

2015 HOUSE HUMAN SERVICES

HB 1366

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1366
1/28/2015
22731

- Subcommittee
 Conference Committee

Amenda Muscha

Explanation or reason for introduction of bill/resolution:

A bill of rights for children who are deaf or hearing impaired.

Minutes:

Testimony 1

Chairman Weisz called the hearing to order on HB 1366.

Rep. Maragos: Introduced and supported HB 1366.

David Zimmerman: Testified in support of the bill. (See Testimony #1).

Rep. Porter: There isn't a section of the century code where this will be placed into. Will it go in the education section of the century code so it is dealing with parents and kids in the education system?

Rep. Maragos: I'll have discussions where to place that.

Sharon Tot-Tyler: Testified in support of the bill. I work in Mandan; I was born deaf and raised on a dairy farm. I have a deaf brother and a hard of hearing sister. I was sent to St. Louis Missouri where I was taught to speak and lip read. Sign language was viewed negatively then. I was there for 11 years and didn't like it at all. I then transferred to Lemoore with my mother, but I didn't understand and was isolated and lonely. The coaches and team players left me out there also. I didn't know sign language was here. I was a good student but it wasn't easy. I wanted to get away right after high school. I went to college and found all these services. My mom told me sign language was bad but once I learned it I am so much better off. Please pass this bill.

Rep. Mooney: I'm sad she and you had a bad experience in school.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1366
2/2/2015
23014

- Subcommittee
 Conference Committee

Amanda Muscho

Explanation or reason for introduction of bill/resolution:

A bill of rights for children who are deaf or hearing impaired.

Minutes:

Testimony 1

Chairman Weisz: Let's look at 1366. (Handed out a testimony See Testimony #1 and amendment See Handout #2)

Rep. Oversen: I move to adopt the amendment.

Rep. Hofstad: I second it.

Rep. Porter: I don't feel comfortable with the section of code that this amendment is being put into, it is the human rights section and this bill deals with educational situations. I think this belongs in education.

Chairman Weisz: So that is where on line 3 they are inserting 4202.424 and that is the human rights. Seems like it would be more fitting to put it in education.

Rep. Mooney: Where did the amendments originate from?

Chairman Weisz: I believe the question was raised by Porter; the bill references no sections of code anywhere. It would fit better in that 25 or if there is a general education. This would expand on the early education rights. I would think it would fit in 25-07-04 or maybe a new section. 25-07-11 talks about supply any information counseling services, auditory training, basic language development, program for the parents of such children... etc. We have some language that spells it out.

Rep. Damschen: I would agree with you.

Rep. Oversen: I withdraw the motion.

Rep. Hofstad: Second.

Rep. Oversen: Do we want to change it to 25-07 a new subsection under that or under 25-07-04? I would say a new subsection.

Chairman Weisz: If the bill references section 25-07, legislative council will put it where it belongs.

Rep. Oversen: I move to adopt the amendments with the changes.

Rep. Hofstad: Second

A voice vote was taken: All in favor

Motion carries

Rep. Hofstad: I move a do pass as amended

Rep. Fehr: Second

Chairman Weisz: This is just clarifying

Rep. Porter: I'd like to know how it is being handled by the education system. Is it placing a burden on schools that don't have the people who can handle this? I am inclined to vote no.

Rep. Rich Becker: Are the services only in Devils Lake?

Chairman Weisz: You wanted services you went to them back then.

Rep Hofstad: It says full support services by qualified professionals in their educational system.

Chairman Weisz: I will get a hold of the DPI.

Rep. Hofstad: I withdraw my motion

Representative Fehr: I withdraw the second.

Chairman Weisz: Closed the hearing on HB 1366

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1366
2/3/2015
23139

- Subcommittee
 Conference Committee

Amanda Muscha

Explanation or reason for introduction of bill/resolution:

A bill of rights for children who are deaf or hearing impaired

Minutes:

Attachment 1

Chairman Weisz took up HB 1366. One of the questions was dealing with number 6 on line 16 where it talks about qualified teachers and resources. Would that require every school to meet those needs? (See printed out information 1)

Mary McCarvel O'Conner: Qualified teachers are part of an idea. Sign language teachers have to meet certain requirements to be an interpreter in the schools.

Chairman Weisz: Under current scenario, if they have a hearing impaired person what services do they need to provide? Based on what is on the bill would my school be required to do anything more than what they do now?

McCarvel O'Conner: That depends on the needs of the child. I don't believe so. When we amended this with the writer with the writer of this bill we did look for things like that.

Rep. Porter: Help me understand why we need this. Everything in here is already a federal and state law.

McCarvel O'Conner: That is a question for the writer.

Rep. Porter: If this bill is to fail is there anything written in here that we are missing in the education process for children in this case?

McCarvel O'Conner: The opportunity to interact with role models and others around them.

Rep. Porter: Could you identify those for us?

McCarvel O'Conner: It would be 4 under section 1 line 14, page 2, line 1 number 11

Rep. Porter: In this idea we are doing a good job of making sure these children can interact.

McCarvel O'Conner: As far as monitoring through DPI in the special education unit we have seen that those students we monitored are getting these resources when we look through their files yes.

Chairman Weisz: As far as 1 and 2 in the bill? Early intervention depends at what point that doesn't apply to you.

McCarvel O'Conner: If it is 1st to three it goes through the department of human services if it is 3-5 it is through the department of public instruction.

Rep. Hofstad: You said that looking through the bill you made sure nothing would require additional resources. Does that mean resources being what?

McCarvel O'Conner: We weren't trying to require anything that is above of what idea already requires them to have. Resources to highly qualified teachers are a struggle to get. For them to hire a teacher to help one child we won't be able to help with that. I was saying with the early intervention, the department of human services is already providing that. With the deaf role model and peers with the North Dakota school for the deaf we believe that we could set up something through skype that would help mentor them.

Rep. Hofstad: Motion a Do Pass as amended.

Rep. Seible: Second.

Rep. Damschen: It seems like more of a mission statement for the deaf school than the DPI.

Rep. Porter: This should have been a resolution instead of changing/adding to the century code.

Chairman Weisz: I would agree that it is a statement of intent by the legislature.

Rep. Muscha: Do we have bills of rights for the blind?

Chairman Weisz: Yeaaa. I don't know if it passed though.

A Roll Call Vote Was Taken: Yes 7, No 6, Absent 0

Motion carries

Representative Mooney will carry the motion.

82
2-4-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1366

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 25-07-13 of the North Dakota Century Code, relating to a bill of rights for children who are deaf or hearing impaired.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 25-07-13 of the North Dakota Century Code is created and enacted as follows:

25-07-13. Bill of rights - Children who are deaf or hearing impaired.

The legislative assembly believes that children who are deaf or hearing impaired are entitled to the following:

1. Appropriate screening and assessment of hearing and vision capabilities and communication and language needs at the earliest possible age and continuation of screening services throughout their educational experience.
2. Early intervention to provide for acquisition of solid language bases at the earliest possible age.
3. Their parents' or guardians' full and informed participation in their educational planning.
4. The opportunity to interact in person or through technology mediums with adult role models and peers who are also deaf or hearing impaired.
5. Qualified teachers, interpreters, and resource personnel who communicate effectively with the child in the child's mode of communications.
6. Placement best suited to their individual needs, including social, emotional, and cultural needs, age, hearing loss, academic level, mode of communication, styles of learning, motivational level, and family support.
7. Information on available resources in the state of North Dakota for parents or guardians of deaf or hearing impaired children.
8. Full educational support services provided by qualified professionals.
9. Full and equal access to all programs in their educational setting.
10. Awareness information provided to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss."

Renumber accordingly

Date: 2/2/2015
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1366

House Human Services Committee

Subcommittee

Amendment LC# or Description: MACAGOS'S AMENDMENTS 15.8188.01003

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Oversen Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice vote carried

Date: 2-3-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1366**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Hofstad Seconded By Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	✓	
Rep. Bert Anderson		✓	Rep. Oversen	✓	
Rep. Dick Anderson		✓			
Rep. Rich S. Becker	✓	✓			
Rep. Damschen		✓			
Rep. Fehr		✓			
Rep. Kiefert		✓			
Rep. Porter		✓			
Rep. Seibel	✓				

Total (Yes) 7 No 6

Absent _____

Floor Assignment Mooney

If the vote is on an amendment, briefly indicate intent:

motion carried

REPORT OF STANDING COMMITTEE

HB 1366: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1366 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 25-07-13 of the North Dakota Century Code, relating to a bill of rights for children who are deaf or hearing impaired.

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4. The opportunity to interact in person or through technology mediums with adult role models and peers who are also deaf or hearing impaired.
5. Qualified teachers, interpreters, and resource personnel who communicate effectively with the child in the child's mode of communications.
6. Placement best suited to their individual needs, including social, emotional, and cultural needs, age, hearing loss, academic level, mode of communication, styles of learning, motivational level, and family support.
7. Information on available resources in the state of North Dakota for parents or guardians of deaf or hearing impaired children.
8. Full educational support services provided by qualified professionals.
9. Full and equal access to all programs in their educational setting.
10. Awareness information provided to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss."

Renumber accordingly

2015 SENATE HUMAN SERVICES

HB 1366

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1366
3/25/2015
25380

- Subcommittee
 Conference Committee

Committee Clerk Signature

Amorson *Donald Mueller*

Explanation or reason for introduction of bill/resolution:

A bill relating to a bill of rights for children who are deaf or hearing impaired

Minutes:

Attachment #1 Stephannie Stiel
Attachment #2 Michele Rolewitz
Attachment #3 Sharon Potts-Sayler

Rep. Maragos (District 3) introduced HB 1366 to the Senate Human Services Committee on behalf of the ND Association of the Deaf. He said others would be testifying as to why this bill is important. He provided written testimony from:

Stephannie Stiel, the mother of a deaf child. (Attachment #1)

Michele Rolewitz, President of the ND Association of the Deaf. (Attachment #2)

He thanked Chairman Judy Lee for allowing David Zimmerman who teaches at the ND School of the Deaf to testify on another day since he became ill and could not be present at this scheduled hearing.

Senator Howard Anderson, Jr. asked why we should set this group apart from all the other groups that might need services as well.

Rep. Maragos admitted that his responsibility is to introduce the bill on behalf of the organizations. He cannot speak for the organizations. If they are successful, it should encourage other at-risk citizens to look for some compelling reason to bring forth legislation such as this.

Sharon Potts-Sayler testified in strong support of HB 1366, the bill of rights for deaf children and the hearing impaired. (Attachment #3) She shared the story of her life experiences and explained why the bill means so much to her. It is important to have certified interpreters in the schools to help these children.

Chairman Judy Lee stated that the services are most likely different today than when she was a child. She asked what services she is not seeing provided in schools today as a result of the federal legislation requiring the schools to provide services to children from their third birthday to age 21.

Ms. Potts-Sayler replied that, in the past, not growing up in that environment she was not aware of services available back then. Knowing what she does now it is critical to have students have interpreters to succeed.

Chairman Judy Lee pointed out that the west Fargo and Fargo schools work together for hearing impaired children. This includes electronic devices that the teacher wears. What services do you see being needed that are not being provided right now because of federal law?

Ms. Potts-Sayler replied that they are concerned about the rural areas, as they may not have the same opportunities.

Chairman Judy Lee wanted to know if the School for the Deaf has outreach from the Devils Lake campus.

Ms. Potts-Sayler said it does.

Chairman Judy Lee stated that they have very good resources there.

Ms. Potts-Sayler replied that it is still not enough.

V. Chairman Oley Larsen asked if she was aware of universities and other entities in the state besides the School for the Deaf in Devils Lake that provide services.

Ms. Potts-Sayler said, yes, most colleges and universities provide services. She went to the University of Wyoming and it was a good experience.

Senator Warner said that he had friends who had attended the school in Devils Lake and he has visited the school a couple of times. The sophistication of language which is taught allowed them to develop knowledge of really advanced concepts and abstract concepts. He gets the sense from the kinds of education that's available in the public schools outside of that very specialized context that it is less sophisticated. He asked if she could compare the two experiences - the integrated into the general community education as opposed to the very specialized education in an institution which is just for that one type of disability.

Ms. Potts-Sayler couldn't answer that question directly and suggested that David Zimmerman may be able to provide further information.

OPPOSITION to HB 1366

There was no opposing testimony.

NEUTRAL to HB 1366

Mary McCarvel-O'Connor, Department of Public Instruction, introduced herself.

Chairman Judy Lee asked for help to understand what is currently required by the Americans with Disabilities Act (ADA) and how that plays in with the age 3-21 requirements.

Ms. McCarvel-O'Connor explained that when the bill was on the house side, they worked in coordination with the School of Deaf and David Zimmerman to look at what the bill of rights is asking for and compared that to idea and what is now in federal law. They looked at what would be hardship on the directors in the state serving special education students and what would go above the regulations if it could be met. Referring to the bill, on line 16, there is a part in the law right now that, if someone is using sign language, does help them have opportunities to communicate with their peers. This goes slightly above that. The ND School for the Deaf thought they could provide opportunities for this with the technology that they do have.

Chairman Judy Lee stated that then it wouldn't be perceived by them as a hardship to accommodate.

Ms. McCarvel-O'Connor agreed. She continued by saying that it looked like everything else is a duplication of what is in federal regulations. It is harder in rural settings sometimes to have those opportunities.

Senator Axness said that all these services are covered by the school districts and asked if there are any out of pocket expenses to the family.

Ms. McCarvel-O'Connor responded that if it is provided by the school, no.

Chairman Judy Lee pointed out that the Medicaid waiver also addresses this from income limited families but addresses children before the age 3. Then the school takes over at 3.

Ms. McCarvel-O'Connor agreed and said that Part C provides services from birth to 3.

Senator Dever asked how passage of this bill will change the experience of those affected by it.

Ms. McCarvel-O'Connor answered that the awareness will be more out there but, for the most part, these things are being provided in the public schools.

Chairman Judy Lee said that we know the federal law requires these services to be provided, not only for the deaf and hearing impaired but other disabilities as well. It's not that we oppose this being in place. If we already have these services, why do we have to do it again? The rural schools are just as obligated as urban schools, although it is much harder to access those services; there may not be the resources available. However, DPI works with those school districts, and Protection and Advocacy is an entity in the state that anybody can contact if they feel their needs haven't been adequately met. They do a wonderful job to help educate the people in the district to what their responsibilities are and working toward a solution in that area.

Ms. McCarvel-O'Connor holds the monitoring portfolio for the special education department at DPI. Through the monitoring she can see that the services are being provided to students who are deaf and hard of hearing for those files that are monitored.

Chairman Judy Lee asked if there was a continuing role for the School of the Deaf as a residential school when, in so many ways, students of special needs are integrating with public schools.

Ms. McCarvel-O'Connor said the ND School of the Deaf now has a different title. They are now moving more to outreach. They still have students attending, but they are utilized by many of the school districts as an outreach program.

Chairman Judy Lee stated that it's a small number of students who still go there. She also pointed out that the School of the Deaf is now utilized by people with hearing impairments who are no longer students. They are reaching out to others.

Ms. McCarvel-O'Connor agreed.

Senator Howard Anderson, Jr. asked how the additional services are paid for that the school district is expected to provide.

Ms. McCarvel-O'Connor thought it would go through special education funds.

Chairman Judy Lee explained that these are funds for special needs in the DPI budget. It is sometimes a financial hardship in rural settings because there is state money but there also may be some additional responsibilities for costs that the district has to bear through property taxes.

Ms. McCarvel-O'Connor thought that if the costs are more, they can complete paperwork and get additional financial support.

Amanda Carlson, Department of Human Services and Part C coordinator - early intervention services, said that in their intervention they are also required by IDA law to serve those who are deaf or hard of hearing. Through the early intervention programs that go into homes, they have speech pathologists. They have a good partnership with the School for the Deaf and if their expertise isn't enough they partner with the School and have them come into the home. The School also has their own parent-partnership program which they receive separate Part C funding for.

Chairman Judy Lee closed the public hearing on HB 1366.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1366
3/30/2015
25590

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to a bill of rights for children who are deaf or hearing impaired

Minutes:

Attach #1: Testimony by David Zimmerman

The Senate Human Services Committee met on March 30, 2015 (AM) on HB 1366 for committee work.

Chairman Judy Lee stated that much of what is discussed in the bill is already covered through the American Disabilities Act (ADA) and the Individuals with Disabilities Education Act (IDEA) program, and other places. Are we asking schools to do more than what they are obligated to do?

Anita Thomas, Legislative Management, had several principle concerns, starting on Page 1, line 7, where it states "The legislative assembly *believes*"... The problem of the word "believes" is that it doesn't even rise to the level of intent. That is problematic in the code because intent is not a command, not a directive. We have language that doesn't qualify as a statute. It does list at least 10 entitlements: screening, early intervention, parental participation, qualified teachers, appropriate placement, etc. Those are already guaranteed under federal law under the Individuals with Disabilities Education Act. We have at least three of them that are perhaps less clear in their sources. Subsection 4, for instance, is the "opportunity to interact in person or through technology with adult role models and peers who are also deaf or hearing impaired." This is a little bit of an issue if you have a child with deafness or hearing disabilities in an isolated school district - in some cases there just isn't access to peers who are also deaf. Within the Individual Education Plan (IEP) you can certainly make provisions for transportation to situations or engagement in social situations where other children who are deaf or hearing impaired are present. In Subsection 7, "information on available resources in the state for parents of deaf or hearing impaired children," normally once a child is identified as being deaf or hearing impaired, you have doctors, hospitals, school districts, all of which provide information and start directing people toward services. Subsection 10, "awareness information to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss," since this whole bill is couched in terms of an entitlement, the obvious question is who is responsible for doing

that. She also looked to see if there were other references to patient bill-of-rights in statutes. The pharmacists have a requirement for a patient bill-of-rights, but that is in their rules; the other reference is with the Licensed Marriage and Family Therapists, their statutorily required to either provide to a client or have a patient bill-of-rights posted in the office.

Chairman Judy Lee stated senior services post a bill of rights for folks in skilled care facilities, but to her knowledge, this is also not in statute.

Ms. Thomas indicated they only found the two references.

Chairman Judy Lee made a note during the hearing that Subsection 4 could be provided by the North Dakota School for the Deaf as far as interacting through technology; **Ms. Thomas** confirmed correct.

Chairman Judy Lee continued, subsection 7, school of the deaf can provide this as well as the other parties. **Ms. Thomas** confirmed correct.

Ms. Thomas there is a few little things to consider, which would be non-statutory: (1) If there is a desire to create awareness of children who are deaf or hearing impaired and the issues they encounter on a day-to-day basis; (2) you could work with the Governor's office to do a proclamation; (3) could work with the school for the deaf and having a report given to an interim committee on what perceived shortcomings are in the provision of services. Once you know those, then you can see if there are appropriate means to address those.

Senator Dever asked when he sees in hospital, clinic, nursing home, posters that give those bill of rights, are they created by the facility based on various statutes.

Ms. Thomas stated they could be developed by facility or by federal directives.

Chairman Judy Lee added professional organizations may be developing them as well.

Senator Dever asked in regards to the word entitlement, does this bill create law that does not exist elsewhere.

Ms. Thomas answered no with an asterisk. The law starts out saying the legislative assembly believes these are services or issues or things that children or are deaf or hearing impaired are entitled to. It appears that many of these things already exist. Where it gets confusing from her profession is when talking about to things in which an individual is entitled, and yet you are not really giving a directive to anyone to provide those services or to create a program within which those services exist.

Senator Dever continued that it occurs to him that when using the word entitled, you may be talking about law that requires it, but also required funding for it.

Chairman Judy Lee stated as discussed when originally heard, the schools districts are already required to provide services age 3 to 21 with disability. So it would be an unusual

circumstance if somebody got to their third birthday where the family was not aware of the fact that those would be available. But maybe it happens, and that could be the perceived shortcoming and need for a report.

Ms. Thomas stated her understanding is that there are programs in place from birth and forward.

Chairman Judy Lee asked if the Senate Human Services Committee would have some interest in Ms. Thomas developing an alternative to the bill, which would recognize the IDEA has requirements that are there, but that there may be possible shortcomings that we would look for a report from the school of the deaf to an interim committee or legislative management.

No comment from the committee.

Senator Howard Anderson, Jr. stated that since Rep. Maragos is here, perhaps he can identify intention of who will provide these services to individuals.

Representative Andrew Maragos, District 3, doesn't have an answer. I've always felt that the people to introduce the bill could answer the question better than himself. Deferred to Mr. Zimmerman's testimony.

Chairman Judy Lee stated we learned in the testimony that many of these things are required through the Idea act for education, school for deaf already provide many of these services. Ms. Thomas suggested that school of deaf could identify shortcomings and report to legislature.

Representative Maragos again deferred to Mr. Zimmerman.

Mr. David Zimmerman, a teacher at the North Dakota School for the Deaf, testified IN FAVOR of HB 1366 (attach #1) (14:05-21:30)

Senator Howard Anderson, Jr. you mention the education plan for each student. But I don't see anything specifically listed in the bill of rights that the individual education plan should include these things. Is that an oversight?

Mr. Zimmerman answered IEP's a lot of times, not all services are included or talk about ND school of deaf as an option.

Chairman Judy Lee asked if you can clarify if school of deaf is not listed as an option.

Mr. Zimmerman cannot speak for all schools, but it is what he has heard. North Dakota school of deaf are not invited to IEP discussions or as an option.

Chairman Judy Lee indicated you have expert staff there, and you can interact with the schools and older individuals as well. We want to use that expertise as every place that is appropriate.

V. Chairman Oley Larsen asked if it is a competition or collaboration with Minot State University's program.

Mr. Zimmerman answered we are in the process with Minot State University, Lake Region College in collaboration. We do not have enough certified interpreters.

Chairman Judy Lee confirmed a long list of not having enough providers.

Senator Warner stated he has been to the school for the deaf. He was delighted and surprised at the sophistication of ideas that can be conveyed for sign language. Can you comment on the use of your school having a particular advantage to those who want a higher education or graduate degrees in law or teaching?

Mr. Zimmerman based on his experience, he went to school for deaf for 2 years, and then his parents moved him to a program in Minot, graduating in 1984. He always had help from teachers for the deaf, speech pathologist who helped. Post-secondary experience was provided at UND. People who have deaf children have different sets of abilities. Some can write, some cannot. Some can communicate. He is thankful for the services he has had for his opportunity. Sign language helps for communicating. He is very proud to be part of the school of the deaf, deep knowledge of deaf education, as each student is different. Their communication means they can communicate in the real world. In terms - it doesn't matter where they are at.

Chairman Judy Lee asked how many students are at the school for deaf, what grades are served.

Mr. Zimmerman answered pre-school through 8th grade, there are 22 students, which includes 5 at the high school.

Dr. Connie Hoovendick, the superintendent of the North Dakota School for the Deaf.

Chairman Judy Lee asked do you have collaboration with some schools in setting up IEP's for the students?

Ms. Hoovendick indicated they have a strong outreach program. We work closer with the smaller rural schools because they lack services. Some of the larger towns that have two or three hearing impaired teachers we would work less with. Our services go out through a referral service. We did assessments for a number of schools to test students.

Chairman Judy Lee indicated that Fargo and West Fargo collaborated on service deaf and hearing impaired children, and in particular, they had technology early on for devices for teachers and students to have. Ms. Hoovendick indicated this is the auditory equipment.

Ms. Hoovendick stated that with implants, things have really changed. The services really have to be intense with pre-school and young children to learn the language. It is communicational language that is so unique and hard for kids who are deaf to learn.

Chairman Judy Lee asked do you find that there are more preferences amongst families that have child who is hard of hearing or deaf in remaining at home rather than going to a specialty school?

Ms. Hoovendick indicated that is true for any family. You want your kids at home and don't want to send them away. We really do work with that outreach. We are at IEP meetings, and they get to a point where we don't think we can meet their needs at the public school - we don't have all the services, so the School for the Deaf then come into play.

Senator Howard Anderson, Jr. asked do you feel, by putting this list of bill of rights, that we are putting onus on other organizations other than the school for the deaf, or is it mostly falling on you to make sure everyone get these services.

Mr. Zimmerman believes we aid where we can. IEP involve aged students. When going to the meetings, he gives his expertise, very knowledgeable about the deaf students.

Senator Warner asked to describe the process from birth to age 5 - is there a census of need. It is simple if they stay in the same location, but what if they move. Is there a process to do census and track the pre-school aged children.

Ms. Hoovendick stated there is a law in place for children who are deaf or hard of hearing that requires report to the school of deaf. Most hospitals report to them immediately. A lot of development programs across the state will report. Most are reported to School of Deaf. Ages 0 to 5. From age 3 to 21, Department of Public Instruction has register if they have an IEP.

Senator Dever indicated his audiologist talks about newborn screening. Is that universal across the state?

Ms. Hooverndick stated she believes it is, or certainly was. We put in all the funding for, and she believes it is still mandatory. Some of the equipment was becoming outdated.

Chairman Judy Lee summarized. We all support the whole effort here. We have had an attorney from Legislative Council concern about the word "believe" - it doesn't rise to the level of legislative intent. We will try to incorporate - have school of deaf more involved in IEP, as option as well as resource. We may end up doing change in language, but our intent is not to dismiss what you are talking about. We have a problem putting bill of rights into law because no one else have it in statute; things change, and then the statute becomes a problem in the future. We will try to best recognize the value of the programs the school of the deaf have, encourage coordination with IEP programs, so children needing these programs are served.

Mary McCarvel-O'Conner, working for the Department of Public Instruction, encouraged the committee to that when discussing the North Dakota School for the Deaf as an option for all children that our requirements under federal law, is that we consider the least restrictive environment. That is what IEP team members need to do. If you put that they

must look at the School for the Deaf, that is not always the least restrictive environment for all kids with disabilities.

Chairman Judy Lee indicated that **Mr. Zimmerman** also noted that in his testimony.

Senator Axness stated that legislative management along with the committee questioned who will administer and enforce the law. Who administers?

Ms. McCarvel-O'Conner indicated that when this bill first came, the North Dakota School for the Deaf and David Zimmerman, and Department of Public Instruction worked together to have it so it is either included in the IEP process and would be in part of their monitoring process, or it is things that already exist, such as line 12 - early intervention. Line 16, the opportunity to interact with persons through technology - part of the requirements is that you look at the opportunity for them to communicate in their language mode, so this would go a step above, and the School for the Deaf feels they could provide that capability. Line 23, number 7, information about available resources in the state - that is something that is not in IDEA, but it is best practice in what happens, and a lot of it happens in Part C. Those infant development people do provide a lot of information that is available in the state. Page 2, line 3, the awareness concerning the issues, the School for the Deaf thought they had those resources available.

Chairman Judy Lee added that protection and advocacy always available and is very good. She really appreciate the goal of protection and advocacy is not to play gotcha, but to assist that entity who is not perceived as doing the right thing to find solutions.

Chairman Judy Lee continued - we don't want to be redundant on things we already have. We need to figure out what we can enhance for collaboration and communication. We will do our best to make sure it is useful. The word "believes" will likely go away.

Representative Maragos offered that on page 1, line 7, perhaps strike out the words "The legislative assembly believes that".

Senator Dever offered another alternative: "Providers of services to children with disabilities and special needs shall provide information regarding their statutory rights."

Representative Maragos confirmed that was an excellent suggestion.

Chairman Judy Lee closed the public hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1366
3/31/2015
25668

- Subcommittee
 Conference Committee

Committee Clerk Signature

Tommonson *Donald Mueller*

Explanation or reason for introduction of bill/resolution:

A bill relating to a bill of rights for children who are deaf or hearing impaired.

Minutes:

Chairman Judy Lee opened committee work on HB 1366 and said she found it to be a little challenging because she supports the various issues but thinks it is already covered.

Senator Dever: When we looked through these, if putting the language in does create an entitlement that is not otherwise existing and if someone does not follow through with that, in a civil action they might have a valid argument.

Chairman Judy Lee was uncomfortable with the word "entitled". The act that provides for Individually Developed Education Plans is supposed to do this. Medicaid does 0 to 3, education does 3 to 21. We talked about changing the collaboration of the school systems with the School for the Deaf. The people here from the School for the Deaf have a lot of information and no one is asking them to help. It is much more the flavor to "encourage" people to use their services.

Senator Dever asked if they could expect that the School for the Deaf would come back next session and ask for an appropriation to satisfy the requirements that were set forth in HB 1366.

Chairman Judy Lee asked how they can encourage collaboration with public schools and others with the School for the Deaf so various facilities and families have good access to those services. It is an underutilized facility in the state.

Senator Howard Anderson, Jr. suggested language saying the School for the Deaf and DPI will collaborate to provide a list of services.

Chairman Judy Lee asked about language such as "to develop a plan to better provide", and then ask for a report. They can do it and provide a report to legislative management. Would that make the folks happier?

Senator Howard Anderson, Jr. indicated that both DPI and the School for the Deaf were in favor of it.

(05:25 - 11:45) Discussion on the wording for an amendment continued. Senator Warner asked about including the language "bill of rights" without putting it into code. There was also discussion on the usage of the word entitled and whether a list should be included. There was committee agreement that there are things that shouldn't be put in statute. What really needs to be done is to publish the information about what services are available for families with children with special needs or disabilities.

Senator Howard Anderson, Jr. suggested replacing the language on lines 7 and 8 and say "the School for the Deaf and the Department of Public Instruction shall work together to inform families and children who are deaf or hearing impaired of the services to which they are entitled". Then leave the rest out.

Senator Warner preferred leaving the list in. It would attract less attention in the House if it goes to a conference committee.

Another short discussion resulted in the wording "to which they are entitled" being changed to "services which are available such as" - then provide the list. The committee was in agreement.

Chairman Judy Lee closed committee work on HB 1366.

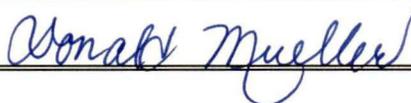
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1366
4/1/2015
25684

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to a bill of rights for children who are deaf or hearing impaired

Minutes:

Attach #1: Proposed Amendment

The Senate Human Services Committee met on April 1, 2015 for HB 1366 committee work.

Proposed amendment (attach #1) was distributed. **Chairman Judy Lee** read through the proposed amendment.

Senator Howard Anderson, Jr. asked why school districts rather than Department of Public Instruction.

The intern, Femi, provided explanation that Anita Thomas, Legislative Council, recommended school districts rather than Department of Public Instruction. Committee concurred.

Discussion of a "Medium" term - style issue.

Senator Dever sees 10 items in the bill of rights, and 5 in the amendment. Anita Thomas provided input to Femi that some were redundant, and some are in federal law.

Senator Dever stated the ones that are in there are in we believe are in federal law also. Chairman Judy Lee responded that Ms. Thomas removed the redundant ones or combined them.

V. Chairman Oley Larsen stated on page 1, original bill, (4) have to be aligned with an adult role model. In some rural areas where you can't find that person, we can't be liable in law that they will find someone.

Chairman Judy Lee the North Dakota School for the Deaf could do it.

Senator Howard Anderson, Jr. indicated it is identified under section 1 - 1-c. adult role model's.

Chairman Judy Lee when looking at (a) and (b), that is looking at resources. The awareness under 10 is under responsibility for School for the Deaf.

Senator Warner read from dictionary for term "medium" and "media". Appears medium is good word.

Senator Dever stated the statute would go in the same section as the bill did. Or maybe we don't need to designate it.

Chairman Judy Lee responded still in the same section. No, this is session law. Committee concurred it should be in session law.

Senator Dever asked if passage of this causes a fiscal impact to the School for the Deaf. Or do they already do it?

Chairman Judy Lee responded this is a feel good deal. They are already doing this.

Senator Howard Anderson, Jr. stated this is not just a bunch of consumers, this is the people who actually deliver the service and thought it should be helpful. If it helps deliver the services, it would help them in getting the attention the students need and getting the information out to the public.

Senator Howard Anderson, Jr. moved the Senate Human Services Committee DO ADOPT AMENDMENT for HB 1366. The motion was seconded by **V. Chairman Oley Larsen**. No discussion.

Roll Call Vote to Amend

6 Yes, 0 No, 0 Absent. Motion passes

Senator Howard Anderson, Jr. moved the Senate Human Services Committee DO PASS engrossed HB 1366 AS AMENDED. The motion was seconded by **V. Chairman Oley Larsen**. No discussion.

Roll Call Vote to DO PASS AS AMENDED

6 Yes, 0 No, 0 Absent. Motion passes.

V. Chairman Oley Larsen will carry HB 1366 to the floor.

April 1, 2015

4/1/15
JL

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1366

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for collaboration between the school for the deaf and school districts on the provision of appropriate services and resources to children who are deaf or hearing impaired and the families of children who are deaf or hearing impaired.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. COLLABORATION BETWEEN SCHOOL FOR THE DEAF AND SCHOOL DISTRICTS TO PROVIDE SERVICES AND RESOURCES TO CHILDREN WHO ARE DEAF OR HEARING IMPAIRED.

1. The school for the deaf shall collaborate with school districts to ensure that children who are deaf or hearing impaired and families of children who are deaf or hearing impaired receive appropriate services and have access to appropriate resources including:
 - a. Screening and assessment of hearing capabilities and communication and language needs at the earliest possible age, and continuation of screening services throughout the child's educational experience;
 - b. Early intervention to provide for acquisition of solid language bases at the earliest age possible;
 - c. The opportunity to interact in person or through technological mediums with adult role models and peers who are deaf or hearing impaired;
 - d. Qualified teachers, interpreters, and resource personnel, who communicate effectively with the child in the child's mode of communication; and
 - e. Placement best suited to the child's needs such as social, emotional, cultural, age-related, hearing loss, academic level, mode of communication, style of learning, motivational level, and family support needs.
2. The school for the deaf shall:
 - a. Make information available to parents of children who are deaf or hearing impaired; and
 - b. Provide awareness information to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss."

Renumber accordingly

Date: 04/01 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1366

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: 15. 8188.02001 Title 03000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Sen. Anderson Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 04/01 2015
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1366

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: 15.8188.02001 Title 03000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Sen. Anderson Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Larsen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1366, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1366 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for collaboration between the school for the deaf and school districts on the provision of appropriate services and resources to children who are deaf or hearing impaired and the families of children who are deaf or hearing impaired.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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 - b. Early intervention to provide for acquisition of solid language bases at the earliest age possible;
 - c. The opportunity to interact in person or through technological mediums with adult role models and peers who are deaf or hearing impaired;
 - d. Qualified teachers, interpreters, and resource personnel, who communicate effectively with the child in the child's mode of communication; and
 - e. Placement best suited to the child's needs such as social, emotional, cultural, age-related, hearing loss, academic level, mode of communication, style of learning, motivational level, and family support needs.
2. The school for the deaf shall:
 - a. Make information available to parents of children who are deaf or hearing impaired; and
 - b. Provide awareness information to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss."

Renumber accordingly

2015 TESTIMONY

HB 1366

House Bill 1366
House Human Service Committee
January 26, 2015
By David Zimmerman, Teacher
North Dakota School for the Deaf/Resource Center for Deaf & Hard of Hearing
701-240-2762 (text message)

Good morning Chairman Weisz and fellow members of the Human Services Committee. It is an honor and pleasure to come before this committee to testify in favor of the Deaf Child's Bill of Rights. The Deaf Child's Bill of Rights is an important legislation designed to ensure that communication and language needs of deaf and hard of hearing children are met in the educational environment. My name is David Zimmerman, I am currently in my 25th year as a teacher for students who are Deaf or Hard of Hearing. I am a deaf adult educator concerned about the education for the deaf and hard of hearing in our state.

Even today deaf and hard of hearing students lag significantly behind their hearing peers on academic measures. Although their numbers are small, their needs are extremely diverse. Services for deaf and hard of hearing children include those in American Sign Language, audiology, speech-language pathology, visual technologies, auditory technologies, interpretation services, support to families and more. Many deaf and hard of hearing children have additional disabilities and therefore require additional services such as physical therapy and occupational therapy. Deaf and hard of hearing may be identified soon after birth or may be identified later. They may come from homes that assist them in

language learning or they may not. There cannot be a one-size-fits all approach to the development and education of deaf and hard of hearing children.

However, one thing is clear, age appropriate language and communication development is essential for students to meet literacy and academics benchmarks, gain admittance to institutions of higher education and take their place as productive employees in the workforce. Such language and communication development must be supported from the beginning and throughout a child's educational career.

When deaf or hard of hearing students attend their own home school district (instead of North Dakota School for the Deaf) they maybe the only one in his or her school. Schools and School districts serve these children as best as they can, however, they need support and resources to achieve successful programming for students who are deaf or hard of hearing.

IDEA requires Individualized Education Plan (IEP) teams to consider the language and communication needs of deaf and hard of hearing children when developing their IEP's. It states...(In developing each child's IEP) the IEP team must... (IV)...in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode. (34 C.F.R. Section 300.320(a)(2)

From time to time, the United States of Department Education has provided guidance in this area. In 1992 it issued and 1994 reissued, the Deaf

Students Education Services; Notice of policy guidance (57 Fed. Reg. 49274 Oct. 1992). Among other things, that policy guidance makes it clear that “meeting the unique communication and related needs of a student who is deaf is a fundamental part of providing a free appropriate public education (FAPE) to the child”. Yet the United States Department of Education does not have a mechanism in place to monitor or ensure that these mandates are carried out. States have addressed this issue in several ways that are meaningful and effective. They have developed communication plans and state plans, and at least 17 states have passed a Deaf Children’s Bill of Rights. Four more states are currently attempting to pass a Deaf Children’s Bill of Rights including North Dakota, Arizona, Massachusetts and Tennessee.

Some specific language that I find may be helpful is the language specifying that the IEP team must advise parents of the full continuum of alternatives educational placements. In the past, research has indicated the need for settings where peers are available and where professionals are trained in the communication modes and learning approaches of deaf and hard of hearing students. It is important that parents are aware of the benefits that specialized schools can provide. We need language in the bill to support family choices of educational settings. I believe that IEP teams should know the full continuum of services, which includes the North Dakota School for the Deaf, when developing the least restriction placement.

The future is bright for deaf and hard of hearing children who receive an education that meets their needs. House Bill #1366 represents the best practices in the field and will ensure that those needs are being met. Department of Public

Instruction and North Dakota School for the Deaf/Resource Center for Deaf & Hard of Hearing worked in collaborating to amend the House Bill #1366. I endorse House Bill #1366 (with some minor adjustments in wording that I have suggested below):

- 4/5. Opportunity to interact with adult role models and with same language-mode deaf or hard of hearing peers (in person, skype, face time or other forms of technology).
8. Their parents or guardians receive information about deaf and hard of hearing resources in the state of North Dakota.
9. Educational support services provided by qualified professionals.
10. Full and equal access to all programs in their educational settings.
11. Awareness information provided to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss.

Thank you for inviting me to testify. I will be happy to answer any questions.

January 27, 2015

House Human Service Committee
Chairman Representative Weisz

Representative Weisz and Committee Members,

On the behalf of the North Dakota Association of the Deaf, I, wholeheartedly declare complete support on HB Bill 1366, Bill of Rights for children who are deaf or hearing-impaired. The bill is important legislation designed to ensure that language and communication needs of deaf or hearing-impaired children are met in the educational environment.

This bill entails one of the most fundamental human issues – it provides communication opportunities for the deaf or hearing-impaired. It's essential and with mutual understanding that the type of communication mode the deaf or hearing-impaired prefers must be respected. It shall not promote one language over another.

This bill acknowledges the importance of having professionals in an educational setting who are able to communicate fluently in a language preferred by the deaf and hearing-impaired to maximize the interaction between the two of them. In addition, it is imperative that the educational interpreters are certified and proficient [Century Code Chapter 43-52: Interpreters] in a language preferred by the deaf or hearing-impaired.

Because a number of deaf or hearing-impaired children attend a local school, they are frequently the only one in their school. These schools and school districts have the best intentions in providing quality education to deaf or hearing-impaired; however, they are often found to be lacking in serving these children.

Passage of the Bill of Right for children who are deaf or hearing-impaired should not be considered an end in itself. It should be monitored to ensure that it is properly implemented and that necessary resources are available to schools and districts to support implementation. I believe that monitoring and follow up will be critical to making this law a success.

This bill also ensures that parents of deaf or hearing-impaired receive a full spectrum of communication and education opportunities for their child. It is vital that an advocator is able to provide unbiased and uniform services to the deaf or hearing-impaired.

HB 1366 is a positive step for the state of North Dakota in assuming responsibility for guidance and structure for successful and effective educational and communication opportunities for all deaf and hearing-impaired children.

Sincerely,



Michele Rolewitz
President of North Dakota Association of the Deaf
1115 11th Avenue North
Fargo, ND 58102
VP: 701-552-7514

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1366

Page 1, line 1, after "Act" insert "to create and enact section 14-02.4-24 of the North Dakota Century Code,"

Page 1, line 3, after the boldfaced period insert "Section 14-02.4-24 of the North Dakota Century Code is created and enacted as follows:"

Page 1, after line 3 insert "**14-02.4-24.**"

Page 1, line 14, remove "Adult role models who are deaf or hearing-impaired."

Page 1, overstrike line 15 and insert immediately thereafter "The opportunity to interact in person or through technology mediums with adult role models and peers who are also deaf or hearing-impaired."

Page 1, line 16, replace "6." with "5."

Page 1, line 18, replace "7." with "6."

Page 1, line 21, replace "8." with "7."

Page 1, line 21, remove "Individual considerations for free appropriate education across a full spectrum of"

Page 1, replace line 22 with "Information on available resources in the state of North Dakota for parents or guardians of deaf or hearing-impaired children."

Page 1, line 23, replace "9." with "8."

Page 1, line 23, after "Full" insert "educational"

Page 1, line 23, remove "in their educational settings"

Page 1, line 24, replace "10." with "9."

Page 1, line 24, after "Full" insert "and equal"

Page 2, line 1, replace "11." with "10."

Page 2, line 1, replace "Having the public fully informed" with "Awareness information provided to the public"

Renumber accordingly

HB 1366 2/3/2015 1.1

Bill of Rights for Deaf and Hard of Hearing Children

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Background

Abundant information can be found in the literature on the status of American deaf education over past years, especially about two important factors: communication access and educational placement for deaf and hard of hearing children. Too often decisions about these factors are made without sufficiently addressing deaf and hard of hearing children's cognitive, emotional, linguistic, social, and academic development. As a result, a pattern of ignorance and oppression may exist regarding the education of deaf and hard of hearing children in the United States.

In 1988, the Commission on Education of the Deaf (COED) report described the unsatisfactory status of deaf education and recommended specific changes to the President and the Congress. In 1992 and 1994 the U.S. Department of Education published policy guidance on how the Individuals with Disabilities Education Act (IDEA) should be applied in order to ensure an appropriate education for deaf and hard of hearing children. Further, the 1997 and 2004 amendments to IDEA require education programs for deaf and hard of hearing children to consider the language and communication needs of these children.

In 2005, a coalition of national education, parent, and consumer organizations, including the NAD, released *National Agenda: Moving Forward on Achieving Educational Equality for Deaf and Hard of Hearing Students*. The National Agenda sets out a roadmap for deaf education reform at the national, state, and local levels. Since 2005, a national summit has been held annually for states pursuing reform based on the National Agenda.

Building on these developments, some states have devised an individual "communication plan" to be used with each deaf and hard of hearing child to ensure that their language and communication needs are met through their education program. Some states have passed a law known as the deaf children's bill of rights.

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Common Elements

Deaf children's bills of rights have certain elements in common:

Deaf and hard of hearing children's ability to communicate is a priority.

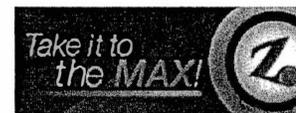
These bills stress the basic human need for a child to be able to communicate freely with others. The bills usually state that their purpose is to promote understanding of communication needs and not to favor any one particular communication mode or language over another.

Availability of qualified and certified personnel who can communicate directly with deaf and hard of hearing children.

In order for an educational placement to be appropriate, the child must be provided, when appropriate, qualified and certified teachers, psychologists, speech therapists, assessors, administrators, interpreters, and other personnel who understand the unique nature of deafness and are specifically trained to work with deaf and hard of hearing children. These personnel should be proficient in the primary communication and language mode of deaf and hard of hearing children.

Deaf and hard of hearing children shall have an education with a sufficient number of same language mode peers who are of the same age and ability level.

This is designed to ensure a "critical mass" where there is a sufficient number of peers of the approximate age and ability level with whom deaf and hard of hearing children can communicate directly in the same language.



1.2

Deaf and hard of hearing children shall be provided opportunities to interact with deaf and hard of hearing adult role models.

Parents and educators should be informed of the benefits of an education in which deaf and hard of hearing students have deaf and hard of hearing role models or adult mentors available as part of the student's education experience in school and during extracurricular activities. Children should be provided access to deaf and hard of hearing adults as teachers, mentors, and advocates.

Deaf and hard of hearing children shall be provided equal opportunity to benefit from all services and programs at their schools.

Deaf and hard of hearing children must have direct and appropriate access to all components of the education, including recess, lunch, extracurricular, social, and athletic activities.

Deaf and hard of hearing children shall be assessed appropriately.

Language, communication, academic, and social development should be assessed at an early age and throughout the child's educational experience. Qualified and certified individuals proficient in the language(s) of the child should perform the assessments.

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Unique Provisions

Some legislative bills offer unique provisions for particular issues:

Communication

No deaf or hard of hearing child shall be denied the opportunity for instruction in a particular communication mode or language solely because of the child's remaining hearing, the parents of the child are not fluent in the communication mode or language being taught, or the child has previous experience with some other communication mode or language. The child's preferred mode should be respected in order to attain highest education possible for that individual in an appropriate environment.

Teachers must demonstrate competency in American Sign Language (ASL) in addition to English language and communication competencies in order to obtain any certification required to teach deaf and hard of hearing students.

Opportunities should be available for interactions that enhance the child's intellectual, social, emotional and cultural development.

An education should be provided in which the child's unique communication mode (such as ASL) is respected, utilized, and developed to an appropriate level of proficiency and vocabulary equivalent to that of students of similar ages who are hearing.

There should be provision of early educational intervention to provide for the acquisition of a natural language base whether it be ASL, Speech, Cued Speech, Sign Language, another method, or a combination of methods. There shall be a consistent communication system during the child's early, critical language acquisition years.

Curriculum and Program Development

The child should have the right to have ASL as one of the academic subjects in his/her educational curriculum when the child's primary language is ASL.

Consider that the state school for the deaf may be the least restrictive environment for a deaf or hard of hearing child.

Ensure that the extent, content, and purpose of programs and services for deaf and hard of hearing children are developed with the involvement and assistance of deaf and hard of hearing people, parents of deaf and hard of hearing students, and qualified and certified teachers and professionals trained in the education of deaf and hard of hearing students.

Services & Assistance by the Appropriate Educational Agency

Equip deaf and hard of hearing children with appropriate assistive technology across a full spectrum.

Ensure that the parents are enabled to make informed decisions about which educational options are best suited to their child, by receiving and reviewing information about all the educational options provided by the school district and available to the child, as well as about options not provided by the school district.

Establish an outreach program that provides sign language training and assistance and other support services to the parents of a deaf or hard of hearing child.

Take steps to implement the Bill of Rights, including developing materials, disseminating information, and providing workshops, symposia, and other gatherings to ensure that decision makers understand and implement the Act.

1.3

[Back to Table of Contents](#)**Developing a Bill of Rights: What Can You Do?**

Ideally, a bill of rights for deaf and hard of hearing children should include the concepts discussed in this article. The enactment of such a bill in your state may be possible by keeping your legislators informed of deaf and hard of hearing education issues, working with your State Association of the Deaf, and maintaining open communication with local, state and national service providers, programs, organizations, agencies, and other appropriate individuals and entities.

Deaf and hard of hearing communities throughout the country should help develop and implement state bills of rights for deaf and hard of hearing children. You should continually educate legislators about the unique needs of deaf and hard of hearing children, including the need for deaf culture and sign language.

Legislators may be more likely to support a state bill of rights if education and literacy, and their role in allowing deaf and hard of hearing citizens to become productive citizens, are stressed. Educate your legislators about the educational needs and rights of deaf and hard of hearing children and help them to become knowledgeable and enthusiastic about this cause.

Seize the opportunity to pass legislation that guarantees an appropriate education for deaf and hard of hearing children in all states during our time.

Read the testimony of Barbara Raimondo, Esq., before the North Carolina House Select Committee on Education Reform, explaining the critical importance of DCBRs for deaf and hard of hearing children.

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- Tennessee

[Back to Table of Contents](#)**Other States' Related Activities:**

- Arkansas Deaf Education Task Force
- Idaho Deaf and Hard of Hearing Education Resolution
- Illinois DCBR bill, which did not pass
- Illinois Communication Options (Doc)
- Michigan Language Planning Referent Group
- Mississippi Deaf Person's Literacy Rights and Education Act which did not pass
- Missouri DCBR which did not pass
- New Hampshire establishment of a committee to study/adopt a deaf children's bill of rights into law
- North Dakota DCBR which did not pass
- Oregon DCBR which did not pass
- Rhode Island Summary of Deaf Education Laws
- Utah DCBR which did not pass – Utah Bill Overview (PDF) Utah Bill (PDF)
- Virginia report on trends in the education of students who are deaf or hard of hearing

1.4

• West Virginia House Concurrent Resolution No. 104

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National Association of the Deaf | 8630 Fenton Street, Suite 820, Silver Spring, MD 20910-3819

Re: House Bill 1366 - Bill of Rights - Children who are deaf or hearing impaired

Stephannie Stiel [snstiel@gmail.com]

Sent: Friday, March 20, 2015 5:32 PM

To: Maragos, Andrew G.

Attachment
HB1366
03/25/15

Thank you, I happened to check the status last night and saw an upcoming hearing. I shared my email with the committee members. I appreciate your follow up to this.

Stephannie

J# 25380

On Fri, Mar 20, 2015 at 10:01 AM, Maragos, Andrew G. <agmaragos@nd.gov> wrote:
Hearing in Senate Human Services, 25 Mar 15, 9:00 am

Andy Maragos

From: Stephannie Stiel [snstiel@gmail.com]**Sent:** Friday, January 23, 2015 10:16 PM**To:** Weisz, Robin L.; Hofstad, Curt L.; Lee, Judy E.; Larsen, Oley L.; Maragos, Andrew G.; Johnson, Dennis E.; Oehlke, H. Dave**Cc:** Stephannie Stiel**Subject:** House Bill 1366 - Bill of Rights - Children who are deaf or hearing impaired

Good evening Representatives and Senators:

I live in West Fargo, North Dakota. I am writing to reach out to you about House Bill no. 1366 - the Bill of Rights for Children who are deaf or hearing impaired. I urge all of you to take steps to pass this bill. I am a mother to four children. My third child, Sophia, was born deaf. We were fortunate that the newborn screen detected her loss and had a confirmed diagnosis of profound to severe hearing loss (Deafness) around 2 1/2 months of age. We were also fortunate that Sophia was a candidate for bilateral cochlear implants. Through hard work, dedication and many hurdles, we were able to get Sophia the supports she needed. Through our process in getting Sophia the services and supports she needed, we had to do a lot of educating along the way. All of the items listed in this Bill are crucial in order for a child with hearing loss to succeed. Many of these rights, however, are not clearly spelled out in our current laws. Many states have enacted similar laws and this is the first step in the right direction to ensure children who are deaf or hard of hearing have full support from qualified teachers to ensure access. My daughter Sophia has been receiving extensive educational programming and supports to attain listening and spoken language. Although she is deaf and her only access to sound is through cochlear implants, it is expected that she will enter Kindergarten with her class next year. Although she will continue to need language programming until she is caught up to her peers, the support she is receiving from qualified teachers in her mode of communication has helped to ensure she will have full access in the educational setting. By passing this Bill North Dakota could significantly impact and improve the ability of children who are deaf or hard of hearing to attain the language skills they need to access education in their chosen modes of communication.

I would be happy to discuss this Bill with you and my experiences. Please feel free to contact me at my office [701-293-9911](tel:701-293-9911) or on my cell phone [701-866-6410](tel:701-866-6410). We are leaving for a family vacation on Thursday next week returning the following Wednesday so I may be harder to contact during that time.

1.2

Again, I urge you to pass this Bill. I would, however, suggest a language change from "impairment" to "hard of hearing" (unless you need to be consistent with how other laws relating to deafness and hearing loss are worded). I would be happy to review the language choice for you, get feedback from other organizations and families and see what the trend has been in other states.

I am an attorney at Conmy Feste, Ltd in Fargo North Dakota and living in West Fargo North Dakota. I am the past president, current board member and co-founder of North Dakota Hands & Voices. Hands & Voices is an organization that has an international presence. The organization has a mission of helping children who are deaf and hard of hearing reach their highest potential.

Thank you for your time and consideration.

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Stephannie

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Stephannie

Attach #2
HB 1366
03/25/15
J# 25380

March 23, 2015

Senate Human Service Committee
Chairman Senator Lee

Senator Lee and Committee Members,

On the behalf of the North Dakota Association of the Deaf, I, wholeheartedly declare complete support on HB Bill 1366, Bill of Rights for children who are deaf or hearing-impaired. The bill is important legislation designed to ensure that language and communication needs of deaf or hearing-impaired children are met in the educational environment.

This bill entails one of the most fundamental human issues – it provides communication opportunities for the deaf or hearing-impaired. It's essential and with mutual understanding that the type of communication mode the deaf or hearing-impaired prefers must be respected. It shall not promote one language over another.

This bill acknowledges the importance of having professionals in an educational setting who are able to communicate fluently in a language preferred by the deaf and hearing-impaired to maximize the interaction between the two of them. In addition, it is imperative that the educational interpreters are certified and proficient [Century Code Chapter 43-52: Interpreters] in a language preferred by the deaf or hearing-impaired.

Because a number of deaf or hearing-impaired children attend a local school, they are frequently the only one in their school. These schools and school districts have the best intentions in providing quality education to deaf or hearing-impaired; however, they are often found to be lacking in serving these children.

Passage of the Bill of Right for children who are deaf or hearing-impaired should not be considered an end in itself. It should be monitored to ensure that it is properly implemented and that necessary resources are available to schools and districts to support implementation. I believe that monitoring and follow up will be critical to making this law a success.

This bill also ensures that parents of deaf or hearing-impaired receive a full spectrum of communication and education opportunities for their child. It is vital that an advocator is able to provide unbiased and uniform services to the deaf or hearing-impaired.

HB 1366 is a positive step for the state of North Dakota in assuming responsibility for guidance and structure for successful and effective educational and communication opportunities for all deaf and hearing-impaired children.

Sincerely,



Michele Rolewitz
President of North Dakota Association of the Deaf
1115 11th Avenue North
Fargo, ND 58102
VP: 701-552-7514

Attach # 3
HB 1366
03/25/15
J#25380

Good Morning ~ Chairman Senator Lee and Senator Human Service Committees. Thank you for your time listening us.

We strong support this Bill #1366 ~ Bill of Right for Children who are deaf or hearing impaired. Imagine that your children or grandchildren who are deaf or hearing impaired go through experience like I went through. I will explain what my experience is like? Why important support this Bill #1366.

My name is Sharon Potts-Sayler I live here in Bismarck and working full time at Natural Resources conservation Service in Mandan.

I was born and raised on Dairy Farm in Lamoure about 35 miles south of Valley City. I have 5 brother & 3 sisters. 1 deaf brother & 1 hard of hearing sister. My parent sent me & deaf brother to Private School "St. Joseph Institute for the deaf" in St. Louis, Missouri. We flew down there and flew back home for holiday & summer and back & forth for 11 years. Why? My parents wanted us to learn to talk and lip-read. They thought if I use sign language, I wouldn't survive in hearing world. Not true. They didn't get enough information about deaf and deaf culture.

As 9th grader, I entered Lamoure High School and thought that I would be more happy to be closer my siblings. No, it was terrible experience for me. Why! No communication and no interpreter. No one would listen to me and how I feel... I didn't understand most of the time maybe 80%. Very isolation and lost. I joined sport ~ Basketball, volleyball, & track. It was hard to enjoy playing sports because of no communication. The other players & coach left me out. No one realized what's going on with me. I really wanted to join drama but I was not allowed to join it. No communication. I was suffered and lonesome. Not fair when hearing students can do whatever they want and I don't have chance.

I graduated and left home so fast. I went to college and was attracted to American Sign Language to communicate. Also there was interpreter to help me understand everything. Wow Communication bright my life.

I looked back and wish to know ASL and have interpreter in each classroom to help me understand 100%. It would be fun to teach hearing students to sign. For sure, I would enjoy my experience in High School. Sad HS was nightmare.

Now I am doing great in hearing world and want to see children who are deaf & hearing impaired happy and have great experience in school with hearing children.

It is urgent for this Bill #1366 to be passed to provide the Bill of Right including

- Communication Equality
- More opportunities
- Better education
- Better preparation to go college anywhere

for current and future children who are deaf or hearing impaired.

Also be sure that all interpreters at School are qualified to satisfy Deaf or Hearing impaired Children's needs.

Thanks You, Sharon Potts-Sayler

Adach #1
HB 1366
03/30/15
25590

House Bill 1366

Senate Human Service Committee

March 30, 2015

By David Zimmerman, Teacher, North Dakota School for the Deaf

701-240-2762 (text message)

Good morning Committee Chairman Lee and fellow members of the Senate Human Services Committee. It is an honor and pleasure to come before this committee to testify in favor of the Deaf Child's Bill of Rights. The Deaf Child's Bill of Rights is an important legislation designed to ensure that communication and language needs of deaf and hard of hearing children are met in the educational environment. My name is David Zimmerman, and I am a teacher of the Deaf and Hard of Hearing at the North Dakota School for the Deaf. I am currently in my 25th year at the North Dakota School for the Deaf. I am a deaf adult concerned about the education for the deaf and hard of hearing in our state.

Even today deaf and hard of hearing students lag significantly behind their hearing peers on academic measures. Although their numbers are small, their needs are extremely diverse. Services for deaf and hard of hearing children include those in American Sign Language, audiology, speech-language pathology, visual technologies, auditory technologies, interpretation services, support to families and more. Many deaf and hard of hearing children have additional disabilities and therefore require additional services such as physical therapy and

occupational therapy. Deaf and hard of hearing may be identified soon after birth or may be identified later. They may come from homes that assist them in language learning or they may not. There cannot be a one-size-fits all approach to the development and education of deaf and hard of hearing children. However, one thing is clear, age appropriate language and communication development is essential for students to meet literacy and academics benchmarks, gain admittance to institutions of higher education and take their place as productive employees in the workforce. Such language and communication development must be supported from the beginning and throughout a child's educational career.

When deaf or hard of hearing students attend their own home school district (instead of North Dakota School for the Deaf) they are often the only one in his or her school. A student's inability to hear affects their ability to learn language. Schools and school districts serve these children as best as they can, however, they need support and resources to achieve successful programming for students with unique language and communication needs.

IDEA requires Individualized Education Plan (IEP) teams to consider the language and communication needs of deaf and hard of hearing children when developing their IEP's. It states...(In developing each child's IEP) the IEP team must... (IV)...in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language

and communication mode, academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode. (34 C.F.R. Section 300.320(a)(2))

All students with disabilities have a right to free and appropriate education under IDEA. However Deaf and Hard of Hearing students have unique communication needs that this bill would address. The bill would simply reinforce what IDEA/ADA has in place.

From time to time, the United States of Department Education has provided guidance in this area. In 1992 it issued and 1994 reissued, the Deaf Students Education Services; Notice of policy guidance (57 Fed. Reg. 49274 Oct. 1992). Among other things, that policy guidance makes it clear that "meeting the unique communication and related needs of a student who is deaf is a fundamental part of providing a free appropriate public education (FAPE) to the child". Yet the United States Department of Education does not have a mechanism in place to monitor or ensure that these mandates are carried out. States have addressed this issue in several ways that are meaningful and effective. They have developed communication plans and state plans, and at least 17 states have passed a Deaf Children's Bill of Rights. Four more states are currently attempting to pass a Deaf Children's Bill of Rights including North Dakota, Arizona, Massachusetts and Tennessee.

Some specific language that I find may be helpful is the language specifying

that the IEP team must advise parents of the full continuum of alternatives educational placements (one that includes the North Dakota School for the Deaf) as an option). In the past, research has indicated the need for settings where peers are available and where professionals are trained in the communication modes and learning approaches of deaf and hard of hearing students. It is important that parents are aware of the benefits that specialized schools can provide. We need language in the bill to support family choices of educational settings. I believe that IEP teams should know the full continuum of services, which includes the North Dakota School for the Deaf, when determining the least restriction placement.

The future is bright for deaf and hard of hearing children who receive an education that meets their needs. House Bill #1366 represents the best practices in the field and will help ensure that those needs are being met. The Department of Public Instruction and the North Dakota School for the Deaf/Resource Center for Deaf and Hard of Hearing collaborated to amend House Bill #1366. I endorse HB Bill #1366 as it has been amended and passed by the House of Representatives.

Thank you for the opportunity to testify today. I will be happy to answer your questions.

Prepared by Intern
04/01/2015

HB 1366
04/01/2015
Attach #1
25684

PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL NO. 1366

A BILL for an Act to provide for enhanced collaboration between the school for the deaf and the department of public instruction on the provision of available services and resources to children who are deaf or hearing impaired and the families of children who are deaf or hearing impaired.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

1. The school for the deaf shall collaborate with school districts to ensure that children who are deaf or hearing impaired and the families of children who are deaf or hearing impaired receive appropriate services and have access to appropriate resources including:
 - a. Screening and assessment of hearing capabilities and communication and language needs at the earliest possible age and continuation of screening services throughout their educational experience;
 - b. Early intervention to provide for acquisition of solid language bases at the earliest possible age;
 - c. The opportunity to interact in person or through technological mediums with adult role models and peers who are also deaf or hearing impaired;
 - d. Qualified teachers, interpreters, and resource personnel who communicate effectively with the child in the child's mode of communications;
 - e. Placement best suited to the child's needs, including social, emotional, and cultural needs, age, hearing loss, academic level, mode of communication, styles of learning, motivational level, and family support;
2. The school for the deaf shall:
 - a. Make information available for parents of children who are deaf or hearing impaired;
 - b. Provide awareness information to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss

and