

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.

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

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

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

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

14 § 1601. DEFINITIONS

15 As used in this chapter:

16 (1) “Communication or language mode” means one or a combination of
17 the following systems or methods of communication available to children who
18 are deaf or hard of hearing: American Sign Language; English-based manual
19 or sign systems; oral, aural, speech-based training; spoken and written English,
20 including speech reading or lip reading; and communication with an assistive
21 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 § 1602. TASK FORCE ON PERSONS WHO ARE DEAF OR HARD OF
7 HEARING

8 (a) Creation; purpose. There is created a Task Force on 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.

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

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

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

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, provided that these members do not represent the
5 same organization;

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

9 (3) the Secretary of Education or designee;

10 (4) the Secretary of Health or designee;

11 (5) the Commissioner of Labor or designee;

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

14 (7) a special education administrator, selected by the Vermont Advisory
15 Council on Special Education.

16 (c) Powers and duties.

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

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

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

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

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

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

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

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

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

7 (E) publicize its findings; and

8 (F) carry out specific projects assigned by the General Assembly or
9 Governor.

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

13 (d) Assistance. The Task Force shall have the administrative, technical,
14 and legal assistance of the Department of Disabilities, Aging, and Independent
15 Living (DAIL). The Task Force and DAIL may consult with the Agency of
16 Education as necessary to fulfill their obligations under this section.

17 (e) Reports. On or before January 15 of each year, notwithstanding
18 2 V.S.A. § 20(d), the Task Force shall submit a written report to the Senate and
19 House Committees on Education, the Senate Committee on Health and
20 Welfare, the House Committee on Human Services, the Governor, and the
21 Agencies of Education and of Human Services with its findings pursuant to

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

3 (f) Appointments; meetings.

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

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

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

14 (4)(A) A majority of the members of the Task Force shall be physically
15 present at the same location to constitute a quorum.

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

18 (g) Reimbursement.

19 (1) Members of the Task Force who are not State employees or
20 otherwise compensated or reimbursed for their attendance shall be entitled to
21 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A.

1 § 1010, payable by the Department for Disabilities, Aging, and Independent
2 Living.

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

10 Sec. 3. REPORT; ADDITIONAL POWERS AND DUTIES OF THE
11 TASK FORCE ON PERSONS WHO ARE DEAF OR HARD OF
12 HEARING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 § 2955a. DATA REPORTING; STUDENTS WITH DISABILITIES

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

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

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

14 § 331. DEFINITIONS

15 As used in this subchapter:

16 (1) “Person who is deaf or hard of hearing” means any person who has
17 such difficulty hearing, even with amplification, that he or she cannot rely on
18 hearing for communication.

19 (2) “Proceeding” means any judicial proceeding, contested case under
20 3 V.S.A. chapter 25, or other hearing before an administrative agency not
21 included under 3 V.S.A. chapter 25.

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

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

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

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

14 * * *

15 Sec. 6. EFFECTIVE DATE

16 This act shall take effect on passage.

17

18 (Committee vote: _____)

19

20

Senator _____

21

FOR THE COMMITTEE