

**HOUSE . . . . . No. 496**

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Nine**  
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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. The  
8 department of education shall acknowledge the commission certification awards or acceptance  
9 by the commission of other certifying entities as meeting communication proficiency standards  
10 within its certification process for said educational personnel. No person shall be employed by a  
11 school district in any of the positions enumerated herein who has not been certified, but the  
12 department may issue a temporary certification effective for up to three years to an applicant  
13 seeking certification under the provisions of this section, provided that the applicant is pursuing  
14 an educational program to attain competence in communication.

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

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

29 SECTION 4. Chapter 71B of the General Laws, as appearing in the 2004 Official  
30 Edition, is hereby amended by inserting after section 3A the following section:—Section 3B. As  
31 used in this section, the following terms shall have the following meanings:“American sign  
32 language”, the visual/gestural language used by deaf people in the United States and Canada,  
33 with semantic, syntactic, morphological, and phonological rules which are distinct from  
34 English;“Deaf student”, an individual who has a severe or complete absence of auditory  
35 sensitivity which adversely affects educational performance and which is so severe that the  
36 student is impaired in processing linguistic information through hearing, with or without  
37 amplification;“English sign systems”, sign systems developed for educational purposes, which

38 use manual signs in English word order; sometimes with added affixes which are not present in  
39 American sign language;“Hard of hearing student”, an individual who has some absence of  
40 auditory sensitivity with residual hearing, whether permanent or fluctuating, which adversely  
41 affects a child’s educational performance but which is not included under the definition of “deaf  
42 student” in this section;“Individualized education plan (IEP)”, a written educational plan  
43 developed for a student eligible for special education services pursuant to the Code of  
44 Massachusetts regulations and the federal Individual with Disabilities Education Act, 20 U.S.C.§  
45 1400 et seq;“Primary communication mode, style, and language”, the communication mode,  
46 style, and language which is preferred by and most effective for a particular student, as  
47 determined by appropriate language assessment undertaken by individuals proficient in the  
48 communication mode, style, or languages being assessed. Communication mode may include  
49 one or more of the following systems or methods of communication applicable to deaf or hard of  
50 hearing children:(a) American Sign Language;(b) English-based manual or sign systems; or(c)  
51 Oral, aural, or speech-based training.Children who are deaf or hard of hearing are entitled to  
52 appropriate screening and assessment of hearing and vision capabilities and language and  
53 communication needs at the earliest possible age and to the continuation of intermittent  
54 screening services throughout their educational experience.Children who are deaf or hard of  
55 hearing are entitled to early intervention to provide for acquisition of a solid language base(s)  
56 developed at the earliest possible age.Children who are deaf or hard of hearing are entitled to  
57 have an education in which their parents’/guardians’ full informed participation in determining  
58 the extent, content, and purpose of all their educational planning and programs.Children who are  
59 deaf and hard of hearing are entitled to have an education in which teachers of the deaf and hard  
60 of hearing, counselors, psychologists, speech therapists, diagnostic personnel, administrators,

61 and other special education personnel understand the unique nature of deafness and are  
62 specifically trained to work with deaf and hard of hearing students.Children who are deaf or hard  
63 of hearing are entitled to qualified teachers, teacher aides, interpreters of the deaf and hard of  
64 hearing who have a background in deafness, have demonstrated proficiency in the preferred  
65 language mode of those children and are qualified based on standards as set forth by the  
66 Massachusetts commission for the deaf and hard of hearing.Children who are deaf or hard of  
67 hearing are entitled to contact with and to be exposed to adult role models who are deaf or hard  
68 of hearing in their educational programs.Children who are deaf or hard of hearing are entitled to  
69 receive an education with a sufficient number of language mode peers with whom they can  
70 communicate directly and who are of the same, or approximately the same, age and ability  
71 level.Deaf and hard of hearing children are entitled to have programs in which they have direct  
72 and appropriate access to all components of programs services of the educational process,  
73 including, but not limited to, extracurricular social and athletic activities.Children who are deaf  
74 or hard of hearing are entitled to placement best suited to their individual needs, including, but  
75 not limited to age, hearing loss, academic level, mode(s) of communications, style of learning,  
76 motivational levels and family support.Children who are deaf or hard of hearing are entitled to  
77 benefit from the development and implementation of state and regional programs for children  
78 with low incidence disabilities.Children who are deaf or hard of hearing are entitled to up-to-date  
79 technological devices and equipment, acoustic enhancements such as carpeting in the classroom,  
80 assistive listening devices used alone or in conjunction with a hearing aid such as audio loop and  
81 FM systems, visual technological support to the classroom and school building.Children who are  
82 deaf or hard of hearing are entitled to have the public fully informed concerning medical,  
83 cultural, and linguistic issues of deafness and hearing loss.Each deaf or hard of hearing student

84 shall have a determination of the least restrictive environment that takes into consideration these  
85 legislative findings and declarations.

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

90 SECTION 6. The assessment for communication proficiency in sign language and  
91 oral/aural communication accepted by the department of education for certification of teachers of  
92 deaf or hard of hearing students shall be determined or developed by the commission for the deaf  
93 and hard of hearing. The assessment for interpreting proficiency in sign language or oral/aural  
94 communication accepted by the department of education for certification of educational  
95 interpreters of deaf or hard of hearing students shall be determined or developed by the  
96 commission for the deaf and hard of hearing.

97 SECTION 7. There is hereby established an advisory council on the education of children  
98 who are deaf or hard of hearing consisting of 14 members to be appointed by the board of  
99 education in consultation with the commission for the deaf and hard of hearing, one of whom  
100 shall have professional experience in using assistive technology; two of whom shall be educators  
101 of deaf or hard of hearing students, one of whom shall be a regular and effective user of  
102 American Sign language and one of whom shall be a regular and effective user of oral/aural or  
103 speech based English; two parents of deaf or hard of hearing students, one of whom is a regular  
104 and effective user of American sign language and one of whom is a regular and effective user of  
105 oral/aural or speech based English; two representatives of the deaf and hard of hearing

106 community, one of whom is a user of American sign language and one of whom is a user of  
107 oral/aural or speech based English; two administrators of college or university teacher training  
108 programs, one of whom shall use American Sign language and one of whom shall use oral/aural  
109 or speech based English; an administrator of a college or university program in interpreter  
110 training; two administrators of programs or schools for deaf or hard of hearing students, one of  
111 whom shall be an administrator of a program which uses American Sign language, and one of  
112 whom shall be the administrator of a program which uses oral/aural or speech based English; one  
113 shall be a representative of the Massachusetts Registry of Interpreters for the deaf; and one shall  
114 be a representative of the commission for the deaf and hard of hearing. The council shall file a  
115 report with the clerk of the house of representatives who shall forward the same to the joint  
116 committee on education on the first Wednesday in July, of each year commencing with July 5,  
117 2000. Said report shall include, but not be limited to the following: the number of teachers  
118 certified pursuant to section 38G of chapter 71 of the General Laws, as appearing in the 2004  
119 Official Edition, the number of deaf and hard of hearing students accepting such instructions; the  
120 percentage and type of assistive technology and other educational materials available, and such  
121 recommendations as it may make to improve the amount and variety of such materials; and  
122 findings and recommendations concerning the employment conditions of teachers of students  
123 who are deaf or hard of hearing.