

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 631

H.P. 465

House of Representatives, February 23, 1995

**An Act to Increase Access to the Legislature and Government Services
for Persons Who Are Deaf or Hard of Hearing and to Make Progress
towards Compliance with the Americans with Disabilities Act.**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TREAT of Gardiner.
Cosponsored by Senator BENOIT of Franklin and
Representatives: ADAMS of Portland, CLOUTIER of South Portland, DEXTER of Kingfield,
DiPIETRO of South Portland, GOULD of Greenville, GREEN of Monmouth, HATCH of
Skowhegan, JONES of Bar Harbor, MITCHELL of Vassalboro, RICHARDSON of Portland,
ROTONDI of Madison, VIGUE of Winslow, WATSON of Farmingdale, Senators: MILLS of
Somerset, PARADIS of Aroostook.

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

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Sec. 1. 3 MRSA §163-B is enacted to read:

§163-B. Services within legislative branch

To assist in complying with state and federal laws regarding persons with disabilities, the following provisions apply to the Legislature.

1. Interpreters. Two full-time employees must be hired to serve as interpreters for the deaf and hard of hearing in all matters in which a request is made for interpretive services before the Legislature, any of the committees of the Legislature, any legislative function and meetings attended by Legislators in their capacities as Legislators. An interpreter must meet all of the qualifications of this subsection to be eligible to be hired.

A. An interpreter must meet the qualifications of Title 5, section 48, subsection 1, paragraph G and must be able to assess consumer needs and provide appropriate services, including American Sign Language, oral interpretation and signed English.

B. An interpreter must be eligible for national certification and must obtain national certification within 3 years of beginning employment.

C. An interpreter must be knowledgeable about legislative processes and terminology.

2. Large area listening systems. Large area listening systems must be installed in the following locations within the State House complex and must be maintained in working order and made available to the public:

A. The gallery of the Senate;

B. The gallery of the House of Representatives;

C. The public seating area of the committee room of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; and

D. The public seating area of the committee room, other than the room listed in paragraph C, having the largest capacity for public seating.

3. Cooperation with other state entities. To the extent that the services of the interpreters hired pursuant to this

2 section are not required within the legislative branch, the
3 Legislature shall make the services of the interpreters available
4 to state and quasi-independent departments, agencies, offices,
5 boards and commissions.

6 4. Privileged communication. Except when a court in the
7 exercise of sound discretion determines the disclosure necessary
8 to the proper administration of justice, a privileged interpreter
9 may not disclose any aspect of a confidential communication
10 facilitated by that interpreter unless all clients of the
11 privileged interpreter privy to that communication consent to the
12 disclosure.

14 **Sec. 2. 5 MRSA §48**, as amended by PL 1993, c. 708, Pt. J, §1,
15 is further amended to read:

16 **§48. Interpreter service for the deaf and hard of hearing**

18 **1. Definitions.** As used in this section, unless the
19 context otherwise indicates, the following terms shall have the
20 following meanings.

22 A. "Compensation" means the fee for an interpreter's time
23 of service as provided by an appointed qualified interpreter.

26 A-1. "Client" means a person who is deaf, hard of hearing
27 impaired or hearing who is rendered interpreting services by
28 a privileged interpreter.

30 A-2. "Confidential communication" means a communication
31 that a client has a reasonable expectation is not being
32 disclosed to persons other than a privileged interpreter and
33 any client to whom the communication is intended to be made.

34 B. "Deaf person" means a person whose sense of hearing is
35 nonfunctional for the purpose of ordinary auditory
36 communication.

38 C. "Directory" means a listing of all qualified
39 interpreters in the State.

42 D. "Hearing-impaired Hard-of-hearing person" means a person
43 whose sense of hearing is defective, but still functional,
44 with or without amplification.

46 E. "Interpreting agency" means an agency whose function is
47 to provide qualified interpreter services for a fee,
48 including travel expenses.

50 E-1. "Privileged interpreter" means a person identified by
clients as necessary to facilitate accurate communication

2 between the clients and who otherwise has no substantial
personal or business interest in the communication.

4 F. "Proof of deafness or being hard of hearing impairment"
6 means reasonable proof ~~which~~ that a state agency or county
8 may require a person requesting the appointment of a
qualified interpreter or a qualified person to furnish when
it has reason to believe that the person is not deaf or hard
of hearing impaired.

10 G. "Qualified interpreter" means a person with who has the
12 knowledge and demonstrated understanding of the code of
ethics ~~of~~ as written by the National Registry of
14 Interpreters for the Deaf, Inc., who is able to ~~recognize~~
~~the-comprehension-level-of-a-deaf-or-hearing-impaired-person~~
~~and-is-able-to-communicate-effectively-in-a-mode-of~~
~~communication-used-by-the-deaf-or-hearing-impaired-person~~
~~and-to-interpret-accurately-the-statements-of-the-deaf-or~~
~~hearing-impaired-person~~ accurately interpret, both
20 receptively and expressively, in American Sign Language and
English and who is able to communicate effectively with the
22 parties involved.

24 H. "Agency" means any authority, board, bureau, commission,
26 department or officer of State Government, or of any county,
municipality, school district or any other political or
administrative subdivision.

28 I. "Travel expenses" means actual expense for
30 transportation reimbursable at the usual state mileage rate,
tolls, parking fees or other fees specified in an agreement
32 between an interpreter or an interpreter agency and an
agency or court retaining the services of the interpreter at
34 a specific date, time and place.

36 **2. Interpreter services required.** A qualified interpreter
shall ~~be~~ is appointed as follows.

38 A. Whenever any personal or property interest of a deaf or
40 ~~hearing-impaired~~ hard-of-hearing person is the subject of a
proceeding before any agency or court, the presiding officer
42 of the proceeding shall, in consultation with the deaf or
~~hearing-impaired~~ hard-of-hearing person, appoint a qualified
44 interpreter.

46 B. In appointing a qualified interpreter, the presiding
officer shall give first consideration to persons who are
48 certified by the National Registry of Interpreters for the
Deaf, Inc.

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2 C. The presiding officer may require proof of deafness or
3 being hard of hearing impairment prior to appointing a
4 qualified interpreter.

6 D. The interpreter ~~shall~~ must be appointed after
7 consultation with the deaf or ~~hearing-impaired~~
8 hard-of-hearing person. If the appointed qualified
9 interpreter does not meet the needs of the deaf or ~~hearing~~
10 ~~impaired~~ hard-of-hearing person, the presiding officer
11 shall, with the consent of the deaf or ~~hearing-impaired~~
12 hard-of-hearing person, appoint another qualified
13 interpreter.

14 **3. Interpreting services and coordination for interpreters;**
15 **request to the Office of Rehabilitation Services; interpreter**
16 **compensation; continuation of services.** Interpreting services
17 and coordination for interpreters are governed as follows.

18 A. With the cooperation of the Maine Association of the
19 Deaf and the ~~National~~ Registry of Interpreters for the Deaf,
20 Inc., the Office of Rehabilitation Services is authorized
21 and directed to prepare and continually update a listing of
22 qualified and available interpreters.

24 B. When requested by an agency or court, the Office of
25 Rehabilitation Services shall furnish the agency or court
26 with a directory of information on appropriate and qualified
27 interpreter sources.

30 C. An interpreter appointed under this section must be
31 reimbursed by the Office of Rehabilitation Services, upon
32 certification by the appropriate agency or court of services
33 performed, at a fixed rate reflecting the current fee
34 schedule as established by the Office of Rehabilitation
35 Services, plus travel expenses; except that employees of the
36 State or any of its political subdivisions, public employees
37 and public or private school, university and college
38 teachers or administrators for interpreting services or
39 anyone who receives salary during regular work hours may not
40 be reimbursed under this section for interpreter services
41 performed during their regular working hours. Nothing in
42 this section prevents any agency or court from employing a
43 qualified interpreter on a full-time basis or under contract
44 at a mutually agreed upon compensation rate.

46 D. It is the sole responsibility of the Director of the
47 Office of Rehabilitation Services to ensure implementation
48 and continuation of the provisions of this section.

50 **4. Privileged communication.** Except when a court in the
exercise of sound discretion determines the disclosure necessary

2 to the proper administration of justice, a privileged interpreter
3 may not disclose any aspect of a confidential communication
4 facilitated by that interpreter unless all clients of the
5 privileged interpreter privy to that communication consent to the
6 disclosure.

7 5. Services within Executive Department. In order to
8 comply with all state and federal laws, 2 full-time employees
9 must be hired to serve as interpreters for the deaf and hard of
10 hearing in all matters in which a request is made for
11 interpretive services before any state or quasi-independent
12 department, agency, office, board or commission. An interpreter
13 must meet all of the qualifications of this subsection to be
14 eligible to be hired.

15 A. An interpreter must meet the qualifications of
16 subsection 1, paragraph G and must be able to assess
17 consumer needs and provide appropriate services, including
18 American Sign Language, oral interpretation and signed
19 English.

20 B. An interpreter must be eligible for national
21 certification and obtain national certification within 3
22 years of beginning employment.

23 C. An interpreter must be knowledgeable about governmental
24 processes and terminology.

25 **Sec. 3. Report from Legislative Council and state accessibility**
26 **office.** The Executive Director of the Legislative Council and the
27 state accessibility office within the Department of Education,
28 Office of Rehabilitation Services shall submit reports to the
29 Joint Standing Committee on Judiciary by March 1, 1996. The
30 reports must address the use of closed captioning and large area
31 listening systems in all facilities used for public meetings and
32 public legislative functions, the provision of portable assistive
33 listening systems and full audio wiring of all legislative
34 hearing rooms. The reports must include plans to achieve
35 compliance with all requirements of state and federal law
36 regarding the deaf and hard of hearing. The report must include
37 a schedule for achieving compliance and a listing of all tasks,
38 services and costs involved and any necessary legislation.

39 **Sec. 4. Process for hiring interpreters.** When hiring the 2
40 interpreters pursuant to the Maine Revised Statutes, Title 3,
41 section 163-B and the 2 interpreters pursuant to Title 5, section
42 48, subsection 5, the hiring authorities shall include in the
43 hiring process and in the interviews a committee of the deaf and
44 hard of hearing and a certified interpreter recommended by the
45 Maine Registry of Interpreters for the Deaf to ensure that the
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2 interpreters who are hired are able to communicate effectively
with deaf or hard-of-hearing persons.

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STATEMENT OF FACT

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10 This bill requires the State to hire 2 interpreters to work
for state agencies and 2 interpreters to work for the Legislature
to begin to satisfy mandates that require the State and the
12 Legislature to be accessible to persons who are deaf or hard of
hearing. The bill requires the hiring entities to involve the
deaf and hard of hearing in the hiring process and the
14 interviews. The bill requires reports from the Legislature and
the state accessibility office on plans to achieve compliance
16 with state and federal laws. The reports must include costs and
necessary legislation. The bill assists the State and the
18 Legislature in meeting the requirements of state and federal law,
but does not in and of itself achieve or ensure compliance. The
20 bill also brings up to date language in current law.