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SENATE BILL NO. 265

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 3, 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. 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 10 nonlegislative citizen members, the majority of whom shall be deaf or hard of hearing and all of whom shall have experience in the field of education of individuals who are deaf or hard of hearing, and shall include parents 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. The advisory committee may include the following:

1. One parent of a child who is deaf or hard of hearing and who uses the dual languages of American Sign Language and English.

2. One parent of a child who is deaf or hard of hearing and who uses spoken English, with or without visual supplements.

3. One credentialed teacher of students who are deaf or hard of hearing and who use the dual languages of American Sign Language and English.

4. One credentialed teacher of students who are deaf and hard of hearing who teaches at an accredited private, nonsectarian elementary or secondary school.

5. One credentialed teacher of deaf and hard-of-hearing students whose expertise is in curriculum and instruction in American Sign Language and English.

6. One credentialed teacher of deaf and hard-of-hearing students whose expertise is in curriculum and instruction in spoken English, with or without visual supplements.

7. One advocate for the teaching and use of the dual languages of American Sign Language and English for children who are deaf or hard of hearing.

8. One advocate for the teaching and use of spoken English, with or without visual supplements.

9. One credentialed teacher of deaf and hard-of-hearing students or an early intervention specialist whose expertise is in American Sign Language and English language assessment.

10. One speech pathologist who uses spoken English, with or without the use of visual supplements.

C. No later than March 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.

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 coordination 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 coordination the Department for the Deaf and Hard-of-Hearing and the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 H. No later than August 1, 2023, and no later than August 1 of each year thereafter, the
119 Department, in coordination with the Department for the Deaf and Hard-of-Hearing and the Department
120 of Behavioral Health and Developmental Services, shall produce a report, using existing data reported
121 in compliance with the federally required state performance plan on students with disabilities, that

122 *compares the language and literacy development of children from birth to age five who are deaf or*
123 *hard of hearing with the language and literacy development of their peers who are not deaf or hard of*
124 *hearing and shall make such report available to the public on its website.*

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