

2017 Regular Session

HOUSE BILL NO. 253

BY REPRESENTATIVES SMITH, BAGLEY, CHANEY, COX, HENSGENS,  
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Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EXCEPTIONAL PERSONS: Revises terminology referring to the deaf and hard of hearing

1 AN ACT

2 To amend and reenact R.S. 4:715(B)(2), R.S. 14:32(D)(3) and 39(D)(3), R.S. 17:43(B)(2)

3 and 1942(B), R.S. 21:51(C) and 52(A) and (B), R.S. 22:245, 1027(A), and

4 1038(C)(2)(a) and (E), R.S. 36:259(N), R.S. 37:2446.1(B)(7) and 2651(7)(b)(v)(hh),

5 R.S. 40:1580.1(A) and 2208, R.S. 42:1119(B)(2)(a)(i), R.S. 45:1355(A), the heading

6 of Chapter 30-A of Title 46 of the Louisiana Revised Statutes of 1950, R.S. 46:2261,

7 2262(A) and (C), 2262.1(introductory paragraph), (4), and (12), 2263(3), (4), and (6)

8 through (8), 2264(A), (C), and (D), 2265(A)(introductory paragraph), (9), and (10),

9 2266(1) and (3) through (5), 2352(7)(a) and (10)(a)(introductory paragraph), 2361,

10 2362(2) through (6), 2363 through 2365, 2367, 2368(B), and 2372, R.S.

11 47:6301(A)(3), and Code of Criminal Procedure Article 401.1(B)(introductory

12 paragraph), relative to terminology referring to the deaf and hard of hearing; to

13 delete and make substitutions for terms which are derogatory, inaccurate, or

14 obsolete; to provide for consistency in usage of terms referring to the deaf and hard

15 of hearing and to hearing loss; to provide for revision of terminology relative to the

16 deaf and hard of hearing in administrative rules, policy documents, professional

17 resources, reference materials, manuals, and other publications; to provide for

18 legislative intent; to provide for construction; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 4:715(B)(2) is hereby amended and reenacted to read as follows:

3 §715. Personnel to hold games; commissions or salaries; equipment and supplies;

4 expenses

5 \* \* \*

6 B.

7 \* \* \*

8 (2) Notwithstanding any provision of law to the contrary, any person,  
9 association, or corporation licensed to hold, operate, or conduct any games of chance  
10 that benefit persons with visual ~~or hearing~~ impairments, hearing loss, paraplegia,  
11 quadriplegia, intellectual disabilities, or persons sixty years of age or older, under  
12 any license issued pursuant to this Chapter, may compensate for services rendered,  
13 any fifteen employees who assist in the holding, operating, or conducting of such  
14 games. The rate of compensation shall be no more than fifteen dollars per hour and  
15 in any event shall not exceed ninety dollars per session for any employee. Each  
16 employee or volunteer worker may also be provided meals and beverages to be eaten  
17 on the premises not to exceed a total value of fifteen dollars per person.  
18 Expenditures made under the provisions of this Subsection shall be subject to the  
19 reporting provisions of R.S. 4:716. Compensation provided for in this Subsection  
20 shall not constitute a violation of the prohibition against the payment or giving of a  
21 commission, salary, compensation, reward, or recompense to any person holding,  
22 operating, or conducting, or assisting in the holding, operation, or conduct of any  
23 such game.

24 Section 2. R.S. 14:32(D)(3) and 39(D)(3) are hereby amended and reenacted to read  
25 as follows:

26 §32. Negligent homicide

27 \* \* \*

28 D. The provisions of this Section shall not apply to:

29 \* \* \*

1 (3) Any guide or service dog trained at a qualified dog guide or service  
2 school who is accompanying any blind person, visually impaired person, ~~deaf~~  
3 ~~person, hearing impaired~~ person who is deaf or hard of hearing, or person with any  
4 other physical disability who is using the dog as a guide or for service.

5 \* \* \*

6 §39. Negligent injuring

7 \* \* \*

8 D. The provisions of this Section shall not apply to:

9 \* \* \*

10 (3) Any guide or service dog trained at a qualified dog guide or service  
11 school who is accompanying any blind person, visually impaired person, ~~deaf~~  
12 ~~person, hearing impaired~~ person who is deaf or hard of hearing, or person with any  
13 other physical disability who is using the dog as a guide or for service.

14 \* \* \*

15 Section 3. R.S. 17:43(B)(2) and 1942(B) are hereby amended and reenacted to read  
16 as follows:

17 §43. Special schools defined; benefits for certificated teachers; legislative policy

18 \* \* \*

19 B.

20 \* \* \*

21 (2) Teachers at the Louisiana Schools for the Deaf and Visually Impaired  
22 may attain tenure in the educational program, either the educational program for the  
23 ~~hearing impaired~~ deaf and hard of hearing or the educational program for the visually  
24 impaired, for which they are certified. Teachers at the Louisiana Special Education  
25 Center may attain tenure at the Louisiana Special Education Center. Teachers in  
26 Special School Programs may attain tenure in Special School Programs.

27 \* \* \*

28 §1942. Definitions

29 \* \* \*

1           B. A "student with an exceptionality", including a student with a disability,  
2 is any student who is evaluated according to state and federal regulation or policy  
3 and is deemed to have a mental disability, hearing ~~impairment~~ loss (including  
4 deafness), multiple disabilities, deaf-blindness, speech or language impairment,  
5 visual impairment (including blindness), emotional disturbance, orthopedic  
6 impairment, other health impairment, specific learning disability, traumatic brain  
7 injury, autism, or as deemed to be gifted or talented, and as a result requires special  
8 education and related services. A student with an exceptionality may include, as  
9 determined by the local education agency, a student experiencing developmental  
10 delay ages three through eight.

11   \*       \*       \*

12           Section 4. R.S. 21:51(C) and 52(A) and (B) are hereby amended and reenacted to  
13 read as follows:

14           §51. Pet animals; prohibitions relative to hotels and motels; penalty; exemptions

15   \*       \*       \*

16           C. This Section shall not apply to guide dogs or service dogs used by blind  
17 persons, visually impaired persons, ~~deaf persons, hearing impaired persons~~ who are  
18 deaf or hard of hearing, and other persons with physical disabilities who have been  
19 taught to use such dogs at a qualified dog guide or service school.

20           §52. Guide or service dog; rights and privileges of owners and trainers; penalties for  
21 violations

22           A. Any blind person, visually impaired person, ~~deaf person, hearing~~  
23 ~~impaired person~~ who is deaf or hard of hearing, or person with any other physical  
24 disability who is accompanied by a properly controlled dog which such person has  
25 been taught to use as a guide or for service at a qualified dog guide or service school,  
26 or any person who is qualified to provide training for a guide dog or service animal  
27 and is accompanied by a guide dog in training, is entitled to the full and equal  
28 accommodations, advantages, facilities, and privileges of all public accommodation,  
29 amusement, or resort, and other places to which the general public is invited, and

1 shall be entitled to take such dog into such conveyances and places, subject only to  
2 the accommodations and limitations applicable to all persons not so accompanied,  
3 provided that the dog shall not occupy a seat in any public conveyance.

4 B. Any person, firm, or corporation, or agent, representative, or employee  
5 of any person, firm, or corporation who deprives any blind person, visually impaired  
6 person, ~~deaf person, hearing impaired person~~ who is deaf or hard of hearing, or  
7 person with any other physical disability, or any person who is accompanied by a  
8 guide dog in training of any right conferred by Subsection A of this Section, shall be  
9 deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum  
10 not to exceed five hundred dollars, or be imprisoned in the parish jail for a period not  
11 to exceed ninety days, or both, within the discretion of the judge; and for every such  
12 offense such person shall forfeit and pay a sum not to exceed five hundred dollars  
13 to any person aggrieved thereby, to be recovered in any court of competent  
14 jurisdiction in the parish where such offense was committed.

15 \* \* \*

16 Section 5. R.S. 22:245, 1027(A), and 1038(C)(2)(a) and (E) are hereby amended and  
17 reenacted to read as follows:

18 §245. ~~Hearing impaired interpreter~~ Interpreter services for the deaf and hard of  
19 hearing; expenses; requirement

20 As a requirement for authorization to do business in this state pursuant to  
21 R.S. 22:244, all health maintenance organizations shall provide coverage for  
22 expenses incurred by any ~~hearing impaired~~ enrollee who is deaf or hard of hearing  
23 for services performed by a qualified interpreter/transliterater, other than a family  
24 member of the enrollee, when such services are used by the enrollee in connection  
25 with medical treatment or diagnostic consultations performed by a health care  
26 provider.

27 \* \* \*

1           §1027. ~~Hearing-impaired interpreter~~ Interpreter services for the deaf and hard of  
2                   hearing; expenses

3                   A. Any hospital or medical expense insurance policy delivered or issued for  
4                   delivery in this state on or after December 1, 1991, shall contain a provision or  
5                   endorsement requiring payment for expenses incurred by the insured for services  
6                   performed by a qualified interpreter/transliterater, other than a family member of the  
7                   insured, when such services are used by the insured in connection with medical  
8                   treatment or diagnostic consultations performed by a physician, dentist, chiropractor,  
9                   or podiatrist, provided such medical treatment or consultation is covered under said  
10                  insurance policy and provided the services are required because of a hearing  
11                  ~~impairment~~ loss of the insured or a failure of the insured to understand or otherwise  
12                  communicate in spoken language.

13   \*       \*       \*

14           §1038. Hearing aid coverage for minor child

15   \*       \*       \*

16                   C.

17   \*       \*       \*

18                   (2)(a) An entity subject to this Section may limit the benefit payable under  
19                   Paragraph (1) of this Subsection to one thousand and four hundred dollars per  
20                   hearing aid for each ~~hearing-impaired~~ ear with hearing loss every thirty-six months.

21   \*       \*       \*

22                   E. The provisions of this Section shall apply to any new policy, contract,  
23                   program, or plan issued by an entity subject to the provisions of this Section on or  
24                   after January 1, 2004. Any such policy, contract, program, or plan in effect prior to  
25                   January 1, 2004, shall convert to the provisions of this Section on or before the  
26                   renewal date but in no event later than January 1, 2005. Any policy affected by the  
27                   provisions of this Section shall apply to an insured or participant under such policy,

1 contract, program, or plan whether or not the hearing ~~impairment~~ loss is a  
2 pre-existing condition of the insured or participant.

3 \* \* \*

4 Section 6. R.S. 36:259(N) is hereby amended and reenacted to read as follows:

5 §259. Transfer of agencies and functions to Louisiana Department of Health

6 \* \* \*

7 N. The advisory council for the program of early identification of deaf or  
8 hard of hearing ~~impaired~~ infants (R.S. 46:2261 et seq.) is placed within the Louisiana  
9 Department of Health and shall exercise and perform its powers, duties, functions,  
10 and responsibilities as provided by or pursuant to law.

11 \* \* \*

12 Section 7. R.S. 37:2446.1(B)(7) and 2651(7)(b)(v)(hh) are hereby amended and  
13 reenacted to read as follows:

14 §2446.1. Continuing education requirement

15 \* \* \*

16 B. Among those subjects which shall be approved by the board as categories  
17 of study toward completion of the annual requirement of continuing education are:

18 \* \* \*

19 (7) Allied professional disciplines relating to the ~~hearing impaired~~ deaf or  
20 hard of hearing and hearing aid devices may be approved by the board.

21 \* \* \*

22 §2651. Definitions

23 As used in this Chapter:

24 \* \* \*

25 (7)

26 \* \* \*

27 (b) An individual who meets the requirements of this Chapter for licensure  
28 as an audiologist and who engages in the fitting and selling of hearing aids shall:

29 \* \* \*

1 (v) Provide documentation of completion of at least thirty semester credit  
2 hours of professional coursework, twenty-one hours of which shall be in audiology.  
3 A minimum of six semester credit hours shall be in specific areas in amplification,  
4 including:

5 \* \* \*

6 (hh) Rehabilitative procedures, such as hearing aid orientation, counseling  
7 of ~~hearing impaired~~ individuals who are deaf or hard of hearing and their families,  
8 speechreading, and auditory training.

9 \* \* \*

10 Section 8. R.S. 40:1580.1(A) and 2208 are hereby amended and reenacted to read  
11 as follows:

12 §1580.1. Fire alarms; hotel or motel rooms

13 A. Every new or renovated hotel or motel room shall have sleeping rooms  
14 equipped with approved fire detection and alarm systems for the deaf or hard of  
15 ~~hearing impaired~~ in case of fire in accordance with the requirements of Section 9 of  
16 the Americans with Disabilities Act Accessibility Guidelines (ADAAG) table 9.1.2  
17 and 9.1.3.

18 \* \* \*

19 §2208. ~~Hearing impaired interpreter~~ Interpreter services for the deaf and hard of  
20 hearing; expenses; coverage

21 As a requirement for authorization to do business in this state pursuant to  
22 R.S. 40:2203, all preferred provider organizations shall provide coverage for  
23 expenses incurred by any ~~hearing impaired~~ covered patient who is deaf or hard of  
24 hearing for services performed by a qualified interpreter/translator, other than a  
25 family member of the covered patient, when such services are used by the covered  
26 patient in connection with medical treatment or diagnostic consultations performed  
27 by the health care provider.



1 Section 9. R.S. 42:1119(B)(2)(a)(i) is hereby amended and reenacted to read as  
2 follows:

3 §1119. Nepotism

4 \* \* \*

5 B.

6 \* \* \*

7 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection:

8 (a)(i) Any local school board may employ any member of the immediate  
9 family of any board member or of the superintendent as a classroom teacher  
10 provided that such family member is certified to teach or is temporarily authorized  
11 to teach while pursuing certification. Any local school board in a parish having a  
12 population of fewer than sixty thousand according to the latest federal decennial  
13 census may employ any member of the immediate family of any board member or  
14 of the superintendent as a special education related services professional provided  
15 that such family member is licensed in an appropriate field for special education  
16 related services and such family member is the only applicant who meets the  
17 qualifications for the position set by the school board who has applied for the  
18 position after it has been advertised for at least thirty days in the official journal of  
19 the school board. A special education related services professional shall include the  
20 following when employed to provide special education services: a social worker,  
21 occupational therapist, physical therapist, speech therapist/pathologist, teacher of  
22 ~~hearing-impaired~~ students who are deaf or hard of hearing, teacher of visually  
23 impaired students, or nurse. Any school board member or superintendent whose  
24 immediate family member is employed by the school board shall recuse himself  
25 from any decision involving the promotion or assignment of teaching or service  
26 location of such employee.

27 \* \* \*

1 Section 10. R.S. 45:1355(A) is hereby amended and reenacted to read as follows:

2 §1355. Disasters; deaf and ~~hearing-impaired~~ hard of hearing persons informed

3 A. During any time of a disaster, or threat of a disaster, television stations  
4 shall transmit information or instructions in connection with the disaster, or threat  
5 of disaster, to the deaf and ~~hearing-impaired persons~~ hard of hearing by scrolling or  
6 other appropriate means of communication in order to provide such persons with the  
7 same information or instructions as is provided to hearing persons.

8 \* \* \*

9 Section 11. The heading of Chapter 30-A of Title 46 of the Louisiana Revised  
10 Statutes of 1950, R.S. 46:2261, 2262(A) and (C), 2262.1(introductory paragraph), (4), and  
11 (12), 2263(3), (4), and (6) through (8), 2264(A), (C), and (D), 2265(A)(introductory  
12 paragraph), (9), and (10), 2266(1) and (3) through (5), 2352(7)(a) and (10)(a)(introductory  
13 paragraph), 2361, 2362(2) through (6), 2363 through 2365, 2367, 2368(B), and 2372 are  
14 hereby amended and reenacted to read as follows:

15 CHAPTER 30-A. IDENTIFICATION OF HEARING

16 ~~IMPAIRMENT~~ LOSS IN INFANTS LAW

17 §2261. Short title

18 This Chapter may be cited as the "Identification of Hearing ~~Impairment~~ Loss  
19 in Infants Law".

20 §2262. Purpose

21 A. The purpose of the program for early identification of hearing ~~impairment~~  
22 loss is to identify ~~hearing-impaired~~ deaf or hard of hearing infants at the earliest  
23 possible time so that medical treatment, early audiological evaluation, selection of  
24 amplification, and early educational intervention can be provided.

25 \* \* \*

26 C. Early identification and management of the ~~hearing-impaired~~ deaf or hard  
27 of hearing infant are essential if that infant is to acquire the vital language and speech  
28 skills needed to achieve maximum potential educationally, emotionally, and socially.

29 \* \* \*

1 §2262.1. Bill of Rights

2 In order to ~~insure~~ ensure that children who are deaf or hard of hearing  
3 ~~impaired~~ have the same rights and potential to become independent and self-  
4 actualizing as children who are not deaf or hard of hearing ~~impaired~~, the Deaf Child's  
5 Bill of Rights is established so that children who are deaf or hard of hearing ~~impaired~~  
6 are entitled:

7 \* \* \*

8 (4) To adult role models who are deaf or hard of hearing ~~impaired~~.

9 \* \* \*

10 (12) Where appropriate, to have deaf and hard of hearing ~~impaired~~ adults  
11 directly involved in determining the extent, content, and purpose of all programs that  
12 affect their education.

13 §2263. Definitions

14 Except where the context clearly indicates otherwise, in this Chapter:

15 \* \* \*

16 (3) "~~Hearing impaired~~ Deaf or hard of hearing infant" means an infant who  
17 has a disorder of the auditory system of any type or degree, causing ~~a hearing~~  
18 ~~impairment~~ hearing loss sufficient to interfere with the development of language and  
19 speech skills. ~~The term "hearing impaired infant" includes both deaf and hard-of-~~  
20 ~~hearing infants.~~

21 (4) "~~Infants at risk~~ Infants susceptible to a hearing disability" means those  
22 infants who are ~~at risk for~~ susceptible to hearing ~~impairment~~ loss because they have  
23 one or more risk factors.

24 \* \* \*

25 (6) "Program" means the program that the office of public health establishes  
26 to provide for the early identification and follow-up of infants ~~at risk~~ susceptible to  
27 a hearing disability, of deaf or hard of hearing ~~impaired~~ infants, and of infants who  
28 have a risk factor for developing ~~a progressive hearing impairment~~ loss.

1           (7)(a) "Risk factors" means those criteria or factors, any one of which  
2 identifies an infant as being ~~at risk for~~ susceptible to hearing ~~impairment~~ loss.

3           ~~(a)~~ (b) The risk factors that identify those neonates, infants from birth  
4 through the first twenty-eight days, who are ~~at risk for~~ susceptible to sensorineural  
5 hearing ~~impairment~~ loss include the following:

6           (i) Family history of congenital or delayed onset childhood sensorineural  
7 impairment.

8           (ii) Congenital infection known or suspected to be associated with  
9 sensorineural hearing ~~impairment~~ loss such as toxoplasmosis, syphilis, rubella,  
10 cytomegalovirus, and herpes.

11           (iii) Craniofacial anomalies including morphologic abnormalities of the  
12 pinna and ear canal, absent philtrum, low hairline, et cetera.

13           (iv) Birth weight less than one thousand five hundred grams or less than  
14 three and three tenths pounds.

15           (v) Hyperbilirubinemia at a level exceeding indication for exchange  
16 transfusion.

17           (vi) Ototoxic medications, including but not limited to the aminoglycosides  
18 used for more than five days, such as gentamicin, tobramycin, kanamycin,  
19 streptomycin, and loop diuretics used in combination with aminoglycosides.

20           (vii) Bacterial meningitis.

21           (viii) Severe depression at birth, which may include infants with Apgar  
22 scores of zero to three at five minutes or those who fail to initiate spontaneous  
23 respiration by ten minutes or those with hypotonia persisting to two hours of age.

24           (ix) Prolonged mechanical ventilation for a duration equal to or greater than  
25 ten days, such as persistent pulmonary hypertension.

26           (x) Stigmata or other findings associated with a syndrome known to include  
27 sensorineural hearing loss, such as Waardenburg or Usher's Syndrome.

1 (xi) Other risk factors added or deleted by the office of public health upon  
2 recommendation of the advisory council for early identification of deaf or hard of  
3 hearing ~~impaired~~ children.

4 ~~(b)~~ (c) The factors that identify those infants aged twenty-nine days to two  
5 years who are ~~at risk for~~ susceptible to sensorineural hearing ~~impairment~~ loss include  
6 the following:

7 (i) Parent or caregiver concerns regarding hearing, speech, language, or  
8 ~~and/or~~ developmental delay.

9 (ii) Bacterial meningitis.

10 (iii) Neonatal risk factors that may be associated with progressive  
11 sensorineural hearing loss, such as cytomegalovirus, prolonged mechanical  
12 ventilation, and inherited disorders.

13 (iv) Head trauma, especially with either longitudinal or transverse fracture  
14 of the temporal bone.

15 (v) Stigmata or other findings associated with syndromes known to include  
16 sensorineural hearing loss, such as Waardenburg or Usher's Syndrome.

17 (vi) Ototoxic medications, including but not limited to the aminoglycosides  
18 used for more than five days, such as gentamicin, tobramycin, kanamycin,  
19 streptomycin, and loop diuretics used in combination with aminoglycosides.

20 (vii) Neurodegenerative disorders such as neurofibromatosis, myoclonic  
21 epilepsy, Werdnig-Hoffman disease, Tay-Sach's disease, infantile Gaucher's disease,  
22 Nieman-Pick disease, any metachromatic leukodystrophy, or any infantile  
23 demyelinating neuropathy.

24 (viii) Childhood infectious diseases known to be associated with  
25 sensorineural hearing loss, such as mumps or measles.

26 (ix) Other risk factors added or deleted by the office of public health upon  
27 recommendation of the advisory council for early identification of deaf or hard of  
28 hearing ~~impaired~~ children.

1           (8) "Screening for hearing ~~impairment loss~~" means employing a device for  
2 identifying whether an infant has a disorder of the auditory system, but may not  
3 necessarily provide a comprehensive determination of hearing thresholds in the  
4 speech range. Procedures may include auditory brainstem response (ABR)  
5 screening, ~~or~~ evoked otoacoustic emissions (EOAE) screening, ~~or~~ and other devices  
6 approved by the office upon recommendation of the advisory council.

7 §2264. Identification of hearing ~~impairment loss~~ in infants

8           A. The office ~~of public health in the Louisiana Department of Health~~ shall  
9 establish, in consultation with the advice of the Louisiana Commission for the Deaf  
10 and the advisory council created in R.S. 46:2265, a program for the early  
11 identification and follow-up of ~~infants at risk~~ infants susceptible to a hearing  
12 disability, deaf or hard of hearing impaired infants, and infants ~~at risk of~~ susceptible  
13 to developing a progressive hearing impairment loss. ~~That~~ The program shall, at a  
14 minimum:

15           (1) Develop criteria or factors to identify those infants ~~at risk for hearing~~  
16 ~~impairment and infants at risk of developing a progressive hearing impairment~~ who  
17 are likely deaf or hard of hearing and infants who may develop a progressive hearing  
18 loss, including the risk factors set forth in this Chapter, and develop ~~an at-risk a~~  
19 susceptibility questionnaire for infant hearing loss.

20           (2) Create ~~an at-risk a~~ susceptibility registry to include, but not be limited to,  
21 the identification of infants ~~at risk for~~ susceptible to hearing ~~impairment loss~~, deaf  
22 or hard of hearing impaired infants, and infants ~~at risk of~~ susceptible to developing  
23 a progressive hearing impairment loss.

24           (3) Provide to the hospitals and other birthing sites the ~~at-risk~~ susceptibility  
25 questionnaire for infant hearing loss and require that the form be completed for any  
26 newborn prior to discharge from the hospital or other birthing site. As to ~~infants at~~  
27 ~~risk~~ infants susceptible to a hearing disability, copies of the completed ~~at-risk~~  
28 susceptibility questionnaire shall be distributed to the ~~at-risk~~ susceptibility registry

1 of the office, the parent or guardian, and, if known, the infant's primary care  
2 physician and the provider of audiological services.

3 (4) Require for all newborn infants that the hospital of birth or that hospital  
4 to which the newborn infant may be transferred provide screening for hearing  
5 ~~impairment~~ loss by auditory brainstem response (ABR) screening, ~~or~~ evoked  
6 otoacoustic emissions (EOAE) screening, or any other screening device approved by  
7 the office before discharge. The results of that screening for hearing ~~impairment~~ loss  
8 shall be provided to the ~~at-risk~~ susceptibility registry of the office of ~~public health~~,  
9 the parent or guardian, and if known, the primary care physician and the provider of  
10 audiological services.

11 (5) Develop and provide to the hospitals or other birthing sites appropriate  
12 written materials regarding hearing ~~impairment~~ loss, and require that the hospitals  
13 or other birthing sites provide this written material to all parents or guardians of  
14 newborn infants.

15 (6) Develop methods to contact parents or guardians of ~~infants at risk~~ infants  
16 susceptible to a hearing disability, of deaf or hard of hearing ~~impaired~~ infants, and  
17 of infants ~~at risk of~~ susceptible to developing a progressive hearing ~~impairment~~ loss.

18 (7) Establish a telephone hotline to communicate information about hearing  
19 ~~impairment~~ loss, hearing screening, audiological evaluation, and other services for  
20 deaf or hard of hearing ~~impaired~~ infants.

21 (8) Provide that when a screening for hearing impairment indicates a hearing  
22 loss, audiological evaluation shall be done as soon as practical. The parents or  
23 guardians of the infant shall be provided with information on locations at which  
24 medical and audiological follow up can be obtained.

25 \* \* \*

26 C. The office shall develop a system for the collection of data, determine the  
27 cost-effectiveness of the program, and disseminate statistical reports to the Louisiana  
28 Commission for the Deaf.

1 D. The office, in cooperation with the state Department of Education, shall  
2 develop a plan to coordinate early educational and audiological services for infants  
3 identified as deaf or hard of hearing ~~impaired~~.

4 \* \* \*

5 §2265. Advisory council creation; membership; terms; quorum; compensation

6 A. There is hereby created an advisory council for the program of early  
7 identification of deaf or hard of hearing ~~impaired~~ infants. The council shall consist  
8 of fourteen members as follows:

9 \* \* \*

10 (9) A parent ~~of an oral hearing impaired~~ who chose the oral method for their  
11 deaf or hard of hearing child.

12 (10) A parent of a deaf or hard of hearing ~~impaired~~ child utilizing total  
13 communication.

14 \* \* \*

15 §2266. Powers, duties, functions of the advisory council

16 The advisory council shall:

17 (1) Advise and recommend risk factors or criteria for infants who are ~~at risk~~  
18 ~~of hearing impairments and infants at risk of developing a progressive hearing~~  
19 ~~impairment~~ likely deaf or hard of hearing and infants who may develop a progressive  
20 hearing loss.

21 \* \* \*

22 (3) Advise the office as to integrating the program for early identification of  
23 deaf or hard of hearing ~~impaired~~ infants with existing medical, audiological, and  
24 early infant education programs.

25 (4) Advise the office as to materials to be distributed to the public  
26 concerning deaf or hard of hearing ~~impaired~~ infants.

27 (5) Advise the office on the implementation of the program for early  
28 identification and follow up of ~~infants at risk~~ infants susceptible to a hearing



1        disability, deaf or hard of hearing ~~impaired~~ infants, and infants who are at risk of  
2        developing a progressive hearing ~~impairment~~ loss.

3                               \*       \*       \*

4        §2352. Duties

5               The commission shall:

6                               \*       \*       \*

7               (7) Certify interpreters and maintain a registry of certified interpreters. The  
8       commission shall promulgate rules for the examination of applicants for certification  
9       and the issuance of certificates. Such rules shall be subject to legislative oversight  
10       review pursuant to the Administrative Procedure Act and shall be subject to the  
11       following limitations:

12               (a) The commission shall not promulgate any rule or regulation which denies  
13       a ~~hearing-impaired~~ deaf or hard of hearing person's right to choose his interpreter.

14                               \*       \*       \*

15               (10)(a) Establish, administer, and promote a statewide program to provide  
16       access to all public telecommunications services by persons who are deaf, deaf-blind,  
17       and others such as ~~severely hearing-impaired~~ persons with severe hearing loss or  
18       ~~severely speech-impaired~~ severe speech impairments. This program shall include but  
19       is not limited to:

20                               \*       \*       \*

21        §2361. Purpose

22               It is the policy of this state to secure the rights of persons with hearing  
23       ~~impairments~~ loss who cannot readily understand or communicate in spoken  
24       languages and who consequently cannot equally participate in or benefit from  
25       proceedings, programs, and activities of the courts, legislative bodies, administrative  
26       agencies, licensing commissions, departments, and boards of the state and its  
27       subdivisions unless qualified interpreters/transliterators are available to facilitate  
28       communication.

1 §2362. Definitions

2 As used in this Chapter:

3 \* \* \*

4 (2) A "~~hearing-impaired~~ person who is deaf or hard of hearing" means a  
5 person who, because of a hearing ~~impairment~~ loss, has difficulty understanding the  
6 communication occurring.

7 (3) "Interpreter/transliterator" means a facilitator of communication among  
8 persons with hearing and ~~hearing-impaired~~ persons who are deaf or hard of hearing  
9 as provided in R.S. 46:2365 and R.S. 46:2368.

10 (4) "Intermediary interpreter/transliterator" means any person, including any  
11 ~~hearing-impaired~~ person who is deaf or hard of hearing, who is able to assist in  
12 providing an accurate interpretation between spoken English and sign language or  
13 between variants of sign language by acting as an intermediary between a ~~hearing-~~  
14 ~~impaired~~ person who is deaf or hard of hearing and a qualified  
15 interpreter/transliterator. The intermediary interpreter/transliterator may be needed  
16 for non-manual ~~hearing-impaired~~ persons who are deaf or hard of hearing and shall  
17 be provided.

18 (5) "Qualified interpreter/transliterator" means any person certified by the  
19 Registry of Interpreters for the Deaf, or in the event an interpreter/transliterator so  
20 certified is not available, one whose qualifications are such that he is able to  
21 accurately communicate with and convey information to and from the ~~hearing-~~  
22 ~~impaired~~ person who is deaf or hard of hearing.

23 (6) "Quasi-judicial proceeding" means any proceeding of a public  
24 administrative office or body which is required to investigate facts, ascertain the  
25 existence of facts, hold hearings, and draw conclusions from them as a basis for their  
26 official action, and to exercise discretion of a judicial nature.

27 §2363. Waiver

28 The right of a ~~hearing-impaired~~ person who is deaf or hard of hearing to the  
29 services of an interpreter/transliterator may not be waived except by a ~~hearing-~~

1        ~~impaired~~ person who is deaf or hard of hearing who requests a waiver. The failure  
2        of the ~~hearing-impaired~~ person who is deaf or hard of hearing to request the services  
3        of an interpreter/transliterater is not deemed a waiver of that right.

4        §2364. Interpreter/transliterater required

5                A. Whenever a ~~hearing-impaired~~ person who is deaf or hard of hearing is a  
6        party or witness at any stage involving direct communication with ~~hearing-impaired~~  
7        persons who are deaf or hard of hearing or his legal representative or custodian  
8        during any judicial or quasi-judicial proceeding in this state or in its political  
9        subdivisions, including but not limited to proceedings of civil and criminal court,  
10       grand jury, before a magistrate, juvenile, adoption, mental health commitment, and  
11       any proceeding in which a ~~hearing-impaired~~ person who is deaf or hard of hearing  
12       may be subjected to confinement or criminal sanction, the appointing authority shall  
13       appoint and pay for a qualified interpreter/transliterater to interpret or transliterate  
14       the proceedings to the ~~hearing-impaired~~ person who is deaf or hard of hearing and  
15       to interpret or transliterate the ~~hearing-impaired person's testimony~~ of the person who  
16       is deaf or hard of hearing.

17               B. Whenever a juvenile whose parent is ~~hearing-impaired~~ deaf or hard of  
18        hearing is brought before a court for any reason, the court shall appoint and pay for  
19        a qualified interpreter/transliterater to interpret or transliterate the proceedings to the  
20        ~~hearing-impaired~~ deaf or hard of hearing parent and to interpret or transliterate ~~the~~  
21        ~~hearing-impaired~~ that parent's testimony.

22               C. If any hearing or proceeding of any department, board, licensing  
23        authority, commission, or administrative agency of the state or of its political  
24        subdivision is held, the appointing authority shall appoint and pay for a qualified  
25        interpreter/transliterater for ~~hearing-impaired~~ deaf or hard of hearing participants.

26               D. Whenever a ~~hearing-impaired~~ person who is deaf or hard of hearing is a  
27        witness before any legislative committee or subcommittee, or legislative research or  
28        study committee or subcommittee or commission authorized by the state legislature  
29        or by the legislative body of any political subdivision of the state, the appointing

1 authority shall appoint and pay for a qualified interpreter/transliterator to  
2 interpret/transliterate the proceedings to the ~~hearing-impaired~~ person who is deaf or  
3 hard of hearing and to interpret/transliterate ~~the hearing-impaired~~ that person's  
4 testimony.

5 E.(1) Whenever a ~~hearing-impaired~~ person who is deaf or hard of hearing is  
6 arrested for an alleged violation of a criminal law, including a local ordinance, the  
7 arresting officer shall procure and the court with jurisdiction over the alleged  
8 violation shall pay for a qualified interpreter/transliterator for any interrogation,  
9 warning, notification of rights, or taking of a statement.

10 (2) No ~~hearing-impaired~~ person who is deaf or hard of hearing who has been  
11 arrested and who is otherwise eligible for release shall be held in custody pending  
12 arrival of an interpreter/transliterator.

13 (3) No answer, statement, or admission, written or oral, made by a ~~hearing-~~  
14 ~~impaired~~ person who is deaf or hard of hearing in reply to a question of a law  
15 enforcement officer or any other person having a prosecutorial function in any  
16 criminal proceeding may be used against that ~~hearing-impaired~~ person who is deaf  
17 or hard of hearing unless either the statement was made or elicited through a  
18 qualified interpreter/transliterator and was made knowingly, voluntarily, and  
19 intelligently or, in the case of waiver of interpreters/transliterators, unless the court  
20 makes a special finding that any statement made by the ~~hearing-impaired~~ person who  
21 is deaf or hard of hearing was made knowingly, voluntarily, and intelligently.

22 F. Where it is the policy and practice of a court of this state or of its political  
23 subdivisions to appoint counsel for indigent persons, the appointing authority shall  
24 appoint and pay for a qualified interpreter/transliterator for ~~hearing-impaired~~ indigent  
25 people who are deaf or hard of hearing to assist in communication with counsel in  
26 all phases of the preparation and presentation of the case.

27 §2365. Determination of interpreter's/transliterator's qualifications

28 A. Before appointing an interpreter/transliterator, the appointing authority  
29 shall make a preliminary determination; based on the ~~hearing-impaired person's~~

1 ~~needs, the certification of an interpreter/transliterat~~ needs of the person who is deaf  
2 or hard of hearing and upon the recommendation of the Louisiana Commission for  
3 the Deaf. If the interpreter/transliterat is not able to facilitate effective  
4 communication with the ~~hearing-impaired~~ person who is deaf or hard of hearing, the  
5 appointing authority shall provide another qualified interpreter/transliterat.

6 B. Upon request of the person for whom the interpreter/transliterat is  
7 appointed, or on the appointing authority's own motion, an interpreter/transliterat  
8 may be removed for the inability to communicate with the ~~hearing-impaired~~ person  
9 who is deaf or hard of hearing, or if, for reasonable cause, another  
10 interpreter/transliterat is so desired by the ~~hearing-impaired~~ person who is deaf or  
11 hard of hearing for whom the interpreter/transliterat is serving.

12 \* \* \*

13 §2367. Interpreter/transliterat in full view

14 Whenever an interpreter/transliterat is required to be appointed under this  
15 Chapter, the appointing authority shall not commence proceedings until the  
16 appointed interpreter/transliterat is in full view of and spatially situated to assure  
17 effective communication with the ~~hearing-impaired~~ deaf or hard of hearing  
18 participant.

19 §2368. Coordination of interpreter/transliterat requests

20 \* \* \*

21 B. Whenever an interpreter/transliterat is required pursuant to this Chapter,  
22 the appointing authority shall use one of the interpreters/transliterats on the  
23 Louisiana Commission for the Deaf list. If none of the listed  
24 interpreters/transliterats is available or is able to provide effective communication  
25 with the particular ~~hearing-impaired~~ person who is deaf or hard of hearing, then the  
26 appointing authority shall appoint any other person who is able to accurately  
27 communicate with and convey information to and from the particular ~~hearing-~~  
28 ~~impaired~~ person involved who is deaf or hard of hearing.

29 \* \* \*

1 §2372. Visual recording

2 The appointing authority, on his own motion or on the motion of a party to  
3 the proceedings, may order that the testimony of the ~~hearing-impaired~~ person who  
4 is deaf or hard of hearing and the interpretation/transliteration thereof be  
5 electronically or visually recorded for use in verification of the official transcript of  
6 the proceedings.

7 Section 12. R.S. 47:6301(A)(3) is hereby amended and reenacted to read as follows:

8 §6301. Rebates; donations to school tuition organizations

9 A.

10 \* \* \*

11 (3) In order for a donation from a taxpayer to qualify for the rebate, the  
12 donation shall be used by the school tuition organization to provide scholarships for  
13 tuition and fees for students to attend a qualified school in accordance with the  
14 provisions of this Section. No more than five percent of a donation shall be used by  
15 the school tuition organization for administrative or promotional costs. No  
16 scholarship shall be designated, referred to, or in any way named after a private  
17 entity nor shall any donation be earmarked by a donor to provide a scholarship for  
18 a particular qualified student or a particular qualified school. However this  
19 Paragraph shall not prohibit a donation being earmarked for a student with a  
20 disability. A student shall be considered to have a disability if such student is  
21 evaluated according to state and federal regulation or policy and is deemed to have  
22 a mental disability, hearing ~~impairment~~ loss (including deafness), multiple  
23 disabilities, deaf-blindness, speech or language impairment, visual impairment  
24 (including blindness), emotional disturbance, orthopedic impairment, other health  
25 impairment, specific learning disability, traumatic brain injury, dyslexia and related  
26 disorders, or autism, and as a result requires special education and related services.

27 \* \* \*

28 Section 13. Code of Criminal Procedure Article 401.1(B)(introductory paragraph)  
29 is hereby amended and reenacted to read as follows:

1 Art. 401.1. Court instructions for interpreter

2 \* \* \*

3 B. When a deaf or hard of hearing ~~or hearing impaired~~ person is summoned  
4 for jury duty, the court shall:

5 \* \* \*

6 Section 14.(A) The legislature hereby finds that language used to refer to persons  
7 with disabilities and other persons with exceptionalities shapes and reflects attitudes toward  
8 and perceptions of those persons by society.

9 (B) It is hereby declared that the intent of the legislature is to delete from the  
10 lawbodies of this state terms that convey negative or derogatory perceptions of persons with  
11 disabilities and other persons with exceptionalities. Accordingly, the intent of the legislature  
12 is to provide in this Act for establishment of terminology in law referring to the deaf and  
13 hard of hearing that is more appropriate than the terminology replaced herein, and which  
14 conveys no indignity toward persons with hearing loss.

15 (C) It is the intent of the legislature that no provision of this Act shall alter or affect  
16 in any way the substance, interpretation, or application of any present law or administrative  
17 rule.

18 (D) Nothing in this Act shall be construed to expand or diminish any right of or  
19 benefit for any person provided by any existing law or administrative rule.

20 Section 15.(A) Each agency, board, commission, department, office, and other  
21 instrumentality of the state to which the legislature has delegated authority to promulgate  
22 rules and regulations in accordance with the Administrative Procedure Act, R.S. 49:950 et  
23 seq., is hereby authorized and requested to employ the preferred terminology enacted in  
24 Sections 1 through 13 of this Act for referring to the deaf and hard of hearing and to hearing  
25 loss in duly promulgated administrative rules, policy publications, and materials published  
26 in paper format or electronically, whether for internal use or public use, including but not  
27 limited to informational brochures, resource guides, reference materials, manuals, and the  
28 content of any Internet website or other electronic media. The provisions of this Section  
29 shall apply prospectively; however, nothing herein shall be construed to limit any agency,

1 board, commission, department, office, or other instrumentality of the state from amending  
2 existing administrative rules for the purpose of instituting the preferred terminology  
3 provided for in this Act.

4 (B) The legislative services offices of the House of Representatives and the Senate  
5 are hereby authorized and requested to publish guidance in legislative drafting manuals and  
6 in any other professional resources as those offices may deem appropriate concerning use  
7 of the preferred terminology for referring to the deaf and hard of hearing and to hearing loss  
8 provided for in this Act.

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### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 253 Engrossed

2017 Regular Session

Smith

**Abstract:** Revises terminology referring to the deaf and persons who are hard of hearing by deleting and making substitutions for derogatory, inaccurate, and obsolete terms.

Proposed law revises terminology in present law referring to the deaf and persons who are hard of hearing by deleting and making substitutions for derogatory, inaccurate, and obsolete terms.

Proposed law provides for the following changes in terminology throughout present law:

- (1) Proposed law changes "deaf person" and "hearing-impaired person" to "the deaf and hard of hearing".
- (2) Proposed law changes "the hearing-impaired" to "the deaf or hard of hearing".
- (3) Proposed law changes "hearing impairment" to "hearing loss".

Proposed law provides for the following changes to terminology in present law relative to identification of hearing loss in infants:

- (1) Proposed law changes "infants at risk" to "infants susceptible to a hearing disability".
- (2) Proposed law changes "at-risk", when referring to a person, to "susceptible".
- (3) Proposed law changes "at-risk questionnaire" and "at-risk registry" to "susceptibility questionnaire" and "susceptibility registry", respectively.

Proposed law provides for revision of terminology relative to the deaf and hard of hearing in administrative rules, policy documents, professional resources, reference materials, manuals, and other governmental publications.



Proposed law sets forth the following legislative findings and declarations of intent:

- (1) Language used to refer to persons with disabilities and other persons with exceptionalities shapes and reflects attitudes toward and perceptions of those persons by society.
- (2) The legislature intends to delete from present law terms that convey negative or derogatory perceptions of persons with disabilities and other persons with exceptionalities, and to provide through proposed law for appropriate terminology which conveys no indignity toward persons with hearing loss.
- (3) The legislature intends that no provision of proposed law shall alter or affect in any way the substance, interpretation, or application of present law or present administrative code.

Proposed law stipulates that nothing in proposed law shall be construed to expand or diminish any right of or benefit for any person provided by present law or present administrative code.

(Amends R.S. 4:715(B)(2), R.S. 14:32(D)(3) and 39(D)(3), R.S. 17:43(B)(2) and 1942(B), R.S. 21:51(C) and 52(A) and (B), R.S. 22:245, 1027(A), and 1038(C)(2)(a) and (E), R.S. 36:259(N), R.S. 37:2446.1(B)(7) and 2651(7)(b)(v)(hh), R.S. 40:1580.1(A) and 2208, R.S. 42:1119(B)(2)(a)(i), R.S. 45:1355(A), the heading of Ch. 30-A of Title 46 of the Louisiana Revised Statutes of 1950, R.S. 46:2261, 2262(A) and (C), 2262.1(intro. para.), (4), and (12), 2263(3), (4), and (6)-(8), 2264(A), (C), and (D), 2265(A)(intro. para.), (9), and (10), 2266(1) and (3)-(5), 2352(7)(a) and (10)(a)(intro. para.), 2361, 2362(2)-(6), 2363-2365, 2367, 2368(B), and 2372, R.S. 47:6301(A)(3), and C.Cr.P. Art.401.1(B)(intro. para.))