

SENATE No. 239

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing a deaf children's bill of rights..

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 is hereby amended by inserting after section
2 198 the following section:—Section 198A. The commission shall certify the sign language or
3 oral/aural communication proficiency of professionals and para-professionals who are providing
4 direct or related services pursuant to an individualized education plan to deaf and hard of hearing
5 pupils in the school. For the purposes of this section, such direct and indirect service providers
6 shall include teachers of the deaf, speech therapists, counselors, interpreters, teaching associates
7 and others as appropriate. The department of education shall acknowledge the commission
8 certification awards or acceptance by the commission of other certifying entities as meeting
9 communication proficiency standards within its certification process for said educational
10 personnel. No person shall be employed by a school district in any of the positions enumerated
11 herein who has not been certified, but the department may issue a temporary certification
12 effective for up to three years to an applicant seeking certification under the provisions of this
13 section, provided that the applicant is pursuing an educational program to attain competence in
14 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 so appearing, is hereby
22 amended by inserting after the 20th paragraph the following two paragraphs:—Competence in
23 sign language or oral/aural communication shall be a requirement for initial certification as a
24 teacher of students who are deaf or hard of hearing. Such competence shall be verified through a
25 communication proficiency assessment certification process determined by the commission for
26 the deaf and hard of hearing. Competence in interpreting shall be a requirement for initial
27 certification by the department for educational interpreters. Such competence shall be determined
28 by the commission for the deaf and hard of hearing.

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

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

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

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

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

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

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

105 community, one of whom is a user of American sign language and one of whom is a user of
106 oral/aural or speech based English; two administrators of college or university teacher training
107 programs, one of whom shall use American Sign language and one of whom shall use oral/aural
108 or speech based English; an administrator of a college or university program in interpreter
109 training; two administrators of programs or schools for deaf or hard of hearing students, one of
110 whom shall be an administrator of a program which uses American Sign language, and one of
111 whom shall be the administrator of a program which uses oral/aural or speech based English; one
112 shall be a representative of the Massachusetts Registry of Interpreters for the deaf; and one shall
113 be a representative of the commission for the deaf and hard of hearing. The council shall file a
114 report with the clerk of the house of representatives who shall forward the same to the joint
115 committee on education on the first Wednesday in July, of each year commencing with July 5,
116 2007. Said report shall include, but not be limited to the following: the number of teachers
117 certified pursuant to section 38G of chapter 71 of the General Laws, the number of deaf and hard
118 of hearing students accepting such instructions; the percentage and type of assistive technology
119 and other educational materials available, and such recommendations as it may make to improve
120 the amount and variety of such materials; and findings and recommendations concerning the
121 employment conditions of teachers of students who are deaf or hard of hearing.