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SENATE BILL NO. 265

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on February 23, 2022)

(Patron Prior to Substitute—Senator Hashmi)

A BILL to amend the Code of Virginia by adding a section numbered 22.1-217.04, relating to language development for children who are deaf or hard of hearing; assessment resources for parents and educators; advisory committee; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-217.04 as follows:

§ 22.1-217.04. Language development for children who are deaf or hard of hearing; assessment resources for parents and educators; advisory committee; report.

A. For the purposes of this section, "language developmental milestones" means milestones of development aligned to the existing instrument used to assess the development of children with disabilities pursuant to federal law.

B. 1. The Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall establish an advisory committee for the purpose of soliciting input from members on the selection of language developmental milestones for inclusion in a resource for use by parents of a child from birth to age five who is identified as deaf or hard of hearing to monitor and track the child's expressive and receptive language acquisition and developmental stages toward English literacy. The advisory committee shall consist of 16 nonlegislative citizen members, nine of which shall be voting members as described in subdivision 2 and seven of which shall be nonvoting members as described in subdivision 3. The majority of members shall be deaf or hard of hearing, and all of the members shall have experience in the field of education of individuals who are deaf or hard of hearing. The advisory committee shall have a balance of members who personally, professionally, or parentally use the dual languages of American Sign Language and English and members who personally, professionally, or parentally use only spoken English.

2. The nine voting members of the committee shall be as follows:

a. One parent of a child who is deaf or hard of hearing who has chosen American Sign Language as the primary language for his child;

b. One parent of a child who is deaf or hard of hearing who has chosen spoken language as the communication mode for his child;

c. One parent of a child who is deaf or hard of hearing who has chosen cued speech as the communication mode for his child;

d. One teacher for the deaf or hard of hearing or developmental specialist who possesses the highest skill level in the development of American Sign Language competence with experience in early intervention;

e. One teacher for the deaf or hard of hearing or developmental specialist who possesses the highest skill level in the development of spoken language competence for children with hearing loss with experience in early intervention;

f. One teacher for the deaf or hard of hearing or early intervention specialist who possesses the highest skill level in the development of cued speech or language competence with experience in early intervention;

g. One speech-language pathologist who possesses the highest skill level in the development of American Sign Language with experience in early intervention;

h. One speech-language pathologist who possesses the highest skill level in the development of spoken language for children with hearing loss with experience in early intervention; and

i. One service coordinator from early intervention with experience in providing families with unbiased information regarding communication methodologies available to families.

3. The seven nonvoting members of the committee shall be representatives of each of the following agencies or committees, as determined by the agency head or committee chair:

a. The Virginia Early Hearing Detection and Intervention Program Advisory Committee;

b. The Virginia School for the Deaf and the Blind;

c. The Infant and Toddler Connection of Virginia;

d. The Virginia Department of Education;

e. The Center for Family Involvement at the Virginia Commonwealth University Partnership for People with Disabilities;

f. The Virginia Department for the Deaf and Hard-of-Hearing; and

g. The Virginia Association of the Deaf.

C. No later than January 1, 2023, the Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall provide the advisory committee established pursuant to subsection B with a list of all existing language developmental milestones from standardized norms and any relevant information regarding such language developmental milestones for possible inclusion in the parent resource set forth in subsection D. No later than June 1, 2023, the advisory committee shall recommend language developmental milestones for inclusion in the parent resource and may make recommendations for tools or assessments to be included in an educator resource set forth in subsection E for use in assessing the language and literacy development of children from birth to age five who are deaf or hard of hearing. No later than June 30, 2023, the Department, in consultation with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall select language developmental milestones for inclusion in the parent resource and inform the advisory committee of its selections.

D. The Department, in consultation with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall, after considering the recommendations submitted by the advisory committee, select language developmental milestones for inclusion in a resource, and develop such resource, for use by parents of a child from birth to age five who is identified as deaf or hard of hearing to monitor and track the child's expressive and receptive language acquisition and developmental stages toward English literacy. Such parent resource shall:

1. Be appropriate for use, in both content and administration, with children who use American Sign Language, English, or both;

2. Present the language development milestones selected pursuant to subsection C in terms of typical development of all children in a particular age range;

3. Be written for clarity and ease of use by parents;

4. Be aligned to the Department's existing infant, toddler, and preschool guidelines; the existing instrument used to assess the development of children with disabilities pursuant to federal law; and state standards in English language arts;

5. Make clear that parents have the right to select American Sign Language, English, or both for their child's language acquisition and developmental milestones;

6. Make clear that the parent resource is not a formal assessment of language and literacy development and that parents' observations of their child may differ from formal assessment data presented at an Individual Family Service Plan (IFSP) or Individualized Education Program (IEP) meeting;

7. Explain that parents may bring the parent resource to an IFSP or IEP meeting for purposes of sharing their observations about their child's development; and

8. Include fair, balanced, and comprehensive information about American Sign Language and English and respective communication modes as well as available services and programs.

The Department, the Department for the Deaf and Hard-of-Hearing, and the Department of Behavioral Health and Developmental Services shall jointly disseminate the resource to parents of children from birth to age five who are deaf or hard of hearing.

E. The Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall, after considering any recommendations submitted by the advisory committee, select existing tools or assessments for early intervention specialists and educators for use in assessing the language and literacy development of children from birth to age five who are deaf or hard of hearing. Such tools or assessments shall:

1. Be in a format that shows stages of language and literacy development;

2. Be selected for use by educators to track the expressive and receptive language acquisition and developmental stages toward English literacy of children from birth to age five who are deaf or hard of hearing; and

3. Be appropriate, in both content and administration, for use with children who are deaf or hard of hearing and who use American Sign Language, English, or both.

The Department, the Department for the Deaf and Hard-of-Hearing, and the Department of Behavioral Health and Developmental Services shall jointly disseminate the tools or assessments selected pursuant to this subsection to local educational agencies and provide materials and training on their use. Such tools or assessments may be used by a child's IFSP or IEP team, as applicable, to track the expressive and receptive language acquisition and developmental stages toward English literacy of such child or to establish or modify IFSP or IEP plans.

F. In addition to the powers and duties set forth above, the advisory committee may:

1. Advise the Department, the Department for the Deaf and Hard-of-Hearing, and the Department of Behavioral Health and Developmental Services or its contractor on the content and administration of the existing instrument used to assess the development of children who are deaf or hard of hearing in order to ensure the appropriate use of such instrument for the assessment of the language and literacy

development of children from birth to age five who are deaf or hard of hearing; and

2. Make recommendations regarding future research to improve the measurement of the language and literacy development of children from birth to age five who are deaf or hard of hearing.

G. If a child from birth to age five who is deaf or hard of hearing does not demonstrate progress in expressive and receptive language skills as measured by one of the educator tools or assessments selected pursuant to subsection E or by the existing instrument used to assess the development of children who are deaf or hard of hearing, such child's IFSP or IEP team, as applicable, shall explain in detail the reasons why the child is not meeting or progressing toward the language developmental milestones and shall recommend specific strategies, services, and programs that shall be provided to assist the child's progress toward English literacy.

H. No later than August 1, 2024, and no later than August 1 of each year thereafter, the Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department of Behavioral Health and Developmental Services, shall produce a report, using existing data reported in compliance with the federally required state performance plan on students with disabilities, that compares the language and literacy development of children from birth to age five who are deaf or hard of hearing with the language and literacy development of their peers who are not deaf or hard of hearing and shall make such report available to the public on its website.

I. The Department, the Department for the Deaf and Hard-of-Hearing, and the Department of Behavioral Health and Developmental Services shall comply with the provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.) and the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) in carrying out the provisions of this section.

J. The advisory committee function shall terminate effective June 30, 2023.