

# Legislative Analysis

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## **DEAF, DEAFBLIND, AND HARD-OF-HEARING ASSESSMENTS; BILL OF RIGHTS**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5158 as introduced**  
**Sponsor: Rep. Martin Howrylak**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 5159 as introduced**  
**Sponsor: Rep. Phil Phelps**

**Committee: Health Policy**  
**Complete to 10-24-17**

### **BRIEF SUMMARY:**

House Bill 5158 would create the EMPOWER (Early Meaningful Parental Outreach with Educational Resources) Law within the Revised School Code, to prescribe assessments and developmental milestones for deaf, deafblind, and hard-of-hearing students (“designated children”) from birth to age 8. (proposed MCL 380.1705)

House Bill 5159 would create the Deaf, Deafblind, and Hard-of-hearing Children’s Educational Bill of Rights Law within the Revised School Code. (proposed MCL 380.1705a)

### **DETAILED SUMMARY:**

**House Bill 5158** would require the Michigan Department of Education (MDE) to ensure that the assessments described in the EMPOWER Law assess the progress of designated children toward developmental milestones also described in the Law. It would affirm, however, that parents or legal guardians would have sole discretion to determine which language and communication mode option or options are best to further the education of their children.

#### Developmental milestones

The bill would require MDE to identify, and modify as it sees necessary, developmental milestones designed to reflect a child’s expressive, pragmatic, and receptive language acquisition and development in American Sign Language (ASL), English, or communicative competence, compared to children the child’s age who are not deaf, deafblind, or hard of hearing. The developmental milestones would be identified from existing standardized norms and aligned with existing standards to meet relevant state and federal requirements.

#### Parent resource

Under the bill, MDE also would be required to develop, and modify at it sees necessary, a parent resource to be used to monitor the child’s language acquisition and development in ASL, English, or comparative competence. The resource must include a description of the

developmental milestones described above, as well as information regarding language acquisition and development and the steps parents can take to help with that process, language and communication mode options, and a list of the technological advances available to assist designated children, as well as other specified information.

The bill would require MDE to present the information in the parent resource in an accessible manner, post the resource on the MDE website, and make the resource available to a parent or legal guardian of a designated child. It would also require MDE to ensure that the resource is provided to specified educational entities, agencies, and individuals.

#### Assessment tools

Additionally, the bill would require MDE to identify, and modify as it deems necessary, a list of valid and reliable assessment tools that may be used to evaluate a designated child's expressive, pragmatic, and receptive language acquisition and development. With parental permission, the tools may be used to establish or modify a designated child's IEP, individualized family service plan, or individual accommodation plan if consistent with federal law.

The assessment tools would be identified in the rules governing special education programs and services, and MDE would be required to make the tools and necessary training materials available to the following groups:

- School districts
- Public school academies (PSAs, or charter schools)
- Intermediate school districts (ISDs)
- Early intervention providers, including public and private daycares and preschools
- Appropriate special education personnel
- Individuals who develop, manage, or implement teacher preparation programs
- The Michigan School for the Deaf

#### Failure to demonstrate reasonable progress

Under the bill, if a designated child did not demonstrate reasonable progress in age-appropriate expressive, pragmatic, and receptive language acquisition and development in ASL, English, or communicative competence, as measured by the assessment tools, the student's IEP, individualized family service plan, or individual accommodation plan would be modified. The modified plan would include an explanation as to why the student had not demonstrated reasonable progress and specific recommendations to assist the student in reaching developmental milestones.

#### Annual reports

The bill would require MDE to prepare an annual report, using data currently reported in accordance with federal requirements, no later than September 1, 2018 and no later than August 1 of each subsequent year. The report must be specific to designated children's language acquisition and development relative to their hearing peers. No later than 30 days after preparing the report. MDE must make the report available on its website and provide the report to the Michigan House and Senate standing committees responsible for K-12 education legislation.

### Advisory committee

Within six months of the Act taking effect, MDE would be required to establish an advisory committee to advise and assist MDE in fulfilling the bill's requirements. The committee would recommend developmental milestones and assessment tools consistent with those described in the bill, and develop suggested methods for monitoring and reporting children's development, among other tasks.

MDE would appoint nine members to the committee, including specified representatives of the deaf, deafblind, and hard of hearing community and parents of designated children, as well as individuals with experience working with designated children. Members would be appointed for a term of four years. The bill also specifies additional administrative responsibilities and functions for the committee.

Finally, the bill includes several definitions of terms related to the deaf, deafblind, and hard-of-hearing community, including the following:

***American Sign Language:*** a visual language. The shape, placement, and movement of an individual's hands and the individual's facial expressions and body movement are important aspects of conveying linguistic information.

***Communicative competence:*** the degree to which a child demonstrates the intent and proficiency to use language or a communication mode to effectively communicate in social and school environments and may occur within a range of basic to sophisticated abilities.

**House Bill 5159** would create a Deaf, Deafblind, and Hard-of-hearing Children's Educational Bill of Rights Law. In order to ensure that every designated child has the same opportunity as any other child in Michigan to achieve his or her educational growth potential and to become a fully participatory member of society, the bill requires MDE to promote communication-mode- and language-driven practices, policies, services, and programs in order to provide designated children with qualified teachers and a sufficient educational environment, along with targeted programs and resources.

The bill would require MDE to adopt or make available to school districts, ISDs, and PSAs a ***model worksheet*** detailing all language and communication mode considerations for the purpose of enhancing the development of designated children's IEPs.

Additionally, the bill would encourage state agencies, institutions, or departments involved in early intervention and early childhood and K-12 education of designated children to develop ***specific guidelines*** establishing how the entity could contribute to the following objectives:

- Providing every designated child an educational environment that meets the child's language and communication mode needs and includes early, continuous, and quality access to planned and incidental language and communication mode opportunities.
- Implementing practices, policies, services, and programs that are aligned with MDE's obligations under the proposed Law.

The bills are tie-barred together, meaning neither could take effect unless both are enacted. They would take effect 90 days after enacted.

## **FISCAL IMPACT:**

HB 5158 and 5159 would increase costs for the state and for local units of government.

MDE would incur costs related to having to fulfill the following requirements:

- Identify and modify developmental milestones.
- Develop and modify a parent resource.
- Identify and modify a list of valid and reliable assessment tools and make available those tools and training materials to other state and local entities.
- Create an annual report, using existing data, specific to the designated children's language acquisition and development communication competence compared to their peers.
- Establish an advisory committee to advise and assist MDE in meeting the requirements in this bill, which are detailed in the summary above.
- Promote communication-mode and language-driven practices, policies, services, and programs.
- Adopt and make available a model worksheet of all language and communication mode considerations for a designated child's IEP.

Other state and local entities, noted in the summary above, would also incur costs to administer assessment tools, evaluating assessments for the purpose of monitoring and tracking developmental milestones, and coordinating with each other concerning these processes and educating and informing parents and legal guardians concerning the designated children in this section.

If the child does not demonstrate reasonable progress state and local entities could also incur additional costs in having to modify the child's education program/plan and recommend additional strategies, services, and programs to assist the child in reaching their development milestones.

Other state and local entities responsible for administering a designated child's individualized family service plan (age 0-3) or a child's IEP (age 3 and older) could incur cost increases to provide programs and services that maximize their potential in language and communication mode.

Legislative Analyst: Jenny McInerney  
Fiscal Analysts: Bethany Wicksall  
Samuel Christensen

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