

SENATE No. 239

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing a deaf children's bill of rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Patricia D. Jehlen	Second Middlesex
John W. Scibak	2nd Hampshire
Brian A. Joyce	Norfolk, Bristol and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00326 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING A DEAF CHILDREN'S BILL OF RIGHTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section
2 198 the following section:—
3 Section 198A. The commission shall certify the sign language or oral/aural communication
4 proficiency of professionals and para-professionals who are providing direct or related services
5 pursuant to an individualized education plan to deaf and hard of hearing pupils in the school. For
6 the purposes of this section, such direct and indirect service providers shall include teachers of
7 the deaf, speech therapists, counselors, interpreters, teaching associates and others as appropriate.
8 The department of education shall acknowledge the commission certification awards or
9 acceptance by the commission of other certifying entities as meeting communication proficiency
10 standards within its certification process for said educational personnel.
11 No person shall be employed by a school district in any of the positions enumerated herein who
12 has not been certified, but the department may issue a temporary certification effective for up to

13 three years-to an applicant seeking certification under the provisions of this section, provided
14 that the applicant is pursuing an educational program to attain competence in communication.

15 SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 2004
16 Official Edition, is hereby amended by inserting after the 22nd paragraph the following
17 paragraph:—

18 The board shall provide information to schools, through referral by the commission for the deaf
19 and hard of hearing children’s services specialists or other appropriate persons concerning
20 educational, medical, cultural and linguistic issues of deafness and hearing loss to meet the
21 individual educational needs of deaf and hard of hearing children.

22 SECTION 3. Section 38G of chapter 71 of the General Laws, as so appearing, is hereby
23 amended by inserting after the 20th paragraph the following two paragraphs:—

24 Competence in sign language or oral/aural communication shall be a requirement for initial
25 certification as a teacher of students who are deaf or hard of hearing. Such competence shall be
26 verified through a communication proficiency assessment certification process determined by the
27 commission for the deaf and hard of hearing.

28 Competence in interpreting shall be a requirement for initial certification by the department for
29 educational interpreters. Such competence shall be determined by the commission for the deaf
30 and hard of hearing.

31 SECTION 4. Chapter 71B of the General Laws is hereby amended by inserting after
32 section 3A the following section:—

33 Section 3B. As used in this section, the following terms shall have the following meanings:

34 “American sign language”, the visual/gestural language used by deaf people in the United States

35 and Canada, with semantic, syntactic, morphological, and phonological rules which are distinct
36 from English;

37 “Deaf student”, an individual who has a severe or complete absence of auditory sensitivity which
38 adversely affects educational performance and which is so severe that the student is impaired in
39 processing linguistic information through hearing, with or without amplification;

40 “English sign systems”, sign systems developed for educational purposes, which use manual
41 signs in English word order; sometimes with added affixes which are not present in American
42 sign language;

43 “Hard of hearing student”, an individual who has some absence of auditory sensitivity with
44 residual hearing, whether permanent or fluctuating, which adversely affects a child’s educational
45 performance but which is not included under the definition of “deaf student” in this section;

46 “Individualized education plan (IEP)”, a written educational plan developed for a student eligible
47 for special education services pursuant to the Code of Massachusetts regulations and the federal
48 Individual with Disabilities Education Act, 20 U.S.C. § 1400 et seq;

49 “Primary communication mode, style, and language”, the communication mode, style, and
50 language which is preferred by and most effective for a particular student, as determined by
51 appropriate language assessment undertaken by individuals proficient in the communication
52 mode, style, or languages being assessed. Communication mode may include one or more of the
53 following systems or methods of communication applicable to deaf or hard of hearing children:

54 (a) American Sign Language;

55 (b) English-based manual or sign systems; or

56 (c) Oral, aural, or speech-based training.

57 Children who are deaf or hard of hearing are entitled to appropriate screening and assessment of

58 hearing and vision capabilities and language and communication needs at the earliest possible
59 age and to the continuation of intermittent screening services throughout their educational
60 experience.

61 Children who are deaf or hard of hearing are entitled to early intervention to provide for
62 acquisition of a solid language base(s) developed at the earliest possible age.

63 Children who are deaf or hard of hearing are entitled to have an education in which their
64 parents'/guardians' full informed participation in determining the extent, content, and purpose of
65 all their educational planning and programs.

66 Children who are deaf and hard of hearing are entitled to have an education in which teachers of
67 the deaf and hard of hearing, counselors, psychologists, speech therapists, diagnostic personnel,
68 administrators, and other special education personnel understand the unique nature of deafness
69 and are specifically trained to work with deaf and hard of hearing students.

70 Children who are deaf or hard of hearing are entitled to qualified teachers, teacher aides,
71 interpreters of the deaf and hard of hearing who have a background in deafness, have
72 demonstrated proficiency in the preferred language mode of those children and are qualified
73 based on standards as set forth by the Massachusetts commission for the deaf and hard of
74 hearing.

75 Children who are deaf or hard of hearing are entitled to contact with and to be exposed to adult
76 role models who are deaf or hard of hearing in their educational programs.

77 Children who are deaf or hard of hearing are entitled to receive an education with a sufficient
78 number of language mode peers with whom they can communicate directly and who are of the
79 same, or approximately the same, age and ability level.

80 Deaf and hard of hearing children are entitled to have programs in which they have direct and

81 appropriate access to all components of programs services of the educational process, including,
82 but not limited to, extracurricular social and athletic activities.

83 Children who are deaf or hard of hearing are entitled to placement best suited to their individual
84 needs, including, but not limited to age, hearing loss, academic level, mode(s) of
85 communications, style of learning, motivational levels and family support.

86 Children who are deaf or hard of hearing are entitled to benefit from the development and
87 implementation of state and regional programs for children with low incidence disabilities.

88 Children who are deaf or hard of hearing are entitled to up-to-date technological devices and
89 equipment, acoustic enhancements such as carpeting in the classroom, assistive listening devices
90 used alone or in conjunction with a hearing aid such as audio loop and FM systems, visual
91 technological support to the classroom and school building.

92 Children who are deaf or hard of hearing are entitled to have the public fully informed
93 concerning medical, cultural, and linguistic issues of deafness and hearing loss.

94 Each deaf or hard of hearing student shall have a determination of the least restrictive
95 environment that takes into consideration these legislative findings and declarations.

96 SECTION 5. A person who is certified as a teacher of students who are deaf or hard of
97 hearing shall demonstrate continued competency in sign language or oral/aural communication
98 for instruction as a condition of renewal of certification in accordance with the provisions of
99 section 38G of chapter 71 of the General Laws.

100 SECTION 6. The assessment for communication proficiency in sign language and
101 oral/aural communication accepted by the department of education for certification of teachers of
102 deaf or hard of hearing students shall be determined or developed by the commission for the deaf

103 and hard of hearing.

104 The assessment for interpreting proficiency in sign language or oral/aural communication
105 accepted by the department of education for certification of educational interpreters of deaf or
106 hard of hearing students shall be determined or developed by the commission for the deaf and
107 hard of hearing.

108 SECTION 7. There is hereby established an advisory council on the education of children
109 who are deaf or hard of hearing consisting of 14 members to be appointed by the board of
110 education in consultation with the commission for the deaf and hard of hearing, one of whom
111 shall have professional experience in using assistive technology; two of whom shall be educators
112 of deaf or hard of hearing students, one of whom shall be a regular and effective user of
113 American Sign language and one of whom shall be a regular and effective user of oral/aural or
114 speech based English; two parents of deaf or hard of hearing students, one of whom is a regular
115 and effective user of American sign language and one of whom is a regular and effective user of
116 oral/aural or speech based English; two representatives of the deaf and hard of hearing
117 community, one of whom is a user of American sign language and one of whom is a user of
118 oral/aural or speech based English; two administrators of college or university teacher training
119 programs, one of whom shall use American Sign language and one of whom shall use oral/aural
120 or speech based English; an administrator of a college or university program in interpreter
121 training; two administrators of programs or schools for deaf or hard of hearing students, one of
122 whom shall be an administrator of a program which uses American Sign language, and one of
123 whom shall be the administrator of a program which uses oral/aural or speech based English; one
124 shall be a representative of the Massachusetts Registry of Interpreters for the deaf; and one shall
125 be a representative of the commission for the deaf and hard of hearing.

126 The council shall file a report with the clerk of the house of representatives who shall forward
127 the same to the joint committee on education on the first Wednesday in July, of each year
128 commencing with July 5, 2007. Said report shall include, but not be limited to the following: the
129 number of teachers certified pursuant to section 38G of chapter 71 of the General Laws, the
130 number of deaf and hard of hearing students accepting such instructions; the percentage and type
131 of assistive technology and other educational materials available, and such recommendations as
132 it may make to improve the amount and variety of such materials; and findings and
133 recommendations concerning the employment conditions of teachers of students who are deaf or
134 hard of hearing.