

Legislative Analysis



MODERNIZING REFERENCES TO THE DEAF, DEAFBLIND, AND HARD OF HEARING COMMUNITY

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House Bill 5182 as enacted
Public Act 129 of 2016
Sponsor: Rep. Martin Howrylak

House Bill 5183 as enacted
Public Act 130 of 2016
Sponsor: Rep. John Bizon, M.D.

House Bill 5184 as enacted
Public Act 131 of 2016
Sponsor: Rep. Jim Runestad

House Bill 5185 as enacted
Public Act 132 of 2016
Sponsor: Rep. Amanda Price

House Bill 5186 as enacted
Public Act 133 of 2016
Sponsor: Rep. Winnie Brinks

House Bill 5187 as enacted
Public Act 134 of 2016
Sponsor: Rep. George Darany

House Bill 5188 as enacted
Public Act 135 of 2016
Sponsor: Rep. Phil Phelps

House Committee: Health Policy
Senate Committee: Health Policy
Complete to 7-15-16

Senate Bill 690 as enacted
Public Act 237 of 2016
Sponsor: Sen. Dave Robertson

Senate Bill 691 as enacted
Public Act 238 of 2016
Sponsor: Sen. Marty Knollenberg

Senate Bill 692 as enacted
Public Act 239 of 2016
Sponsor: Sen. Dale W. Zorn

Senate Bill 693 as enacted
Public Act 240 of 2016
Sponsor: Sen. Margaret E. O'Brien

Senate Bill 694 as enacted
Public Act 241 of 2016
Sponsor: Sen. Rebekah Warren

BRIEF SUMMARY: House Bills 5182 to 5188 and Senate Bills 690 to 694 update references to what was formerly called the "deaf and dumb" or "hearing impaired" community to refer instead to the "Deaf, DeafBlind, and Hard of Hearing" community in various sections of Michigan law.

FISCAL IMPACT: House Bills 5182, 5183, 5184, 5186 and 5188, and Senate Bills 690 to 694, would have no fiscal impact on state or local government.

House Bill 5185, which contains a misdemeanor penalty, would have an indeterminate fiscal impact on the state and on local units of government. Information is not available

on the number of persons that might be convicted under the provisions of the bill. The bill could result in increased costs to local correctional systems. New misdemeanor convictions could increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues. Also, the bill could have a fiscal impact on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bill affected court caseloads and related administrative costs.

House Bill 5187 would have a marginal fiscal impact to the Department of State. The department could see minor savings in not having to replace the books/manuals as often, but those potential savings would be minimal.

THE APPARENT PROBLEM:

The acts these bills would amend were last amended between 27 and 68 years ago, and include outdated and now-offensive terms for deaf, deafblind, and hard of hearing individuals. The bills present an overdue update.

THE CONTENT OF THE BILLS:

House Bill 5182 would amend Public Act 116 of 1893 to clarify that the Michigan School for the Deaf in Flint is an institution for educating the *deaf*, and not the "deaf and dumb." (MCL 393.51)

House Bills 5183, 5184, and 5188 would amend sections of the Division on Deafness Act to replace references to "deaf and dumb" and "hearing impaired" with *deaf, deafblind, and hard of hearing*. Those sections apply to the necessary qualifications for the director and advisory council for the Division on Deaf, DeafBlind, and Hard of Hearing (DODDBHH) within the Michigan Department of Civil Rights, and the responsibilities of the Division. (MCL 408.203, 408.205, and 408.204, respectively.)

House Bill 5185 would amend the section of the Michigan Penal Code which makes it a misdemeanor to falsely represent oneself as disabled, or unable or less able to see or hear, for the purpose of obtaining money or anything of value. Currently, a person is guilty of a misdemeanor for falsely representing himself or herself as "blind, deaf, dumb, crippled, or physically defective[.]" The bill would change the language to prohibit falsely representing oneself as *blind, deaf, deafblind, or hard of hearing or as a person who has a disability*.

The bill would also retain the classification of this behavior as a misdemeanor, but add the penalty, which would be imprisonment for not more than 90 days or a fine of not more than \$500, or both. (MCL 750.221)

House Bill 5186 would amend the Revised School Code to change the language regarding a deaf, deafblind, or hard of hearing person's ability to receive a teaching certificate to teach members of that community, by replacing references to "hearing impaired" students with students who are *deaf, deafblind, and hard of hearing*. (MCL 380.1534)

House Bill 5187 would amend Public Act 44 of 1899, which applies to laws, documents, and reports. Currently, certain people, officers, and municipalities must deliver documents distributed by the Michigan Secretary of State to their successors in office. The bill would retain that requirement, as well as the penalty of up to 90 days imprisonment or a fine of up to \$50, or both, for the misdemeanor of failing to deliver those documents to a successor. However, it would remove the language stating that "township and county officers receiving the abstract of reports of county superintendents of the poor, of sheriffs, or of the insane, deaf, dumb and blind, shall not be required to pass them over to their successors." (MCL 24.34)

Senate Bill 690 would amend the Michigan Telecommunications Act, which requires providers of basic local exchange service (BLES) to provide a text telephone-telecommunications device to people certified as deaf, hard of hearing, or speech impaired, at cost, and to public safety answering points. (BLES is the simplest form of landline phone service available). The bill would add *deafblind* people to the list of those who can receive this service, and update language which allows the Michigan Public Service Commission to waive costs for the service. (MCL 484.2315)

Senate Bill 691 would amend the Public Health Code's definition of "practice of speech-language pathology" to include providing speech therapy to *deaf, deafblind, and hard of hearing persons and their families* rather than hearing impaired individuals and their families. (MCL 333.17601)

Senate Bill 692 would amend the Mental Health Code to use the terms *deaf, deafblind, and hard of hearing* persons when describing the individuals intended to be helped by the state's Mental Health Advisory Council on Deafness. (MCL 330.1939)

Senate Bill 693 and Senate Bill 694 would change the name of the Division on Deafness Act to the *Division on Deaf, Deafblind, and Hard of Hearing Act*, and update terminology within the act. They would amend the definition for "deaf person," replace the definition for "hearing impaired person" with "hard of hearing person," and update the terminology, and add a definition for "deafblind person." The new and amended definitions follow. (MCL 408.201 and MCL 408.202)

Deaf person: a person who is not able to process information aurally, with or without amplification, and whose primary means of communication is visual or by receiving spoken language through other sensory input, including, but not limited to, lip reading, sign language, finger spelling, or reading.

Deafblind person: a person who has a combination of hearing loss and vision loss, and that combination necessitates specialized interpretation of spoken and written information in a manner appropriate to each person's dual sensory loss.

Hard of hearing person: a person who has hearing loss that ranges from mild to profound. A hard of hearing person uses residual hearing, a hearing aid, a cochlear implant, hearing assistive technology, communication access real time translation

(CART), speech reading, or other communication strategies and remains in the hearing world.

House Bills 5184 to 5188 and Senate Bill 690 to 694 take effect 90 days after enactment. For the House bills, the effective date is August 24, 2016. For the Senate bills, the effective date is September 22, 2016.

BACKGROUND INFORMATION:

Historically, society has used a variety of terms to refer to people who cannot hear. Terms such as "deaf and dumb" and "deaf-mute" are now considered archaic and offensive, since they imply that deaf individuals are not capable of speech. Likewise, "hearing impaired" suggests that a person is somehow broken or deficient.

In fact, the community now known as "Deaf, DeafBlind, and Hard of Hearing" has developed a number of ways of communicating, including American Sign Language (ASL), lip reading, and use of the Communication Access Realtime Translation (CART) services, which allow a hearing individual to type what is being said in real time, to be projected onto a screen, so that the deaf community can read the conversation from the screen.^[1]

There are approximately 609,000 deaf and hard of hearing individuals in Michigan, with a variety of backgrounds, skills, and needs.^[2] A bipartisan, bicameral Legislative Caucus on Deaf, DeafBlind, and Hard of Hearing was established in 2015 to discuss issues facing that community. This package of bills is intended to be a first step to address those varying issues, by first removing offensive terms from Michigan law.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

^[1] <https://nad.org/issues/technology/captioning/cart>

^[2] <http://www.michigan.gov/mdcr/0,4601,7-138-28946-24158--F,00.html>