

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Ms. 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:

Patricia D. Jehlen

DISTRICT/ADDRESS:

Second Middlesex

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

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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**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 Official  
16 Edition, is hereby amended by inserting after the 22nd paragraph the following paragraph:—  
17 The board shall provide information to schools, through referral by the commission for the deaf  
18 and hard of hearing children’s services specialists or other appropriate persons concerning  
19 educational, medical, cultural and linguistic issues of deafness and hearing loss to meet the  
20 individual educational needs of deaf and hard of hearing children.

21 SECTION 3. Section 38G of chapter 71 of the General Laws, as so appearing, is hereby  
22 amended by inserting after the 20th paragraph the following two paragraphs:—  
23 Competence in sign language or oral/aural communication shall be a requirement for initial  
24 certification as a teacher of students who are deaf or hard of hearing. Such competence shall be  
25 verified through a communication proficiency assessment certification process determined by the  
26 commission for the deaf and hard of hearing.

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

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

32 Section 3B. As used in this section, the following terms shall have the following meanings:  
33 “American sign language”, the visual/gestural language used by deaf people in the United States  
34 and Canada, with semantic, syntactic, morphological, and phonological rules which are distinct

35 from English;

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

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

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

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

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

53 (a) American Sign Language;

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

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

56 Children who are deaf or hard of hearing are entitled to appropriate screening and assessment of  
57 hearing and vision capabilities and language and communication needs at the earliest possible

58 age and to the continuation of intermittent screening services throughout their educational  
59 experience.

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

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

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

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

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

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

79 Deaf and hard of hearing children are entitled to have programs in which they have direct and  
80 appropriate access to all components of programs services of the educational process, including,

81 but not limited to, extracurricular social and athletic activities.

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

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

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

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

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

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

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

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

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

125 The council shall file a report with the clerk of the house of representatives who shall forward

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