

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Originating

House Bill 4414

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[Originating in the Committee on Senior, Children,
and Family Issues;

Reported on January 16, 2020]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-1-20, §16-1-21 all relating to the selection of language and developmental milestones to develop a resource for use by parents to monitor and track deaf and hard-of-hearing children’s receptive and expressive language acquisition in the language(s) and communication mode chosen by the parents, and developmental stages toward English literacy.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-20. Definitions and purpose.

1 For the purpose of this code:

2 (a) “Departments” refers to the West Virginia Department of health and Human Resources,
3 and the West Virginia Department of Education.

4 (b) “Language developmental milestones” means milestones of development aligned with
5 the existing state instrument used to meet the requirements of federal law for the assessment of
6 children from birth to five years of age, inclusive;

7 (c) “Language” includes American Sign Language and English;

8 (d) For the purposes of developing and using language as defined in code section (b)(1),
9 for a child who is deaf or hard of hearing, the following modes of communication may be used as
10 a means for acquiring language: American Sign Language services, spoken language services,
11 dual language services, cued speech, and tactile, or a combination thereof.

12 (e) This code shall apply only to children from birth to five years of age, inclusive.

13 (f) Implementation of this code is subject to an appropriation being made for purposes of
14 this section in the annual Budget Act or another statute.

15 (g) Federal regulations for children age birth through two do not require reporting of
16 measures specific to language and literacy. However, this data is reported for children age three
17 to five and the Department of Education shall make this report available to the advisory committee,

18 and available to others upon request.

§16-1-21. Selection of early language developmental milestones to develop a resource for use by families to monitor and track deaf and hard-of-hearing children's early expressive and receptive language acquisition and developmental stages toward English literacy in the mode of communication and language(s) selected by the parents.

1 (a) The West Virginia Department of Health and Human Resources (hereinafter the
2 department) through its agencies that serve children ages birth to three and their families shall
3 jointly select language developmental milestones from existing standardized norms, pursuant to
4 the process specified in §16-1-20(d) of this code, to develop a family resource for use by families,
5 providers, early interventionists, speech pathologists, educators, and other service providers to
6 understand and monitor deaf and hard-of-hearing children's receptive and expressive language
7 acquisition and progress toward English literacy development. This family resource shall include:

8 (1) Language that provides comprehensive and neutral, unbiased information regarding
9 different modes used to learn and access language (e.g., English, ASL, or both) and services and
10 programs designed to meet the needs of children who are deaf or hard of hearing;

11 (2) Language developmental milestones selected pursuant to the process specified in
12 §16-1-20(d) of this code;

13 (3) Language appropriate for use, in both content and administration, with deaf and hard-
14 of-hearing children from birth to five years of age, inclusive, who use both or one of the languages
15 of American Sign Language (ASL) and English. For purposes of this section, "English" includes
16 spoken English, written English, or English with the use of visual supplements;

17 (4) Developmental milestones in terms of typical development of all children, by age range;

18 (5) Language written for clarity and ease of use by families;

19 (6) Language that is aligned with the department's existing infant, toddler, and preschool
20 guidelines, the existing instrument used to assess the development of children with disabilities

21 pursuant to federal law, and state standards in language and literacy;

22 (7) Clarification that the parent(s) have the right to select which language (ASL, English,
23 or both) for their child's language(s) acquisition and developmental milestones;

24 (8) Clarification that the family resource is not a formal assessment of language and
25 literacy development, and that a family's observations of their children may differ from formal
26 assessment data presented at an individualized family service plan (IFSP) meeting; and

27 (9) Clarification that the family resource may be used during an IFSP meeting for purposes
28 of sharing the family's observations about their child's development.

29 (b) The department shall also prepare a list of valid and reliable existing tools or
30 assessments for providers, early interventionists, speech pathologists, educators, and other
31 service providers that can be used periodically to determine the receptive and expressive
32 language and literacy development of deaf and hard-of-hearing children. These educator tools
33 and assessments:

34 (1) Shall be in a format that shows stages of language development;

35 (2) Shall be used by providers, early interventionists, speech pathologists, educators, and
36 other service providers to determine the progressing development of deaf and hard-of-hearing
37 children's receptive and expressive language acquisition and developmental stages toward
38 English literacy;

39 (3) Shall be selected from existing instruments or assessments used to assess the
40 development of all deaf and hard-of-hearing children from birth to five years of age, inclusive;

41 (4) Shall be appropriate, in both content and administration, for use with children who are
42 deaf and hard-of-hearing;

43 (5) May be used, in addition to the assessment required by federal law, by the
44 individualized family service plan team, as applicable, to track deaf and hard-of-hearing children's
45 progress, and to establish or modify individualized family service plan plans; and

46 (6) May reflect the recommendations of the advisory committee established pursuant to

47 §16-1-20(e) of this code.

48 (c) To promote the intent of this code, the department shall:

49 (1) Disseminate the family resource developed pursuant to §16-1-20(a) of this code to
50 families of deaf and hard-of-hearing children, as well as providers, early interventionists, speech
51 pathologists, educators, and related service personnel; and

52 (2) Disseminate the educator tools and assessments selected pursuant to subsection (b)
53 of this code, to local educational agencies for use in the development and modification of IFSP
54 and IEP plans;

55 (3) Provide informational materials, identify ASL mentors and professional learning
56 opportunities for the providers, early interventionists, speech pathologists, educators, and other
57 service providers on the use of the resources, tools, and assessments to assist deaf and hard-of-
58 hearing children in becoming linguistically ready for formal school entry (either itinerant services,
59 West Virginia Universal PreK/PreK Special Needs, or Kindergarten) using the mode(s) of
60 communication and language(s) chosen by the parents.

61 (d) If a deaf or hard-of-hearing child does not demonstrate progress in receptive and
62 expressive language skills, as measured by one of the educator tools or assessments selected
63 pursuant to §16-1-20(b) of this code, or by the existing instrument used to assess the development
64 of children with disabilities pursuant to federal law, the child's IFSP team, as applicable, shall, as
65 part of the process required by federal law, explain in detail the reasons why the child is not
66 meeting the language developmental milestones or progressing towards them, and shall
67 recommend specific strategies, services, and programs that shall be provided to assist the child's
68 success toward English literacy development.

69 (e) The departments shall establish an advisory committee to solicit input from
70 stakeholders identified herein on the selection of language developmental milestones for children
71 who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-
72 of-hearing, for inclusion in the family resource developed pursuant to §16-1-20(a) of this code.

73 (f) The advisory committee shall be comprised of volunteer individuals representing all
74 known modes of communication, specifically including the following:

75 (1) One parent of a child who is hard-of-hearing who uses the dual languages of American
76 Sign Language and English;

77 (2) One parent of a child who is deaf or hard-of-hearing who uses assistive technology to
78 communicate with spoken English.;

79 (3) Two or three credentialed providers, early interventionists, speech pathologists,
80 educators, or other service providers of deaf or hard-of-hearing children who are knowledgeable
81 in the use of the dual languages of English and American Sign Languages;

82 (4) Two or three credentialed providers, early interventionists, speech pathologists,
83 educators, or other service provider of deaf or hard-of-hearing children who are knowledgeable
84 in the use of assistive technology to communicate with spoken English;

85 (5) One expert who researches or is knowledgeable in the research regarding language
86 outcomes for deaf and hard-of-hearing children using American Sign Language or English;

87 (6) One expert who researches or is knowledgeable in the research regarding language
88 outcomes for deaf and hard-of-hearing children using assistive technology to communicate with
89 spoken English.

90 (7) One credentialed educator of deaf and hard-of-hearing children whose expertise is in
91 curriculum and instruction in American Sign Language and English;

92 (8) One credentialed educator of deaf and hard-of-hearing children whose expertise is in
93 curriculum and instruction in assistive technology to communicate with spoken English;

94 (9) One advocate for the teaching and use of the dual languages of American Sign
95 Language and English;

96 (10) One advocate for the teaching and use of instruction in assistive technology to
97 communicate with spoken English; and,

98 (11) One educational audiologist who can address the issues of aural habilitation and

99 assistive technology to advocate for children using spoken language in mainstream environments.

100 (g) The advisory committee established pursuant to subsection (e) of this code may also
101 advise the departments on the content and administration of the existing instrument used to
102 assess the development of children with disabilities pursuant to federal law, as used to assess
103 deaf and hard-of-hearing children's language and literacy development to ensure the appropriate
104 use of that instrument with those children, and make recommendations regarding future research
105 to improve the measurement of progress of deaf and hard-of-hearing children in language and
106 literacy.

107 (h) The department shall provide the advisory committee established pursuant to
108 subsections §16-20-1 of this code with a list of existing language developmental milestones from
109 existing standardized norms, along with any relevant information held by the department
110 regarding those language developmental milestones for possible inclusion in the family resource
111 developed pursuant to subsection §16-1-20(a) of this code.

112 (i) After reviewing, the advisory committee shall recommend to the department language
113 developmental milestones for selection pursuant to §16-1-20(a) of this code.

114 (j) Commencing on or before July 31, 2021, and on or before each July 31 thereafter, the
115 departments shall annually produce an aggregated report, using existing data reported in
116 compliance with the federally required state performance plan on children with disabilities, that is
117 specific to language and literacy development of children whose primary exceptionality is deaf
118 and hard-of-hearing from birth to five years of age, inclusive, including those who are deaf or hard
119 of hearing and have other disabilities, relative to their peers who are not deaf or hard of hearing.
120 The departments shall make this report available to the advisory committee, and available to
121 others upon request.

122 (k) All activities of the departments in implementing this code shall be consistent with
123 federal law regarding the education of children with disabilities and federal law regarding the
124 privacy of student information.

NOTE: The purpose of this bill is to develop a resource which families can use to monitor and track deaf and hard-of-hearing children's early language acquisition and expression, and developmental stages toward English literacy.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.