

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4414**

BY DELEGATES ROWAN, CAMPBELL, ROHRBACH, ESTEP-  
BURTON, PYLES, C. MARTIN, BOGGS, TONEY, MANDT,  
LOVEJOY AND HANNA

[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) meeting; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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