

1-1 By: Zaffirini S.B. No. 895  
 1-2 (In the Senate - Filed February 19, 2019; March 1, 2019,  
 1-3 read first time and referred to Committee on Education;  
 1-4 April 9, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 10, Nays 0; April 9, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Campbell	X			
1-12 Fallon	X			
1-13 Hall	X			
1-14 Hughes			X	
1-15 Paxton	X			
1-16 Powell	X			
1-17 Watson	X			
1-18 West	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 895 By: West

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the language acquisition of children eight years of age  
 1-24 or younger who are deaf or hard of hearing.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. (a) The legislature finds that children who are  
 1-27 deaf or hard of hearing are often at risk for language delay or  
 1-28 deprivation. Research indicates that there is limited success in  
 1-29 addressing these issues after the optimal period for language  
 1-30 acquisition. It is critical that the language acquisition of  
 1-31 children who are deaf or hard of hearing is closely monitored from  
 1-32 birth through age eight to enable the use of timely interventions  
 1-33 that support age-appropriate language skills. Therefore, the  
 1-34 purpose of this Act is to generate and monitor data on the language  
 1-35 acquisition of children eight years of age or younger who are deaf  
 1-36 or hard of hearing by:

- 1-37 (1) identifying language assessment protocols that
- 1-38 are appropriate for the development and age of each child; and
- 1-39 (2) annually gathering and publishing relevant data.

1-40 (b) Nothing in this Act shall operate to override the  
 1-41 parental consent provisions set forth in 34 C.F.R. Section 300.300.

1-42 SECTION 2. Subchapter I, Chapter 29, Education Code, is  
 1-43 amended by adding Section 29.316 to read as follows:

1-44 Sec. 29.316. LANGUAGE ACQUISITION. (a) In this section:

1-45 (1) "Center" means the Educational Resource Center on  
 1-46 Deafness at the Texas School for the Deaf.

1-47 (2) "Division" means the Division for Early Childhood  
 1-48 Intervention Services of the Health and Human Services Commission.

1-49 (3) "Language acquisition" includes expressive and  
 1-50 receptive language acquisition and literacy development in  
 1-51 English, American Sign Language, or both, or, if applicable, in  
 1-52 another language primarily used by a child's parent or guardian,  
 1-53 and is separate from any modality used to communicate in the  
 1-54 applicable language or languages.

1-55 (b) The commissioner and the executive commissioner of the  
 1-56 Health and Human Services Commission jointly shall ensure that the  
 1-57 language acquisition of each child eight years of age or younger who  
 1-58 is deaf or hard of hearing is regularly assessed using a tool or  
 1-59 assessment determined to be valid and reliable as provided by  
 1-60 Subsection (d).

2-1           (c) Not later than August 31 of each year, the agency, the  
2-2 division, and the center jointly shall prepare and post on the  
2-3 agency's, the division's, and the center's respective Internet  
2-4 websites a report on the language acquisition of children eight  
2-5 years of age or younger who are deaf or hard of hearing. The report  
2-6 must:

2-7           (1) include:

2-8               (A) existing data reported in compliance with  
2-9 federal law regarding children with disabilities; and

2-10               (B) information relating to the language  
2-11 acquisition of children who are deaf or hard of hearing and also  
2-12 have other disabilities;

2-13           (2) state for each child:

2-14               (A) the instructional arrangement used with the  
2-15 child, as described by Section 42.151, including the time the child  
2-16 spends in a mainstream instructional arrangement;

2-17               (B) the specific language acquisition services  
2-18 provided to the child, including:

2-19                   (i) the time spent providing those  
2-20 services; and

2-21                   (ii) a description of any hearing  
2-22 amplification used in the delivery of those services, including:

2-23                       (a) the type of hearing amplification  
2-24 used;

2-25                       (b) the period of time in which the  
2-26 child has had access to the hearing amplification; and

2-27                       (c) the average amount of time the  
2-28 child uses the hearing amplification each day;

2-29                   (C) the tools or assessments used to assess the  
2-30 child's language acquisition and the results obtained;

2-31                   (D) the preferred unique communication mode used  
2-32 by the child at home; and

2-33                   (E) the child's age, race, and gender, the age at  
2-34 which the child was identified as being deaf or hard of hearing, and  
2-35 any other relevant demographic information the commissioner  
2-36 determines to likely be correlated with or have an impact on the  
2-37 child's language acquisition;

2-38           (3) compare progress in English literacy made by  
2-39 children who are deaf or hard of hearing to progress in that subject  
2-40 made by children of the same age who are not deaf or hard of hearing,  
2-41 by appropriate age range; and

2-42           (4) be redacted as necessary to comply with state and  
2-43 federal law regarding the confidentiality of student medical or  
2-44 educational information.

2-45           (d) The commissioner, the executive commissioner of the  
2-46 Health and Human Services Commission, and the center shall enter  
2-47 into a memorandum of understanding regarding:

2-48               (1) the identification of experts in deaf education;  
2-49 and

2-50               (2) the determination, in consultation with those  
2-51 experts, of the tools and assessments that are valid and reliable,  
2-52 in both content and administration, for use in assessing the  
2-53 language acquisition of children eight years of age or younger who  
2-54 are deaf or hard of hearing.

2-55           (e) The agency shall utilize existing collected data and  
2-56 data collected and transferred from the Department of State Health  
2-57 Services and the Health and Human Services Commission, as agreed  
2-58 upon in the memorandum of understanding, for the report under this  
2-59 section.

2-60           (f) The commissioner and the executive commissioner of the  
2-61 Health and Human Services Commission jointly shall adopt rules as  
2-62 necessary to implement this section, including rules for:

2-63               (1) assigning each child eight years of age or younger  
2-64 who is deaf or hard of hearing a unique identification number for  
2-65 purposes of the report required under Subsection (c) and to enable  
2-66 the tracking of the child's language acquisition, and factors  
2-67 affecting the child's language acquisition, over time; and

2-68               (2) implementing this section in a manner that  
2-69 complies with federal law regarding confidentiality of student

3-1 medical or educational information, including the Health Insurance  
3-2 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d  
3-3 et seq.) and the Family Educational Rights and Privacy Act of 1974  
3-4 (20 U.S.C. Section 1232g), and any state law relating to the privacy  
3-5 of student information.

3-6 SECTION 3. (a) In this section:  
3-7 (1) "Agency" means the Texas Education Agency.  
3-8 (2) "Center" means the Educational Resource Center on  
3-9 Deafness at the Texas School for the Deaf.

3-10 (3) "Division" means the Division for Early Childhood  
3-11 Intervention Services of the Health and Human Services Commission.

3-12 (b) Not later than December 1, 2019, the commissioner of  
3-13 education, the executive commissioner of the Health and Human  
3-14 Services Commission, and the center jointly shall determine the  
3-15 tools and assessments that are valid and reliable for use in  
3-16 assessing the language acquisition of children eight years of age  
3-17 or younger who are deaf or hard of hearing as required under Section  
3-18 29.316(d), Education Code, as added by this Act.

3-19 (c) Notwithstanding Section 29.316(c), Education Code, as  
3-20 added by this Act, the agency, the division, and the center jointly  
3-21 shall prepare and post on the agency's, division's, and center's  
3-22 respective Internet websites the initial report required under that  
3-23 subsection not later than December 1, 2020.

3-24 SECTION 4. The Texas Education Agency and the Health and  
3-25 Human Services Commission are required to implement a provision of  
3-26 this Act only if the legislature appropriates money specifically  
3-27 for that purpose. If the legislature does not appropriate money  
3-28 specifically for that purpose, the agency and commission may, but  
3-29 are not required to, implement a provision of this Act using other  
3-30 appropriations available for the purpose.

3-31 SECTION 5. This Act takes effect immediately if it receives  
3-32 a vote of two-thirds of all the members elected to each house, as  
3-33 provided by Section 39, Article III, Texas Constitution. If this  
3-34 Act does not receive the vote necessary for immediate effect, this  
3-35 Act takes effect September 1, 2019.

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