SENATE DOCKET, NO. 1821 FILED ON: 1/21/2011

SENATE . . . . . No. 47

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:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Patricia D. Jehlen	☐ *[District]* ☐
Robert L. Hedlund	☐ *[District]* ☐
Kay Khan	*11th Middlesex*
Denise Provost	*27th Middlesex*
Angelo J. Puppolo, Jr.	*12th Hampden*
James E. Timilty	☐ *[District]* ☐

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By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 47) of Patricia D. Jehlen, Robert L. Hedlund, Kay Khan, Denise Provost and other members of the General Court for legislation to establish a deaf children's bill of rights. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *239* OF 2009-2010.]

The Commonwealth of Massachusetts

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:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 198 the following section:—

Section 198A. The commission shall certify the sign language or oral/aural communication proficiency of professionals and para-professionals who are providing direct or related services pursuant to an individualized education plan to deaf and hard of hearing pupils in the school. For the purposes of this section, such direct and indirect service providers shall include teachers of the deaf, speech therapists, counselors, interpreters, teaching associates and others as appropriate.

The department of education shall acknowledge the commission certification awards or acceptance by the commission of other certifying entities as meeting communication proficiency standards within its certification process for said educational personnel.

No person shall be employed by a school district in any of the positions enumerated herein who has not been certified, but the department may issue a temporary certification effective for up to three years-to an applicant seeking certification under the provisions of this section, provided that the applicant is pursuing an educational program to attain competence in communication.

17 SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 2008
18 Official Edition, is hereby amended by inserting after the 22nd paragraph the following
19 paragraph:-

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

24 SECTION 3. Section 38G of chapter 71 of the General Laws, as so appearing, is hereby
25 amended by inserting after the 32nd paragraph the following two paragraphs:-

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

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

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

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

37 "American sign language", the visual/gestural language used by deaf people in the United
38 States and Canada, with semantic, syntactic, morphological, and phonological rules which are
39 distinct from English;

40 "Deaf student", an individual who has a severe or complete absence of auditory
41 sensitivity which adversely affects educational performance and which is so severe that the
42 student is impaired in processing linguistic information through hearing, with or without
43 amplification;

44 "English sign systems", sign systems developed for educational purposes, which use
45 manual signs in English word order; sometimes with added affixes which are not present in
46 American sign language;

47 "Hard of hearing student", an individual who has some absence of auditory sensitivity
48 with residual hearing, whether permanent or fluctuating, which adversely affects a child's
49 educational performance but which is not included under the definition of "deaf student" in this
50 section;

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

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

59 (a) American Sign Language;

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

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

62 Children who are deaf or hard of hearing are entitled to appropriate screening and
63 assessment of hearing and vision capabilities and language and communication needs at the
64 earliest possible age and to the continuation of intermittent screening services throughout their
65 educational experience.

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

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

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

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

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

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

85 Deaf and hard of hearing children are entitled to have programs in which they have direct
86 and appropriate access to all components of programs services of the educational process,
87 including, but not limited to, extracurricular social and athletic activities.

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

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

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

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

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

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

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

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

113 SECTION 7. There is hereby established an advisory council on the education of children
114 who are deaf or hard of hearing consisting of 14 members to be appointed by the board of
115 education in consultation with the commission for the deaf and hard of hearing, one of whom
116 shall have professional experience in using assistive technology; two of whom shall be educators
117 of deaf or hard of hearing students, one of whom shall be a regular and effective user of
118 American Sign language and one of whom shall be a regular and effective user of oral/aural or
119 speech based English; two parents of deaf or hard of hearing students, one of whom is a regular

120 and effective user of American sign language and one of whom is a regular and effective user of
121 oral/aural or speech based English; two representatives of the deaf and hard of hearing
122 community, one of whom is a user of American sign language and one of whom is a user of
123 oral/aural or speech based English; two administrators of college or university teacher training
124 programs, one of whom shall use American Sign language and one of whom shall use oral/aural
125 or speech based English; an administrator of a college or university program in interpreter
126 training; two administrators of programs or schools for deaf or hard of hearing students, one of
127 whom shall be an administrator of a program which uses American Sign language, and one of
128 whom shall be the administrator of a program which uses oral/aural or speech based English; one
129 shall be a representative of the Massachusetts Registry of Interpreters for the deaf; and one shall
130 be a representative of the commission for the deaf and hard of hearing.

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