

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 66 entitled “An act relating to persons who are deaf or hard of
4 hearing” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 Sec 1. FINDINGS

8 The General Assembly finds that:

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

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

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

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

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

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

12 (D) Many children who are deaf or hard of hearing have secondary or
13 coexisting conditions that impact their educational needs, including children
14 who are both blind and deaf or hard of hearing.

15 (4) Although federal law requires that schools consider the language and
16 communication needs of children who are deaf or hard of hearing who qualify
17 for individualized education programs (IEPs), the states are generally
18 responsible for ensuring that federal requirements are carried out and otherwise
19 ensuring that the unique language and communication needs of children who
20 are deaf or hard of hearing are met. States have addressed these concerns in a

1 variety of ways, including by developing communication plans and state plans
2 and by passing bills of rights for children who are deaf or hard of hearing.

3 (5) The Vermont Center for the Deaf and Hard of Hearing closed in
4 September 2014. Prior to its closing, the Center provided comprehensive and
5 statewide educational, social, and support services to children, youth, and
6 adults who are deaf or hard of hearing. These services included the Austine
7 School for the Deaf, which closed in June 2014; several regional classrooms;
8 consultant services for mainstreamed students; a parent-infant program; a
9 family mentoring program; adult services; and numerous other support options.

10 While efforts are underway to replace at least some of the discontinued
11 services, it remains unclear whether the educational needs of children and
12 other persons in the State who are deaf or hard of hearing are currently
13 being met.

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

15 Chapter 16. Task Force on Persons Who are Deaf or Hard of Hearing

16 § 1601. DEFINITIONS

17 As used in this chapter:

18 (1) “Communication or language mode” means one or a combination of
19 the following systems or methods of communication available to children who
20 are deaf or hard of hearing: American Sign Language; English-based manual
21 or sign systems; oral, aural, speech-based training; spoken and written English,

1 including speech reading or lip reading; and communication with an assistive
2 technology device to facilitate language and learning.

3 (2) “Deaf” means having a severe or complete absence of auditory
4 sensitivity that impairs processing of linguistic information through hearing,
5 with or without amplification.

6 (3) “Hard of hearing” means having some absence of auditory
7 sensitivity with residual hearing, whether permanent or fluctuating.

8 § 1602. TASK FORCE ON PERSONS WHO ARE DEAF OR HARD OF
9 HEARING

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

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

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

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

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

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

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

12 (3) the Secretary of Education or designee;

13 (4) the Secretary of Health or designee;

14 (5) a professional Deaf education specialist, appointed by the Governor;

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

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

19 (c) Powers and duties.

20 (1) The Task Force shall assess the educational services, resources, and
21 opportunities for children in the State who are deaf or hard of hearing. It shall

1 make recommendations to the General Assembly, the Governor, and the
2 Agencies of Education and of Human Services with the goal of ensuring that
3 each child is afforded:

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

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

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

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

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

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

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

8 (D) examine delivery models in other states in order to evaluate the
9 adequacy and systemic coordination of existing services and resources for
10 persons throughout the State who are deaf or hard of hearing.

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

13 (E) publicize its findings; and

14 (F) carry out specific projects assigned by the General Assembly or
15 Governor.

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

19 (d) Assistance. The Task Force shall have the administrative, technical,
20 and legal assistance of the Department of Disabilities, Aging, and Independent
21 Living (DAIL). The Task Force and DAIL may consult with the Agency of

1 Education and with national experts in the education of persons who are deaf
2 or hard of hearing as necessary to fulfill their obligations under this section.

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

10 (f) Appointments; meetings.

11 (1) The Senior Counselor for the Deaf and Hard of Hearing in the
12 Department of Disabilities, Aging, and Independent Living's Division of
13 Vocational Rehabilitation or designee shall convene the first meeting of the
14 Task Force on or before July 1, 2015 and shall select a qualified interpreter, as
15 defined in subdivision (g)(2) of this section, for the meeting if a member so
16 requests.

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

18 (3) The chair shall select a qualified interpreter, as defined in
19 subdivision (g)(2) of this section, for any Task Force meeting if a member so
20 requests.

1 (g) Reimbursement.

2 (1) Members of the Task Force who are not State employees or
3 otherwise compensated or reimbursed for their attendance shall be entitled to
4 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A.
5 § 1010, payable by the Department for Disabilities, Aging, and Independent
6 Living.

7 (2) A qualified interpreter shall be paid a reasonable fee by the
8 Department for Disabilities, Aging, and Independent Living for services
9 performed at a Task Force meeting. In this section, a qualified interpreter
10 means an interpreter for a person who is deaf or hard of hearing who meets
11 standards of competency established by the national or Vermont Registry of
12 Interpreters for the Deaf as amended, by rule, by the Task Force on Persons
13 Who are Deaf or Hard of Hearing.

14 Sec. 3. REPORT; ADDITIONAL POWERS AND DUTIES OF THE
15 TASK FORCE ON PERSONS WHO ARE DEAF OR HARD OF
16 HEARING

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

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

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

7 (B) evaluation of the adequacy of existing services and resources,
8 including, if appropriate, determination of whether these services and resources
9 are accessible statewide, offer adequate family supports, and provide adequate
10 opportunities for direct contact with communication or language mode
11 peers; and

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

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

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

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

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

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

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

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

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

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

18 (5) Recommendations regarding the need for and potential structure of a
19 State agency division or other staffed entity responsible for overseeing
20 concerns of persons who are deaf or hard of hearing and their families.

1 including recommendations regarding what supports are necessary to ensure
2 that this entity is fully functional.

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

6 (7) An assessment of and recommendations regarding the needs of
7 persons in Vermont who are both blind and deaf or hard of hearing, including
8 the needs of children who are both blind and deaf or hard of hearing.

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

10 § 2955a. DATA REPORTING; STUDENTS WITH DISABILITIES

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

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

2 Subchapter 5. Interpreters for Judicial, Administrative, and Legislative
3 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~~ Task Force on
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~~ Task
20 Force on Persons Who are Deaf or Hard of Hearing may, by rule, establish
21 factors to be considered by the presiding officer under section 333 of this title

1 before appointing an interpreter who is not a qualified interpreter. Such factors
2 shall encourage the widest availability of interpreters in Vermont while at the
3 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~~ Task Force on 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.

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

5 * * *

6 Sec. 6. EFFECTIVE DATE

7 This act shall take effect on passage.

8

9 (Committee vote: _____)

10

11

Senator _____

12

FOR THE COMMITTEE