

**HOUSE . . . . . No. 160**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***John W. Scibak***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a bill of rights for children who are deaf or hard of hearing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>James B. Eldridge</i>	
<i>Michael R. Knapik</i>	
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>

**HOUSE . . . . . No. 160**

By Mr. Scibak of South Hadley, a petition (accompanied by bill, House, No. 160) of John W. Scibak and others relative to the education of children who are deaf or hard of hearing. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 496 OF 2009-2010.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

An Act establishing a bill of rights for children who are deaf or hard of hearing.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 6 of the General Laws, as appearing in the 2004 Official Edition, is  
2 hereby amended by inserting after section 198 the following section:-Section 198A. The  
3 commission shall certify the sign language or oral/aural communication proficiency of  
4 professionals and para-professionals who are providing direct or related services pursuant to an  
5 individualized education plan to deaf and hard of hearing pupils in the school. For the purposes  
6 of this section, such direct and indirect service providers shall include teachers of the deaf,  
7 speech therapists, counselors, interpreters, teaching associates and others as appropriate.

8 The department of education shall acknowledge the commission certification awards or  
9 acceptance by the commission of other certifying entities as meeting communication proficiency  
10 standards within its certification process for said educational personnel.

11 No person shall be employed by a school district in any of the positions enumerated  
12 herein who has not been certified, but the department may issue a temporary certification  
13 effective for up to three years-to an applicant seeking certification under the provisions of this  
14 section, provided that the applicant is pursuing an educational program to attain competence in  
15 communication.

16 SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 2004  
17 Official Edition, is hereby amended by inserting after the 22nd paragraph the following  
18 paragraph:—The board shall provide information to schools, through referral by the commission  
19 for the deaf and hard of hearing children’s services specialists or other appropriate persons  
20 concerning educational, medical, cultural and linguistic issues of deafness and hearing loss to  
21 meet the individual educational needs of deaf and hard of hearing children.

22 SECTION 3. Section 38G of chapter 71 of the General Laws, as appearing in the 2004  
23 Official Edition, is hereby amended by inserting after the 20th paragraph the following two  
24 paragraphs:—Competence in sign language or oral/aural communication shall be a requirement  
25 for initial certification as a teacher of students who are deaf or hard of hearing. Such competence  
26 shall be verified through a communication proficiency assessment certification process  
27 determined by the commission for the deaf and hard of hearing. Competence in interpreting shall  
28 be a requirement for initial certification by the department for educational interpreters. Such  
29 competence shall be determined by the commission for the deaf and hard of hearing.

30 SECTION 4. Chapter 71B of the General Laws, as appearing in the 2004 Official  
31 Edition, is hereby amended by inserting after section 3A the following section:—Section 3B. As  
32 used in this section, the following terms shall have the following meanings:“American sign

33 language”, the visual/gestural language used by deaf people in the United States and Canada,  
34 with semantic, syntactic, morphological, and phonological rules which are distinct from English;

35 “Deaf student”, an individual who has a severe or complete absence of auditory  
36 sensitivity which adversely affects educational performance and which is so severe that the  
37 student is impaired in processing linguistic information through hearing, with or without  
38 amplification;

39 “English sign systems”, sign systems developed for educational purposes, which use  
40 manual signs in English word order; sometimes with added affixes which are not present in  
41 American sign language;

42 “Hard of hearing student”, an individual who has some absence of auditory sensitivity  
43 with residual hearing, whether permanent or fluctuating, which adversely affects a child’s  
44 educational performance but which is not included under the definition of “deaf student” in this  
45 section;

46 “Individualized education plan (IEP)”, a written educational plan developed for a student  
47 eligible for special education services pursuant to the Code of Massachusetts regulations and the  
48 federal Individual with Disabilities Education Act, 20 U.S.C. § 1400 et seq;

49 “Primary communication mode, style, and language”, the communication mode, style,  
50 and language which is preferred by and most effective for a particular student, as determined by  
51 appropriate language assessment undertaken by individuals proficient in the communication  
52 mode, style, or languages being assessed. Communication mode may include one or more of the  
53 following systems or methods of communication applicable to deaf or hard of hearing children:

- 54 (a) American Sign Language;
- 55 (b) English-based manual or sign systems; or
- 56 (c) Oral, aural, or speech-based training.

57 Children who are deaf or hard of hearing are entitled to appropriate screening and  
58 assessment of hearing and vision capabilities and language and communication needs at the  
59 earliest possible age and to the continuation of intermittent screening services throughout their  
60 educational experience.

61 Children who are deaf or hard of hearing are entitled to early intervention to provide for  
62 acquisition of a solid language base(s) developed at the earliest possible age.

63 Children who are deaf or hard of hearing are entitled to have an education in which their  
64 parents'/guardians' full informed participation in determining the extent, content, and purpose of  
65 all their educational planning and programs.

66 Children who are deaf and hard of hearing are entitled to have an education in which  
67 teachers of the deaf and hard of hearing, counselors, psychologists, speech therapists, diagnostic  
68 personnel, administrators, and other special education personnel understand the unique nature of  
69 deafness and are specifically trained to work with deaf and hard of hearing students.

70 Children who are deaf or hard of hearing are entitled to qualified teachers, teacher aides,  
71 interpreters of the deaf and hard of hearing who have a background in deafness, have  
72 demonstrated proficiency in the preferred language mode of those children and are qualified  
73 based on standards as set forth by the Massachusetts commission for the deaf and hard of  
74 hearing.

75 Children who are deaf or hard of hearing are entitled to contact with and to be exposed to  
76 adult role models who are deaf or hard of hearing in their educational programs.

77 Children who are deaf or hard of hearing are entitled to receive an education with a  
78 sufficient number of language mode peers with whom they can communicate directly and who  
79 are of the same, or approximately the same, age and ability level.

80 Deaf and hard of hearing children are entitled to have programs in which they have direct  
81 and appropriate access to all components of programs services of the educational process,  
82 including, but not limited to, extracurricular social and athletic activities.

83 Children who are deaf or hard of hearing are entitled to placement best suited to their  
84 individual needs, including, but not limited to age, hearing loss, academic level, mode(s) of  
85 communications, style of learning, motivational levels and family support.

86 Children who are deaf or hard of hearing are entitled to benefit from the development and  
87 implementation of state and regional programs for children with low incidence disabilities.

88 Children who are deaf or hard of hearing are entitled to up-to-date technological devices  
89 and equipment, acoustic enhancements such as carpeting in the classroom, assistive listening  
90 devices used alone or in conjunction with a hearing aid such as audio loop and FM systems,  
91 visual technological support to the classroom and school building.

92 Children who are deaf or hard of hearing are entitled to have the public fully informed  
93 concerning medical, cultural, and linguistic issues of deafness and hearing loss.

94 Each deaf or hard of hearing student shall have a determination of the least restrictive  
95 environment that takes into consideration these legislative findings and declarations.

96 SECTION 5. A person who is certified as a teacher of students who are deaf or hard of  
97 hearing shall demonstrate continued competency in sign language or oral/aural communication  
98 for instruction as a condition of renewal of certification in accordance with the provisions of  
99 section 38G of chapter 71 of the General Laws, as appearing in the 2004 Official Edition.

100 SECTION 6. The assessment for communication proficiency in sign language and  
101 oral/aural communication accepted by the department of education for certification of teachers of  
102 deaf or hard of hearing students shall be determined or developed by the commission for the deaf  
103 and hard of hearing.

104 The assessment for interpreting proficiency in sign language or oral/aural communication  
105 accepted by the department of education for certification of educational interpreters of deaf or  
106 hard of hearing students shall be determined or developed by the commission for the deaf and  
107 hard of hearing.

108 SECTION 7. There is hereby established an advisory council on the education of children  
109 who are deaf or hard of hearing consisting of 14 members to be appointed by the board of  
110 education in consultation with the commission for the deaf and hard of hearing, one of whom  
111 shall have professional experience in using assistive technology; two of whom shall be educators  
112 of deaf or hard of hearing students, one of whom shall be a regular and effective user of  
113 American Sign language and one of whom shall be a regular and effective user of oral/aural or  
114 speech based English; two parents of deaf or hard of hearing students, one of whom is a regular  
115 and effective user of American sign language and one of whom is a regular and effective user of  
116 oral/aural or speech based English; two representatives of the deaf and hard of hearing  
117 community, one of whom is a user of American sign language and one of whom is a user of

118 oral/aural or speech based English; two administrators of college or university teacher training  
119 programs, one of whom shall use American Sign language and one of whom shall use oral/aural  
120 or speech based English; an administrator of a college or university program in interpreter  
121 training; two administrators of programs or schools for deaf or hard of hearing students, one of  
122 whom shall be an administrator of a program which uses American Sign language, and one of  
123 whom shall be the administrator of a program which uses oral/aural or speech based English; one  
124 shall be a representative of the Massachusetts Registry of Interpreters for the deaf; and one shall  
125 be a representative of the commission for the deaf and hard of hearing.

126         The council shall file a report with the clerk of the house of representatives who shall  
127 forward the same to the joint committee on education on the first Wednesday in July, of each  
128 year commencing with July 5, 2000. Said report shall include, but not be limited to the  
129 following: the number of teachers certified pursuant to section 38G of chapter 71 of the General  
130 Laws, as appearing in the 2004 Official Edition, the number of deaf and hard of hearing students  
131 accepting such instructions; the percentage and type of assistive technology and other  
132 educational materials available, and such recommendations as it may make to improve the  
133 amount and variety of such materials; and findings and recommendations concerning the  
134 employment conditions of teachers of students who are deaf or hard of hearing.