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## SENATE BILL NO. 564

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on January 30, 2020)

(Patron Prior to Substitute—Senator Edwards)

A *BILL to amend and reenact § 32.1-64.1 of the Code of Virginia, relating to Virginia Hearing Loss Identification and Monitoring System; language development for children who are deaf or hard of hearing.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-64.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-64.1. Virginia Hearing Loss Identification and Monitoring System.**

A. In order to identify hearing loss at the earliest possible age among newborns ~~and~~, to provide early intervention for all infants so identified as having hearing loss, *and to track the language development of children who are identified as deaf or hard of hearing*, the Commissioner shall establish and maintain the Virginia Hearing Loss Identification and Monitoring System. This system shall be for the ~~purpose~~ *purposes* of identifying and monitoring infants with hearing loss to ensure that such infants receive appropriate early intervention through treatment, therapy, training, and education *and tracking the language development of children who are identified as deaf or hard of hearing*.

B. The Virginia Hearing Loss Identification and Monitoring System shall be initiated in all hospitals with neonatal intensive care services, in all hospitals in the Commonwealth having newborn nurseries, and in other birthing places or centers in the Commonwealth.

C. In all hospitals with neonatal intensive care services, the chief medical officer of such hospitals or his designee shall identify infants at risk of hearing loss using criteria established by the Board. Beginning on July 1, 1999, all infants shall be given a hearing screening test, regardless of whether or not the infant is at risk of hearing loss, by the chief medical officer or his designee using methodology approved by the Board. The test shall take place before the infant is discharged from the hospital to the care of the parent or guardian or as the Board may by regulation provide.

In all other hospitals and other birthing places or centers, the chief medical officer or his designee or the attending practitioner shall identify infants at risk of hearing loss using criteria established by the Board.

D. Beginning on July 1, 2000, the Board shall provide by regulation for the giving of hearing screening tests for all infants born in all hospitals. The Board's regulations shall establish when the testing shall be offered and performed and procedures for reporting.

An infant whose hearing screening indicates the need for a diagnostic audiological examination shall be offered such examination at a center approved by the Board of Health. As a condition of such approval, such centers shall maintain suitable audiological support and medical and educational referral practices.

E. The Commissioner shall appoint an advisory committee to assist in the design, implementation, and revision of this identification and monitoring system. The advisory committee shall meet at least four times per year. A chairman shall be elected annually by the advisory committee. The Department of Health shall provide support services to the advisory committee. The advisory committee shall consist of representatives from relevant groups including, but not limited to, the health insurance industry; physicians, including at least one pediatrician or family practitioner, one otolaryngologist, and one neonatologist; nurses representing newborn nurseries; audiologists; *at least one expert who researches language outcomes for children who are deaf or hard of hearing and who uses the dual languages of American Sign Language and English; at least one expert who researches language outcomes for children who are deaf or hard of hearing and who use spoken English, with or without visual supplements*; hearing aid dealers and fitters; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; adults who are deaf or hard of hearing; hospital administrators; and personnel of appropriate state agencies, including the Department of Medical Assistance Services, the Department of Education, and the Department for the Deaf and Hard-of-Hearing. The Department of Education, the Department for the Deaf and Hard-of-Hearing, and the Department of Behavioral Health and Developmental Services shall cooperate with the Commissioner and the Board in implementing this system.

F. With the assistance of the advisory committee, the Board shall promulgate such rules and regulations as may be necessary to implement this identification and monitoring system. These rules and regulations shall include criteria, including current screening methodology, for the identification of infants (i) with hearing loss and (ii) at risk of hearing loss and shall include the scope of the information to be reported, reporting forms, screening protocols, appropriate mechanisms for follow-up, relationships

60 between the identification and monitoring system and other state agency programs or activities, and  
61 mechanisms for review and evaluation of the activities of the system. The identification and monitoring  
62 system shall collect the name, address, sex, race, and any other information determined to be pertinent  
63 by the Board, for infants who are screened pursuant to this section.

64 *G. The advisory committee shall, after considering all existing language developmental milestones*  
65 *from the standardized norms and any relevant information regarding language developmental*  
66 *milestones, select language developmental milestone assessments for educators and early intervention*  
67 *specialists for use in assessing the language and literacy development of children from birth to age five*  
68 *who are deaf or hard of hearing. Such tools or assessments shall be appropriate for use, in both content*  
69 *and administration, with children who use American Sign Language, English, or both. With the*  
70 *assistance of the advisory committee, the Board shall disseminate the tools or assessments selected*  
71 *pursuant to this subsection to the Department of Behavioral Health and Developmental Services and the*  
72 *Department of Education.*

73 ~~G.~~ H. In addition, the Board's regulations shall provide that any person making a determination that  
74 an infant (i) is at risk for hearing loss, (ii) has ~~failed to pass a hearing screening~~ *been identified as deaf*  
75 *or hard of hearing*, or (iii) was not successfully tested shall notify the parent or guardian of the infant,  
76 the infant's primary care practitioner, and the Commissioner. The Board may provide guidelines for the  
77 notification process.

78 ~~H.~~ I. No testing required to be performed or offered by this section shall be performed if the parents  
79 of the infant object to the test based on their bona fide religious convictions.