

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1663

H.P. 1138

House of Representatives, April 24, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative FARNSWORTH of Hallowell.

Cosponsored by Senator GILL of Cumberland, Representative TREAT of Gardiner and Representative RICHARDS of Hampden.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Preserve the Confidentiality of Communications by
Interpreters for the Deaf.**

Be it enacted by the People of the State of Maine as follows:

5 MRSA §48, sub-§4, as enacted by PL 1983, c. 70, is repealed and the following enacted in its place:

4. Privileged communication. A privileged interpreter has a privilege to refuse to disclose any aspect of a communication between deaf and hearing persons if the interpreter facilitated that communication. A privileged interpreter may waive the privilege only if all clients to that communication consent to that waiver. As used in this subsection, the following terms have the following meanings.

A. "Client" means either a deaf or hearing person rendered interpreting services by a privileged interpreter.

B. "Privileged interpreter" means a person identified by the clients as one necessary to facilitate accurate communication between the clients and who otherwise does not have a substantial personal or business interest in the communication.

STATEMENT OF FACT

The right to privacy of deaf persons who require interpreting services is unequal to the right of hearing persons unless their interpreters have the right to refuse to disclose the content of communications facilitated by the interpreters. This bill provides an interpreter with a privilege to refuse to disclose any communications the interpreter witnessed while interpreting. Additionally, the client of interpreting services, who may be either a deaf or hearing person, may assert the privilege against the interpreter and thereby prevent disclosure by the interpreter. The privilege applies to communications between the deaf and hearing regardless of the professional roles or ages of those parties. The interpreter-client privilege differs from other evidentiary privileges in 2 respects: the privilege may be invoked in both judicial and nonjudicial settings and the interpreter may invoke the privilege on the interpreter's behalf.