Hearing pursuant to 33 V.S.A. § 4802.

3 (b) Membership. The Commission shall consist of the following members:

4 (1) six members who are not State or federal employees, appointed by
5 the Governor, including:

6 (A) three members who are deaf or hard of hearing and who represent
7 different organizations for persons who are deaf or hard of hearing;

8 (B) two members who are each a parent or guardian of a child who is
9 deaf or hard of hearing; and

10 (C) one member who serves persons who are deaf or hard of hearing
11 in a professional capacity;

12 (2) the Chair of the Senate Committee on Education or designee;

13 (3) the Chair of the House Committee on Education or designee;

14 (4) the Chair of the Senate Committee on Health and Welfare or
15 designee;

16 (5) the Chair of the House Committee on Human Services or designee;

17 (6) the Secretary of Education or designee;

18 (7) the Commissioner of Labor or designee; and

19 (8) the Senior Counselor for the Deaf and Hard of Hearing in the
20 Department of Disabilities, Aging, and Independent Living's Division of
21 Vocational Rehabilitation or designee.

1 (c) Power and duties.

2 (1) The Commission shall assess the educational services and resources
3 available to children in the State who are deaf or hard of hearing and their
4 families, including:

5 (A) identification of all losses of or reductions in services and
6 resources arising from the closures of the Austine School for the Deaf and the
7 Vermont Center for the Deaf and Hard of Hearing;

8 (B) evaluation of existing services and resources throughout the State
9 to determine how they compare to those services and resources available prior
10 to the closures of the Austine School for the Deaf and the Vermont Center for
11 the Deaf and Hard of Hearing, including, if appropriate, determination as to
12 whether these services and resources are accessible statewide, offer adequate
13 family supports, and provide adequate opportunities for direct contact with
14 communication or language mode peers; and

15 (C) evaluation of the need for services and resources not currently
16 available, adequate, or accessible.

17 (2) The Commission shall develop a proposal for restoring and
18 expanding educational opportunities for children in the State who are deaf or
19 hard of hearing and their families so that ongoing opportunities for these
20 children sustain or exceed the quality and accessibility of opportunities
21 available prior to the closures of the Austine School for the Deaf and the

1 Vermont Center for the Deaf and Hard of Hearing. In developing this
2 proposal, the Commission shall consult with persons who are deaf or hard of
3 hearing, parents or guardians of children who are deaf or hard of hearing, and
4 providers of services to children who are deaf or hard of hearing and their
5 families, and it shall consider whether the following options are desirable and
6 feasible:

7 (A) organization of a regional network of learning environments that
8 ensures adequate opportunities for direct contact with language or
9 communication mode peers, in collaboration with public schools, private
10 organizations, a centralized school for children who are deaf or hard of
11 hearing, if any, or any combination of these schools and organizations; and

12 (B) establishment of a centralized school for children who are deaf or
13 hard of hearing, including the possibility of locating this school on a Vermont
14 State College campus or the property previously used for the Austine School
15 for the Deaf.

16 (3) The Commission shall oversee and monitor the implementation of
17 the Bill of Rights for Children Who are Deaf or Hard of Hearing and ensure
18 that services for individuals who are deaf or hard of hearing are systematically
19 coordinated throughout the State.

1 (d) Reports.

2 (1) On or before January 15, 2016, the Commission shall submit a
3 written report to the Senate and House Committees on Education, the Senate
4 Committee on Health and Welfare, and the House Committee on Human
5 Services with its findings pursuant to activities carried out under
6 subdivisions (c)(1) of this section and recommendations for legislative action.

7 (2) On or before January 15, 2017, the Commission shall submit a
8 written report to the Committees identified in subdivision (d)(1) of this section
9 with its findings pursuant to activities carried out under subdivision (c)(2) of
10 this section and recommendations for legislative action.

11 (e) Appointments; meetings; sunset.

12 (1) The Chair of the Senate Committee on Education or designee shall
13 convene the first meeting of the Commission on or before July 15, 2015.

14 (2) At its first meeting, the Commission shall elect a chair and vice
15 chair.

16 (3)(A) A majority of the members of the Commission shall be physically
17 present at the same location to constitute a quorum.

18 (B) Action shall be taken only if there is both a quorum and a
19 majority vote of all members physically present and voting.

20 (4) The Commission shall cease to exist on February 1, 2017.

1 (f) Assistance. The Commission shall have the administrative, technical,
2 and legal assistance of the Agencies of Education and of Human Services.

3 (g) Reimbursement.

4 (1) For attendance at meetings during adjournment of the General
5 Assembly, legislative members of the Commission shall be entitled to per diem
6 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
7 no more than six meetings.

8 (2) Members of the Commission who are not legislators or employees of
9 the State of Vermont and who are not otherwise compensated or reimbursed
10 for their attendance shall be entitled to per diem compensation and
11 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than six
12 meetings.

13 (h) Appropriations.

14 (1) The sum of \$4,920.00 is appropriated to the General Assembly from
15 the General Fund in fiscal year 2016 for per diem compensation and
16 reimbursement of expenses for legislative members of the Commission.

17 (2) The sum of \$4,320.00 is appropriated to the Agency of Education
18 from the General Fund in fiscal year 2016 for per diem compensation and
19 reimbursement of expenses for members of the Commission who are not
20 legislators or employees of the State of Vermont and who are not otherwise
21 compensated or reimbursed for their attendance.

1 Sec. 3. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

2 Subchapter 5. Interpreters for Judicial, Administrative, and
3 Legislative Proceedings

4 § 331. DEFINITIONS

5 As used in this subchapter:

6 (1) "Person who is deaf or hard of hearing" means any person who has
7 such difficulty hearing, even with amplification, that he or she cannot rely on
8 hearing for communication.

9 (2) "Proceeding" means any judicial proceeding, contested case under
10 3 V.S.A. chapter 25, or other hearing before an administrative agency not
11 included under 3 V.S.A. chapter 25.

12 (3) "Qualified interpreter" means an interpreter for a person who is deaf
13 or hard of hearing who meets standards of competency established by the
14 national or Vermont Registry of Interpreters for the Deaf as amended, by rule,
15 by the ~~Vermont Commission of the Deaf and Hard of Hearing~~ Commission for
16 Persons Who are Deaf or Hard of Hearing.

17 * * *

18 § 336. RULES; INFORMATION; LIST OF INTERPRETERS

19 (a) The ~~Vermont Commission of the Deaf and Hard of Hearing~~ shall
20 Commission for Persons Who are Deaf or Hard of Hearing may, by rule,
21 establish factors to be considered by the presiding officer under section 333 of

1 this title before appointing an interpreter who is not a qualified interpreter.

2 Such factors shall encourage the widest availability of interpreters in Vermont
3 while at the same time ensuring that the interpreter:

4 (1) is able to communicate readily with the person who is deaf or hard
5 of hearing;

6 (2) is able to interpret accurately statements or communications by the
7 person who is deaf or hard of hearing;

8 (3) is able to interpret the proceedings to the person who is deaf or hard
9 of hearing;

10 (4) shall maintain confidentiality;

11 (5) shall be impartial with respect to the outcome of the proceeding;

12 (6) shall not exert any influence over the person who is deaf or hard of
13 hearing; and

14 (7) shall not accept assignments the interpreter does not feel competent
15 to handle.

16 (b) Rules established by the ~~Vermont Commission of the Deaf and Hard of~~
17 ~~Hearing~~ Commission for Persons Who are Deaf or Hard of Hearing pursuant to
18 subdivision 331(3) of this title amending the standards of competency
19 established by the national or Vermont Registry of the Deaf shall be limited to
20 the factors set forth in subsection (a) of this section.

