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S.66

Introduced by Senators Pollina, Balint, Cummings, McCormack, and White

Referred to Committee on Health and Welfare

Date: February 6, 2015

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

Statement of purpose of bill as introduced: This bill proposes to establish a bill
of rights for children who are deaf or hard of hearing and to create a
Commission for Persons Who are Deaf or Hard of Hearing.

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

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

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

~~Sec 1. FINDINGS~~

The General Assembly finds that:

(1) Development of early and effective language and communication is
fundamental to the educational growth of all children. Language and
communication skills are essential to literacy, academic success, workforce
productivity, and civic contribution.

(2) Nationally, an academic achievement gap persists between children
who are deaf or hard of hearing and their peers who are not deaf or hard of
hearing

1 ~~(3) Although children who are deaf or hard of hearing represent~~
2 ~~approximately one percent of U.S. students with disabilities, and a smaller~~
3 ~~percentage of U.S. children overall, the needs of children who are deaf or hard~~
4 ~~of hearing are unique and diverse, as evidenced by the following:~~

5 ~~(A) Children who are deaf or hard of hearing have varying degrees of~~
6 ~~hearing loss and may be identified at birth or much later.~~

7 ~~(B) Most children who are deaf or hard of hearing in the United~~
8 ~~States are born to parents who are not deaf or hard of hearing, and because of~~
9 ~~the small number of children who are deaf or hard of hearing, a child may be~~
10 ~~the only child who is deaf or hard of hearing at his or her school.~~

11 ~~(C) Children who are deaf or hard of hearing use a variety of~~
12 ~~communication and language modes alone or in combination. The preferred~~
13 ~~mode or modes of a given child do not necessarily correspond with his or her~~
14 ~~degree of hearing loss, and family decisions about communication for a child~~
15 ~~may be fluid during the course of the child's development.~~

16 ~~(D) Many children who are deaf or hard of hearing have secondary or~~
17 ~~coexisting conditions that impact their educational needs.~~

18 ~~(4) Although federal law requires that schools consider the language and~~
19 ~~communication needs of children who are deaf or hard of hearing who qualify~~
20 ~~for individualized education programs (IEPs), the states are generally~~
21 ~~responsible for ensuring that federal requirements are carried out and otherwise~~

1 ~~ensuring that the unique language and communication needs of children who~~
2 are deaf or hard of hearing are met. States have addressed these concerns in a
3 variety of ways, including by developing communication plans and state plans
4 and by passing bills of rights for children who are deaf or hard of hearing.

5 (5) The Vermont Center for the Deaf and Hard of Hearing closed in
6 September 2014. Prior to its closing, the Center provided comprehensive and
7 statewide educational, social, and support services to children, youth, and
8 adults who are deaf or hard of hearing. These services included the Austine
9 School for the Deaf, which closed in June 2014; several regional classrooms;
10 consultant services for mainstreamed students; a parent-infant program; a
11 family mentoring program; adult services; and numerous other support options.
12 While efforts are underway to replace at least some of the discontinued
13 services, it remains unclear whether the educational needs of children and
14 other persons in the State who are deaf or hard of hearing are currently
15 being met.

16 Sec. 2. 33 V.S.A. chapter 48 is added to read:

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

19 § 4801. PURPOSE

20 It is the purpose of this chapter to:

1 ~~(1) Ensure that all children in the State who are deaf or hard of hearing,~~

2 including those with secondary or coexisting conditions:

3 (A) are afforded the same educational rights as children who are not
4 deaf or hard of hearing, and

5 (B) have full access to appropriate and ongoing educational
6 opportunities that recognize each child's individual communication and
7 language modes and unique learning needs.

8 (2) Ensure that all families in the State with children who are deaf or
9 hard of hearing have access to adequate supports in order to promote early
10 development of communication skills and informed participation by parents
11 and guardians in the education of their children.

12 § 4802. DEFINITIONS

13 As used in this chapter:

14 (1) "Communication or language mode" means one or a combination of
15 the following systems or methods of communication available to children who
16 are deaf or hard of hearing: American Sign Language; English-based manual
17 or sign systems; oral, aural, speech-based training; spoken and written English,
18 including speech reading or lip reading; and communication with an assistive
19 technology device to facilitate language and learning.

1 ~~(2) "Deaf" means having a severe or complete absence of auditory~~
2 sensitivity that impairs processing of linguistic information through hearing,
3 with or without amplification.

4 (3) "Hard of hearing" means having some absence of auditory
5 sensitivity with residual hearing, whether permanent or fluctuating.

6 § 4803. BILL OF RIGHTS FOR CHILDREN WHO ARE DEAF OR HARD
7 OF HEARING

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

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

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

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

1 ~~(4) Each child who is deaf or hard of hearing has a right to appropriate~~
2 ~~educational placement decisions that give full regard to the child's individual~~
3 ~~communication and language needs, considering age, academic level, learning~~
4 ~~style, degree of hearing loss, preferred communication or language mode,~~
5 ~~social and emotional development, and level of family involvement, and, if~~
6 ~~applicable, to the child's individualized education program provided under the~~
7 ~~Individuals with Disabilities Education Act, 20 U.S.C. § 1401(19), or the~~
8 ~~child's Section 504 plan provided under the Rehabilitation Act of 1973, 29~~
9 ~~U.S.C. § 794.~~

10 ~~(5) Each child who is deaf or hard of hearing has a right to the provision~~
11 ~~of full communication and language access in all educational environments~~
12 ~~that includes:~~

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

15 ~~(B) teachers, interpreters, and other education personnel who possess~~
16 ~~appropriate certification and who understand the unique and diverse needs of~~
17 ~~children who are deaf or hard of hearing and can communicate directly and~~
18 ~~proficiently in the child's preferred effective communication or language~~
19 ~~mode; and~~

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

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

8 Sec. 3. 16 V.S.A. § 2955a is added to read:

9 § 2955a. DATA REPORTING; STUDENTS WITH DISABILITIES

10 The Agency of Education shall post on its website the data it submits to the
11 U.S. Secretary of Education pursuant to 20 U.S.C. § 1418 (data collection and
12 reporting requirements concerning students with disabilities) within one month
13 of the date of submission. To the extent permitted under 20 U.S.C. § 1232g
14 (family educational and privacy rights), and any regulations adopted
15 thereunder, and in a manner that protects sensitive, personally identifiable, or
16 confidential information, the Agency's posting shall disaggregate all data
17 pertaining to children who are deaf or hard of hearing.

18 Sec. 4. 33 V.S.A. § 503 is amended to read:

19 § 503. COMPOSITION OF DEPARTMENT

20 The Department, created pursuant to 3 V.S.A. § 3085a, shall consist of the
21 Commissioner of Disabilities, Aging, and Independent Living, the Advisory

1 ~~Board established under section 505 of this title, the Commission for Persons~~

2 Who are Deaf or Hard of Hearing established under section 506 of this title,
3 and all divisions and units of the Department, including the Division for the
4 Blind and Visually Impaired and the Division of Vocational Rehabilitation.

5 Sec. 5. 33 V.S.A. § 506 is added to read:

6 § 506. COMMISSION FOR PERSONS WHO ARE DEAF OR HARD OF
7 HEARING

8 (a) Creation; purpose. There is created a Commission for Persons Who are
9 Deaf or Hard of Hearing to assess and make recommendations concerning
10 educational services, resources, and opportunities for children within the State
11 who are deaf or hard of hearing and their families and to provide advice and
12 oversight on matters of policy and administration of programs for persons who
13 deaf or hard of hearing. The Commission's work shall adhere to the Bill of
14 Rights for Children Who are Deaf or Hard of Hearing pursuant to section 4803
15 of this title.

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

17 (1) nine members of the public, appointed by the Governor, including:

18 (A) five members who are deaf or hard of hearing and who are
19 members of different organizations for persons who are deaf or hard of
20 hearing;

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

3 (C) two members who serve persons who are deaf or hard of hearing
4 in a professional capacity;

5 (2) the Senior Counselor for the Deaf and Hard of Hearing in the
6 Department of Disabilities, Aging, and Independent Living's Division of
7 Vocational Rehabilitation or designee;

8 (3) the Secretary of Education or designee;

9 (4) the Secretary of Health or designee; and

10 (5) the Commissioner of Labor or designee.

11 (c) Powers and duties.

12 (1) The Commission shall oversee and monitor the implementation of
13 the Bill of Rights for Children Who are Deaf or Hard of Hearing and any
14 changes in the delivery of services to children in the State who are deaf or hard
15 of hearing and their families, including an assessment of whether the necessary
16 resources are available to schools to support implementation.

17 (2) The Commission shall advise the Governor, the Agencies of
18 Education and of Human Services, and the General Assembly with respect to
19 policy development and program administration for persons who are deaf or
20 hard of hearing. In furtherance of this duty, the Commission may:

1 ~~(A) conduct studies concerning the needs of and opportunities for~~
2 ~~persons within the State who are deaf or hard of hearing and their families;~~

3 ~~(B) evaluate the adequacy of existing services and resources for~~
4 ~~persons within the State who are deaf or hard of hearing and their families;~~

5 ~~(C) review existing and proposed legislation and rules pertaining to~~
6 ~~persons who are deaf or hard of hearing and advise the General Assembly, the~~
7 ~~Governor, and the Agencies of Education and of Human Services regarding~~
8 ~~revisions, coordination, services, and appropriations;~~

9 ~~(D) encourage and foster local community action on behalf of~~
10 ~~persons who are deaf or hard of hearing;~~

11 ~~(E) publicize its findings; and~~

12 ~~(F) carry out specific projects assigned by the Governor or the~~
13 ~~General Assembly.~~

14 ~~(3) The Commission shall oversee and monitor the qualification of~~
15 ~~interpreters for persons who are deaf or hard of hearing practicing in the State,~~
16 ~~including the certification of sign language interpreters.~~

17 ~~(d) Committees; assistance.~~

18 ~~(1) The Commission may establish committees to facilitate its work.~~

19 ~~(2) The Commissioner of Disabilities, Aging, and Independent Living~~
20 ~~shall ensure that the Commission and its committees receive sufficient staff to~~
21 ~~carry out their responsibilities.~~

1 ~~(3) The Commission shall have the administrative, technical, and legal~~
2 ~~assistance of the Department of Disabilities, Aging, and Independent Living.~~

3 ~~(e) Reports. On or before January 15 of each year, notwithstanding 2~~
4 ~~V.S.A. § 20(d), the Commission shall submit a written report to the Governor~~
5 ~~and to the Senate and House Committees on Education, the Senate Committee~~
6 ~~on Health and Welfare, and the House Committee on Human Services with its~~
7 ~~findings pursuant to activities carried out under subsection (c) of this section~~
8 ~~and recommendations for administrative and legislative action.~~

9 ~~(f) Appointments; meetings.~~

10 ~~(1) The Senior Counselor for the Deaf and Hard of Hearing in the~~
11 ~~Department of Disabilities, Aging, and Independent Living's Division of~~
12 ~~Vocational Rehabilitation or designee shall convene the first meeting of the~~
13 ~~Commission on or before July 1, 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 ~~(g) Reimbursement. Members of the Commission who are not State~~
21 ~~employees or otherwise compensated or reimbursed for their attendance shall~~

1 ~~be entitled to per diem compensation and reimbursement of expenses pursuant~~
2 ~~to 32 V.S.A. § 1010, payable by the Department for Disabilities, Aging, and~~
3 ~~Independent Living.~~

4 Sec. 6. REPORT; ADDITIONAL POWERS AND DUTIES OF THE
5 COMMISSION FOR PERSONS WHO ARE DEAF OR HARD OF
6 HEARING

7 (a) On or before January 15, 2016, the Commission shall submit a written
8 report to the Governor and to the Senate and House Committees on Education,
9 the Senate Committee on Health and Welfare, and the House Committee on
10 Human Services. The report shall include the following:

11 (1) A comprehensive assessment of the educational services and
12 resources presently available to children in the State who are deaf or hard of
13 hearing and their families, including:

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

17 (B) evaluation of the adequacy of existing services and resources,
18 including, if appropriate, determination of whether these services and resources
19 are accessible statewide, offer adequate family supports, and provide adequate
20 opportunities for direct contact with communication or language mode
21 peers; and

1 ~~(C) evaluation of the need for services and resources not currently~~
2 ~~available, adequate, or accessible.~~

3 ~~(2) A proposal to restore and expand educational opportunities for~~
4 ~~children in the State who are deaf or hard of hearing and their families that:~~

5 ~~(A) ensures that the quality of services available prior to the closings~~
6 ~~of the Austine School for the Deaf and the Vermont Center for the Deaf and~~
7 ~~Hard of Hearing is maintained; and~~

8 ~~(B) includes a plan for establishing a centralized school for children~~
9 ~~who are deaf or hard of hearing, possibly located on a Vermont State College~~
10 ~~campus.~~

11 ~~(3) An evaluation of 16 V.S.A. § 3823 (the Austine School; financing)~~
12 ~~and 2013 Acts and Resolves No. 45 (an act relating to the Austine School) that:~~

13 ~~(A) assesses whether the General Assembly should waive or~~
14 ~~otherwise alter the Vermont Center for the Deaf and Hard of Hearing's~~
15 ~~obligation under 16 V.S.A. § 3823(c), as modified by 2013 Acts and Resolves~~
16 ~~No. 45, to repay capital appropriations made to or for the benefit the Austine~~
17 ~~School from the proceeds of certain sales of the Center's real property; and~~

18 ~~(B) evaluates the adequacy of the service plan developed by the~~
19 ~~Secretary of Education pursuant to 2013 Acts and Resolves No. 45.~~

20 ~~(b) The Commission may develop a proposal for expanding its powers and~~
21 ~~duties to provide services and resources to persons in Vermont who are deaf or~~

1 ~~hard of hearing, including an assessment of whether these services and~~
2 resources are presently available, accessible, and adequate. The Commission
3 may include findings and recommendations pertaining to this proposal in the
4 report submitted pursuant to subsection (a) of this section.

5 Sec. 7. 1 V.S.A. chapter 5, subchapter 5 amended to read:

6 Subchapter 5. Interpreters for Judicial, Administrative, and Legislative
7 Proceedings

8 § 331. DEFINITIONS

9 As used in this subchapter:

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

13 (2) "Proceeding" means any judicial proceeding, contested case under
14 3 V.S.A. chapter 25, or other hearing before an administrative agency not
15 included under 3 V.S.A. chapter 25.

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

21 * * *

1 ~~§ 336. RULES; INFORMATION; LIST OF INTERPRETERS~~

2 (a) ~~The Vermont Commission of the Deaf and Hard of Hearing shall~~
3 Commission for Persons Who are Deaf or Hard of Hearing may, by rule,
4 establish factors to be considered by the presiding officer under section 333 of
5 this title before appointing an interpreter who is not a qualified interpreter.

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

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

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

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

14 (4) shall maintain confidentiality;

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

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

18 (7) shall not accept assignments the interpreter does not feel competent
19 to handle.

20 (b) Rules established by the ~~Vermont Commission of the Deaf and Hard of~~
21 Hearing Commission for Persons Who are Deaf or Hard of Hearing pursuant to

1 ~~subdivision 331(3) of this title amending the standards of competency~~
2 established by the national or Vermont Registry of the Deaf shall be limited to
3 the factors set forth in subsection (a) of this section.

4 (c) ~~The Vermont Commission of the Deaf and Hard of Hearing shall~~
5 Commission for Persons Who are Deaf or Hard of Hearing may prepare an
6 explanation of the provisions of this subchapter which ~~shall~~ may be distributed
7 to all State agencies and courts.

8 (d) ~~The Department of Disabilities, Aging, and Independent Living~~
9 Commission for Persons Who are Deaf or Hard of Hearing shall maintain a list
10 of qualified interpreters in Vermont and, where such information is available,
11 in surrounding states. The list shall be distributed to all State agencies and
12 courts.

13 * * *

14 Sec. 8. EFFECTIVE DATE

15 ~~This act shall take effect on passage~~

~~Sec. 1. FINDINGS~~

~~*The General Assembly finds that:*~~

~~*(1) Development of early and effective language and communication is fundamental to the educational growth of all children. Language and communication skills are essential to literacy, academic success, workforce productivity, and civic contribution.*~~

~~*(2) Nationally, an academic achievement gap persists between children who are deaf, DeafBlind, or hard of hearing and their peers who are not deaf, DeafBlind, or hard of hearing.*~~

~~*(3) Although children who are deaf, DeafBlind, or hard of hearing represent approximately one percent of U.S. students with disabilities, and a*~~

~~smaller percentage of U.S. children overall, the needs of children who are deaf, DeafBlind, or hard of hearing are unique and diverse, as evidenced by the following:~~

~~(A) Children who are deaf, DeafBlind, or hard of hearing have varying degrees of hearing loss and may be identified at birth or much later.~~

~~(B) Children who are deaf, DeafBlind, or hard of hearing use a variety of communication and language modes alone or in combination. The preferred mode or modes of a given child do not necessarily correspond with his or her degree of hearing loss, and family decisions about communication for a child may be fluid during the course of the child's development.~~

~~(C) Children who are deaf, DeafBlind, or hard of hearing may be at risk of social isolation both at school and in their communities. Most children who are deaf, DeafBlind, or hard of hearing in the United States are born to parents who are not deaf, DeafBlind, or hard of hearing. Because of the small number of children who are deaf, DeafBlind, or hard of hearing, a child may be the only child who is deaf, DeafBlind, or hard of hearing at his or her school.~~

~~(D) Many children who are deaf, DeafBlind, or hard of hearing have secondary or coexisting conditions that impact their educational needs.~~

~~(4) Although federal law requires that schools consider the language and communication needs of children who are deaf, DeafBlind, or hard of hearing who qualify for individualized education programs (IEPs), the states are generally responsible for ensuring that federal requirements are carried out and otherwise ensuring that the unique language and communication needs of children who are deaf, DeafBlind, or hard of hearing are met. States have addressed these concerns in a variety of ways, including by developing communication plans and state plans and by passing bills of rights for children who are deaf, DeafBlind, or hard of hearing.~~

~~(5) The Vermont Center for the Deaf and Hard of Hearing closed in September 2014. Prior to its closing, the Center provided comprehensive and statewide educational, social, and support services to children, youth, and adults who are deaf, DeafBlind, or hard of hearing. These services included the Austine School for the Deaf, which closed in June 2014; several regional classrooms; consultant services for mainstreamed students; a parent-infant program; a family mentoring program; adult services; and numerous other support options. While efforts are underway to replace at least some of the discontinued services, it remains unclear whether the educational needs of children and other persons in the State who are deaf, DeafBlind, or hard of hearing are currently being met.~~

~~Sec. 2. 33 V.S.A. chapter 16 is added to read:~~

~~CHAPTER 16. TASK FORCE ON PERSONS WHO ARE DEAF,
DEAFBLIND, OR HARD OF HEARING~~

~~§ 1601. DEFINITIONS~~

~~As used in this chapter:~~

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

~~(2) "Deaf" means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification.~~

~~(3) "DeafBlind" means having concomitant hearing and visual impairments.~~

~~(4) "Hard of hearing" means having some absence of auditory sensitivity with residual hearing, whether permanent or fluctuating.~~

~~§ 1602. TASK FORCE ON PERSONS WHO ARE DEAF, DEAFBLIND, OR
HARD OF HEARING~~

~~(a) Creation; purpose. There is created a Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing to assess and make recommendations concerning educational services, resources, and opportunities for children within the State who are deaf, DeafBlind, or hard of hearing and their families and to provide advice and oversight on matters of policy and administration of programs for persons who deaf, DeafBlind, or hard of hearing.~~

~~(b) Membership. The Task Force shall consist of the following members:~~

~~(1) nine members of the public, appointed by the Governor in a manner that ensures geographically diverse membership while recognizing the concentration of persons who are deaf, DeafBlind, or hard of hearing residing near the former Vermont Center for the Deaf and Hard of Hearing, including:~~

~~(A) four members who are deaf, DeafBlind, or hard of hearing, provided that if a member represents an organization for persons who are deaf, DeafBlind, or hard of hearing, no other member on the Task Force shall also represent that organization;~~

~~(B) two members who are each a parent or guardian of a child who is deaf, DeafBlind, or hard of hearing;~~

~~(C) two members who serve persons who are deaf, DeafBlind, or hard of hearing in a professional capacity, provided that these members do not represent the same organization; and~~

~~(D) one member recommended by the Vermont Association for the Deaf;~~

~~(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department of Disabilities, Aging and Independent Living's Division of Vocational Rehabilitation or designee;~~

~~(3) the Secretary of Education or designee;~~

~~(4) the Secretary of Human Services or designee;~~

~~(5) a professional Deaf education specialist who understands all communication and language modes, appointed by the Governor;~~

~~(6) a superintendent, selected by the Vermont Superintendents Association; and~~

~~(7) a special education administrator, selected by the Vermont Council of Special Education Administrators.~~

~~(c) Powers and duties.~~

~~(1) The Task Force shall assess the educational services, resources, and opportunities for children in the State who are deaf, DeafBlind, or hard of hearing. It shall make recommendations to the General Assembly, the Governor, and the Agencies of Education and of Human Services with the goal of ensuring that each child is afforded:~~

~~(A) the same educational rights as children who are not deaf, DeafBlind, or hard of hearing, including full communication and language access in all educational environments and provision of qualified teachers, interpreters, and paraprofessionals;~~

~~(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, provide access to a sufficient number of communication or language mode peers, and include exposure to adult role models who are deaf, DeafBlind, or hard of hearing; and~~

~~(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children.~~

~~(2) The Task Force shall advise the General Assembly, the Governor, and the Agencies of Education and of Human Services with respect to policy development and program administration for persons who are deaf, DeafBlind, or hard of hearing. In furtherance of this duty, the Task Force may:~~

~~(A) conduct studies concerning the needs of and opportunities for persons within the State who are deaf, DeafBlind, or hard of hearing and their families;~~

~~(B) evaluate the adequacy and systemic coordination of existing services and resources for persons throughout the State who are deaf, DeafBlind, or hard of hearing and their families;~~

~~(C) review existing and proposed legislation and rules pertaining to persons who are deaf, DeafBlind, or hard of hearing and advise the General Assembly, the Governor, and the Agencies of Education and of Human Services regarding revisions, coordination, services, and appropriations;~~

~~(D) examine delivery models in other states in order to evaluate the adequacy and systemic coordination of existing services and resources for persons throughout the State who are deaf, DeafBlind, or hard of hearing;~~

~~(E) encourage and foster local community action on behalf of persons who are deaf, DeafBlind, or hard of hearing;~~

~~(F) publicize its findings; and~~

~~(G) carry out specific projects assigned by the General Assembly or Governor.~~

~~(3) The Task Force shall oversee and monitor the qualification of interpreters for persons who are deaf, DeafBlind, or hard of hearing practicing in the State, including the certification of sign language interpreters.~~

~~(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging and Independent Living (DAIL). The Task Force and DAIL may consult with the Agency of Education and with national experts on education of persons who are deaf, DeafBlind, or hard of hearing as necessary to fulfill their obligations under this section.~~

~~(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Task Force shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, the Governor, and the Agencies of Education and of Human Services with its findings pursuant to~~

~~activities carried out under subsection (c) of this section and recommendations for administrative and legislative action.~~

~~(f) Appointments; meetings.~~

~~(1) The Senior Counselor for the Deaf and Hard of Hearing in DAIL's Division of Vocational Rehabilitation or designee shall convene the first meeting of the Task Force on or before July 1, 2015 and shall select interpretive services for the meeting if a member so requests.~~

~~(2) At its first meeting, the Task Force shall elect a chair and vice chair.~~

~~(3) The Chair shall select interpretive services for any Task Force meeting if a member so requests.~~

~~(4) The Task Force may meet up to eight times each year to perform its functions under this section, unless the Commissioner of Disabilities, Aging, and Independent Living approves additional meetings.~~

~~(g) Reimbursement.~~

~~(1) Members of the Task Force who are not State employees or otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, payable by DAIL.~~

~~(2) DAIL shall pay for interpretive services necessary to conduct all Task Force meetings.~~

~~Sec. 3. REPORT; ADDITIONAL POWERS AND DUTIES OF THE TASK FORCE ON PERSONS WHO ARE DEAF, DEAFBLIND, OR HARD OF HEARING~~

~~On or before January 15, 2016, the Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, the Governor, and the Agencies of Education and of Human Services. The report shall include the following:~~

~~(1) A comprehensive assessment of the educational services and resources presently available to children in the State who are deaf, DeafBlind, or hard of hearing and their families, including:~~

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

~~(B) evaluation of the adequacy of existing services and resources, including, if appropriate, determination of whether these services and~~

~~resources are accessible statewide, offer adequate family supports, and provide adequate opportunities for direct contact with communication or language mode peers; and~~

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

~~(2) A proposal to restore and expand educational opportunities for children in the State who are deaf, DeafBlind, or hard of hearing and their families that:~~

~~(A) ensures that the quality of services available prior to the closings of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing is maintained;~~

~~(B) assesses the risks and benefits of educating children who are deaf, DeafBlind, or hard of hearing at a mainstream school, including impacts on academic achievement, extracurricular involvement, and social integration;~~

~~(C) addresses the desirability and feasibility of establishing a centralized school for children who are deaf, DeafBlind, or hard of hearing; and~~

~~(D) recommends alternative methods of ensuring that children in the State who are deaf, DeafBlind, or hard of hearing are not socially isolated and have adequate opportunities for direct contact with language or communication mode peers.~~

~~(3) An evaluation of 16 V.S.A. § 3823 (the Austine School; financing) and 2013 Acts and Resolves No. 45 (an act relating to the Austine School) that:~~

~~(A) assesses whether the General Assembly should waive or otherwise alter the Vermont Center for the Deaf and Hard of Hearing's obligation under 16 V.S.A. § 3823(c), as modified by 2013 Acts and Resolves No. 45, to repay capital appropriations made to or for the benefit the Austine School from the proceeds of certain sales of the Center's real property; and~~

~~(B) evaluates the adequacy of the service plan developed by the Secretary of Education pursuant to 2013 Acts and Resolves No. 45.~~

~~(4) A recommendation regarding whether the General Assembly should adopt a Bill of Rights specific to persons who are deaf, DeafBlind, or hard of hearing.~~

~~(5) Recommendations regarding the need for and potential structure of a State agency division or other staffed entity responsible for overseeing concerns of persons who are deaf, DeafBlind, or hard of hearing and their families, including recommendations regarding what supports are necessary to ensure that this entity is fully functional.~~

~~(6) An assessment of whether paraprofessionals who provide instructional support in public schools to students who are deaf, DeafBlind, or hard of hearing are sufficiently qualified and receive adequate training.~~

~~(7) An assessment of and recommendations regarding the needs of persons in Vermont who are DeafBlind, including the needs of children who are DeafBlind.~~

Sec. 4. 16 V.S.A. § 2955a is added to read:

§ 2955a. DATA REPORTING; STUDENTS WITH DISABILITIES

The Agency of Education shall post on its website the data it submits to the U.S. Secretary of Education pursuant to 20 U.S.C. § 1418 (data collection and reporting requirements concerning students with disabilities) within one month of the date of submission. To the extent permitted under 20 U.S.C. § 1232g (family educational and privacy rights), and any regulations adopted thereunder, and in a manner that protects sensitive, personally identifiable, or confidential information, the Agency's posting shall disaggregate all data pertaining to children who are deaf, DeafBlind, or hard of hearing.

Sec. 5. REPEAL

33 V.S.A. §§ 1601 and 1602 (Task Force on Persons Who are Deaf, Deaf Blind, or Hard of Hearing) are repealed on February 1, 2018.

Sec. 6. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

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

§ 331. DEFINITIONS

As used in this subchapter:

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

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

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

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~~§ 336. RULES; INFORMATION; LIST OF INTERPRETERS~~

~~(a) The Vermont Commission of the Deaf and Hard of Hearing shall Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing may, by rule, establish factors to be considered by the presiding officer under section 333 of this title before appointing an interpreter who is not a qualified interpreter. Such factors shall encourage the widest availability of interpreters in Vermont while at the same time ensuring that the interpreter:~~

~~(1) is able to communicate readily with the person who is deaf, DeafBlind, or hard of hearing;~~

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

~~(3) is able to interpret the proceedings to the person who is deaf, DeafBlind, or hard of hearing;~~

~~(4) shall maintain confidentiality;~~

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

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

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

~~(b) Rules established by the Vermont Commission of the Deaf and Hard of Hearing Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing pursuant to subdivision 331(3) of this title amending the standards of competency established by the national or Vermont Registry of the Deaf shall be limited to the factors set forth in subsection (a) of this section.~~

~~(c) The Vermont Commission of the Deaf and Hard of Hearing shall Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing may prepare an explanation of the provisions of this subchapter which shall may be distributed to all State agencies and courts.~~

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~~Sec. 7. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~Sec. 1. 33 V.S.A. chapter 16 is added to read:~~

CHAPTER 16. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND
ADVISORY COUNCIL

§ 1601. DEFINITIONS

As used in this chapter:

(1) “Communication or language mode” means verbal or nonverbal communication that includes listening, speaking, American Sign Language (ASL), Signed English, Signed Support, reading, and writing in all domains of a language. Reference to the communication mode of individuals who are Deaf, Hard of Hearing, or DeafBlind distinguishes between modality and language. Systems that assist individuals using a particular modality or language include ASL, spoken English, signed English, sign-supported speech, speech or lip reading, cued speech, and assistive technology.

(2) “Deaf” means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification or cochlear implants. Participation in Deaf Community culture and use of ASL are characteristic of persons who identify as Deaf.

(3) “DeafBlind” means having concomitant hearing and visual impairments.

(4) “Department” means the Department of Disabilities, Aging, and Independent Living.

(5) “Hard of Hearing” means a reduced level of functional hearing and reliance on residual hearing and technology, including hearing aids, cochlear implants, FM listening systems, and other types of assistive listening devices to communicate via verbal language, with or without use of ASL.

§ 1602. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND
ADVISORY COUNCIL

(a) Creation; purpose. There is created a Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council to promote diversity, equality, awareness, and access among individuals who are Deaf, Hard of Hearing, or DeafBlind.

(b) Membership. The Advisory Council shall consist of the following members:

(1) sixteen members of the public, appointed by the Governor in a manner that ensures geographically diverse membership, including:

(A) nine or fewer members who are Deaf, Hard of Hearing, or DeafBlind provided each population is represented and that if a member represents an organization for persons who are Deaf, Hard of Hearing, or

DeafBlind no other member on the Advisory Council shall also represent that organization;

(B) two members who are each a parent or guardian of a child who is Deaf, Hard of Hearing, or DeafBlind;

(C) two members who serve persons who are Deaf, Hard of Hearing, or DeafBlind in a professional capacity, provided that these members do not represent the same organization;

(D) a professional deaf-education specialist who understands all communication and language modes;

(E) a professional interpreter; and

(F) an audiologist or hard-of-hearing education specialist;

(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department's Division of Vocational Rehabilitation or designee;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) the director of the Department for Children and Families' Children's Integrated Services or designee;

(6) the director of the Vermont Early Detection and Intervention Project;

(7) a representative of the Vermont Association of the Deaf;

(8) a superintendent, selected by the Vermont Superintendents Association; and

(9) a special education administrator, selected by the Vermont Council of Special Education Administrators.

(c) Powers and duties.

(1) The Advisory Council shall assess the services, resources, and opportunities available to children in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the educational rights of children who are Deaf, Hard of Hearing, or DeafBlind, including full communication and language access in all educational environments and accessibility of qualified teachers, interpreters, and paraprofessionals;

(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, including access to a sufficient

number of communication or language mode peers and exposure to adult role models who are Deaf, Hard of Hearing, or DeafBlind;

(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children;

(D) identification of all losses of or reductions in services arising from the closures of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing and evaluation of the adequacy of existing services and resources, as well as identification of those resources not currently available, adequate, or accessible to children;

(E) opportunities to restore and expand educational opportunities to children in the State who are Deaf, Hard of Hearing, or DeafBlind and their families; and

(F) appropriate data collection and reporting requirements concerning students with disabilities.

(2) The Advisory Council shall assess the services, resources, and opportunities available to adults and elders in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the needs of and opportunities for adults and elders within the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(B) the adequacy and systemic coordination of existing services and resources for adults and elders throughout the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(C) proposed legislation and administrative rules pertaining to adults and elders who are Deaf, Hard of Hearing, or DeafBlind; and

(D) delivery models in other states as a point of comparison for the adequacy and systemic coordination of Vermont's existing services and resources for adults and elders who are Deaf, Hard of Hearing, or DeafBlind.

(d) Assistance. The Advisory Council shall have the administrative, technical, and legal assistance of the Agencies of Education and of Human Services. The Advisory Council and Department may consult with national experts on education of persons who are Deaf, Hard of Hearing, or DeafBlind as necessary to fulfill their obligations under this section.

(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Advisory Council shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, and the Governor with

any findings and recommendations. A reading of each report shall be video recorded using ASL to ensure accessibility.

(f) Appointments; meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living shall convene the first meeting of the Advisory Council on or before July 1, 2016 and shall select interpreting services, computer assisted captioning in real time (CART), or FM listening system for the meeting if a member so requests.

(2) At its first meeting, the Advisory Council shall elect a chair and vice chair.

(3) The Chair shall select interpreting services, CART, or FM listening system for any Advisory Council meeting if a member so requests.

(4) The Advisory Council may meet up to eight times each year to perform its functions under this section. The Secretaries of Education and of Human Services may jointly authorize additional meetings.

(5) The Advisory Council may organize its members into subcommittees to carry out the purposes of this section, including subcommittees designed to address specific age groups within the Deaf, Hard of Hearing, and DeafBlind population.

(g) Reimbursement.

(1) Members of the Advisory Council who are not State employees or otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, payable by the Department.

(2) The Agency of Human Services shall pay for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council meetings.

(3) The Agency of Education, Department of Health, and Department of Disabilities, Aging, and Independent Living shall share costs for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council subcommittee meetings.

Sec. 2. INTERPRETERS; PROFESSIONAL REGULATION

On or before January 15, 2017, the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council shall submit a report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding its findings

and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State's Office of Professional Regulation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.