

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4414**

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[Originating in the Committee on Health and Human  
Resources; Reported on January 30, 2020.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §16-1-20, relating to early language development; defining terms; developing  
3 early language resources; setting forth types of communication; selecting assessment  
4 tools; creating an advisory committee; providing authority to the advisory committee; and  
5 requiring an annual report.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

**§16-1-20. Definitions and purpose.**

1 (a) For the purpose of this code:

2 (1) "Departments" refers to the West Virginia Department of Health and Human  
3 Resources, and the West Virginia Department of Education.

4 (2) "English" means and includes spoken English, written English, or English with the use  
5 of visual supplements;

6 (3) "Language developmental milestones" means milestones of development aligned with  
7 the existing state instrument used to meet the requirements of federal law for the assessment of  
8 children from birth to five years of age, inclusive;

9 (4) "Language" includes American Sign Language and English;

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

14 (c) This section shall apply only to children from birth to five years of age, inclusive.

15 (d) Implementation of this code is subject to an appropriation by the legislature.

16 (e) Federal regulations for children age birth through two do not require reporting of  
17 measures specific to language and literacy. However, this data is reported for children age three

18 to five and the Department of Education shall make this report available to the advisory committee,  
19 and available to others upon request.

20 (f) The West Virginia Department of Health and Human Resources through its agencies  
21 that serve children ages birth to three and their families shall jointly select language  
22 developmental milestones from existing standardized norms, to develop a family resource for use  
23 by families, providers, early interventionists, speech pathologists, educators, and other service  
24 providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive  
25 language acquisition and progress toward English literacy development. This family resource  
26 shall include:

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

30 (2) Language developmental milestones selected pursuant to the process specified in this  
31 section;

32 (3) Language appropriate for use, in both content and administration, with deaf and hard-  
33 of-hearing children from birth to five years of age, inclusive, who use both or one of the languages  
34 of American Sign Language (ASL) and English;

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

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

37 (6) Language that is aligned with the department's existing infant, toddler, and preschool  
38 guidelines, the existing instrument used to assess the development of children with disabilities  
39 pursuant to federal law, and state standards in language and literacy;

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

42 (8) Clarification that the family resource is not a formal assessment of language and  
43 literacy development, and that a family's observations of their children may differ from formal

44 assessment data presented at an individualized family service plan (IFSP) individual education  
45 plan (IEP) meeting; and

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

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

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

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

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

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

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

65 (6) May reflect the recommendations of the advisory committee established pursuant to  
66 §16-1-20(e) of this code.

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

68 (1) Disseminate the family resource developed to families of deaf and hard-of-hearing  
69 children, as well as providers, early interventionists, speech pathologists, educators, and related  
70 service personnel; and

71 (2) Disseminate the educator tools and assessments selected to local educational  
72 agencies for use in the development and modification of IFSP and IEP plans;

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

79 (d) If a deaf or hard-of-hearing child does not demonstrate progress in receptive and  
80 expressive language skills, as measured by one of the educator tools or assessments, or by the  
81 existing instrument used to assess the development of children with disabilities pursuant to federal  
82 law, the child's IFSP team, as applicable, shall, as part of the process required by federal law,  
83 explain in detail the reasons why the child is not meeting the language developmental milestones  
84 or progressing towards them, and shall recommend specific strategies, services, and programs  
85 that shall be provided to assist the child's success toward English literacy development.

86 (e) The departments shall establish an advisory committee to solicit input from  
87 stakeholders identified herein on the selection of language developmental milestones for children  
88 who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-  
89 of-hearing, for inclusion in the family resource developed pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

115 (11) One educational audiologist who can address the issues of aural habilitation and  
116 assistive technology to advocate for children using spoken language in mainstream environments.

117 (g) The advisory committee may also advise the departments on the content and  
118 administration of the existing instrument used to assess the development of children with  
119 disabilities pursuant to federal law, as used to assess deaf and hard-of-hearing children's

120 language and literacy development to ensure the appropriate use of that instrument with those  
121 children, and make recommendations regarding future research to improve the measurement of  
122 progress of deaf and hard-of-hearing children in language and literacy.

123 (h) The department shall provide the advisory committee with a list of existing language  
124 developmental milestones from existing standardized norms, along with any relevant information  
125 held by the department regarding those language developmental milestones for possible inclusion  
126 in the family resource developed pursuant to this section.

127 (i) After reviewing, the advisory committee shall recommend to the department language  
128 developmental milestones for selection.

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

137 (k) All activities of the departments in implementing this code shall be consistent with  
138 federal law regarding the education of children with disabilities and federal law regarding the  
139 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.