

# MAINE STATE LEGISLATURE

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LABOR

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STATE OF MAINE  
SENATE  
121ST LEGISLATURE  
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 620, L.D. 1688, Bill, "An Act To Clarify the Law Regarding Interpreting Services for People Who Are Deaf or Hard-of-hearing"

Amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 5 MRSA §48-A is enacted to read:

§48-A. Communication services for deaf persons and hard-of-hearing persons in court and other legal settings

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advocate" means a person who is not a lawyer and who provides to the public advice or other substantive legal work that is not prohibited by law or regulation.

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

C. "Bureau" means the Department of Labor, Bureau of Rehabilitation Services.

**COMMITTEE AMENDMENT**

2           D. "CART" means computer-assisted real-time transcription  
3           using specialized equipment to transcribe real time  
4           word-for-word spoken English into written English that can  
5           be viewed on a computer screen or projected onto a large  
6           screen.

8           E. "CART provider" means a person who provides CART.

10          F. "Client" means a deaf person, a hard-of-hearing person  
11          or a hearing person who is provided interpreting services by  
12          a privileged interpreter.

14          G. "Confidential communication" means a communication that  
15          a client has a reasonable expectation is not being disclosed  
16          to persons other than a privileged interpreter and any  
17          client to whom the communication is intended to be made.

18          H. "Deaf interpreter" means a deaf person or  
19          hard-of-hearing person with native or near-native fluency in  
20          American Sign Language who has training in interpreting and  
21          training or experience in the use of gesture, mime, props,  
22          drawings and other tools to enhance communication for deaf  
23          persons with minimal language skills.

26          I. "Deaf person" means a person whose sense of hearing is  
27          nonfunctional for the purpose of communication and who must  
28          depend primarily upon visual communication.

30          J. "Hard-of-hearing person" means a person who has a  
31          hearing loss resulting in a functional loss, but not to the  
32          extent that the person must depend primarily upon visual  
33          communication.

34          K. "Interpreting organization" means an organization whose  
35          function is to provide qualified legal interpreter services  
36          for a fee.

38          L. "Privileged interpreter" means a person identified by  
39          clients as necessary to facilitate accurate communication  
40          between the clients and who otherwise has no substantial  
41          personal or business interest in the communication.

44          M. "Qualified legal interpreter" means a person who is  
45          licensed under Title 32, chapter 22 as a certified  
46          interpreter, certified deaf interpreter or certified  
47          transliterator and who:

48                   (1) Is a hearing person who:

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(a) Holds a current Specialist Certificate: Legal from the Registry of Interpreters for the Deaf, Inc. or its successor;

(b) Satisfies the eligibility criteria for taking the exam for the specialist certificate described in division (a) as long as, by January 1, 2012, that person obtains the specialist certificate described in division (a); or

(c) Is included on the bureau's list of qualified interpreters on the effective date of this section, as long as that person, by January 1, 2006, meets the eligibility criteria for taking the exam for the specialist certificate described in division (a) and, by January 1, 2012, obtains the specialist certificate described in division (a); or

(2) Is a deaf interpreter who holds a current Certificate of Interpretation from the Registry of Interpreters for the Deaf, Inc. or its successor or a Reverse Skills Certificate from the Registry of Interpreters for the Deaf, Inc. or its successor. Beginning January 1, 2006, a deaf person or hard-of-hearing person must also satisfy the eligibility criteria for taking the exam for the Specialist Certificate: Legal or its successor.

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

2. Interpreter services or CART required for agency or court proceedings. When any personal or property interest of a deaf person or hard-of-hearing person or of a minor whose parent or guardian is a deaf person or hard-of-hearing person is the subject of a proceeding before any agency or court, the presiding officer of the proceeding shall appoint a qualified legal interpreter or CART provider.

A. A qualified legal interpreter or CART provider must be appointed under this subsection after consultation with, and giving primary consideration to the request of, the deaf person or hard-of-hearing person. If the appointed qualified legal interpreter does not meet the needs of the deaf person or hard-of-hearing person, the presiding officer

2 shall, with the consent of the deaf person or  
hard-of-hearing person, appoint another qualified legal  
4 interpreter.

6 B. If a qualified legal interpreter appointed under this  
subsection for the deaf person or hard-of-hearing person  
8 states that the interpretation is not satisfactory and that  
a qualified legal interpreter who is a deaf person or a  
10 hard-of-hearing person will improve the quality of  
interpretation, the presiding officer shall appoint a  
12 qualified legal interpreter who is a deaf person or a  
hard-of-hearing person to assist the qualified legal  
14 interpreter.

16 C. The presiding officer shall appoint as many qualified  
legal interpreters under this subsection as are necessary to  
18 meet the needs of the deaf person or hard-of-hearing person.

20 D. A qualified legal interpreter or CART provider  
appointed under this subsection must be reimbursed by the  
22 agency or court conducting the proceeding at a rate  
negotiated with the qualified legal interpreter or  
24 interpreting organization, plus travel expenses; except that  
employees of the State or any of its political subdivisions,  
26 public employees and public or private school, university  
and college teachers or administrators for interpreting  
28 services or anyone who receives a salary during regular work  
hours may not be reimbursed under this subsection or  
30 subsection 3 for interpreter services performed during their  
regular working hours. This paragraph does not prevent any  
32 agency or court from employing a qualified legal interpreter  
on a full-time basis or under contract at a mutually  
34 agreed-upon compensation rate.

36 E. It is the responsibility of the agency or court  
conducting the proceeding to ensure compliance with the  
38 provisions of this subsection.

40 3. Interpreting services or CART for consultation with  
appointed attorneys. When a court appoints an attorney to  
42 represent a deaf person or hard-of-hearing person or to represent  
a juvenile whose parent or guardian is a deaf person or  
44 hard-of-hearing person, the court shall provide interpreting  
services or CART in accordance with this subsection to allow for  
46 effective consultation between the attorney and client.  
Interpreting services or CART provided under this subsection must  
48 be paid for directly by the court and is not the responsibility  
of the attorney.

50 4. Legal interpreting fund for services of attorneys and

2 advocates, generally. The bureau shall maintain a legal  
3 interpreting fund, which must be used to reimburse private  
4 attorneys and advocates for the cost of interpreting services or  
5 CART that assists the attorney or advocate in effectively  
6 representing deaf persons or hard-of-hearing persons in cases in  
7 which subsection 3 does not apply. This fund may not be used to  
8 cover interpreting services or CART for actual proceedings  
9 pursuant to subsection 2.

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

17 6. Oath. Every qualified legal interpreter appointed under  
18 subsection 2 shall, before performing the qualified legal  
19 interpreter's duties, take an oath that the qualified legal  
20 interpreter will make a true interpretation in an understandable  
21 manner to the person for whom the qualified legal interpreter is  
22 appointed, and that the qualified legal interpreter will repeat  
23 the statements of the person in the English language to the best  
24 of the qualified legal interpreter's ability.

25 7. Provide information. With the cooperation of the  
26 Registry of Interpreters for the Deaf, Inc. or its successor, the  
27 bureau shall prepare and continually update a directory listing  
28 all qualified legal interpreters in the State. When requested by  
29 an agency or court, the bureau shall furnish the agency or court  
30 with the directory. The Division of Deafness within the bureau  
31 shall also provide information to the public, including state  
32 agencies and individuals who work with interpreters, regarding  
33 the qualifications necessary to become a qualified legal  
34 interpreter.'

35 Further amend the bill by striking out all of sections 4 and  
36 5 and inserting in their place the following:

37 'Sec. 4. Appropriations and allocations. The following  
38 appropriations and allocations are made.

39 JUDICIAL DEPARTMENT

40 Courts - Supreme, Superior, District & Administrative 0063

41 Initiative: Provides for the transfer of funds from the  
42 Department of Labor, Bureau of Rehabilitation Services beginning  
43 in fiscal year 2004-05 for the purpose of funding American Sign  
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COMMITTEE AMENDMENT "A" to S.P. 620, L.D. 1688

Language interpreting and computer-assisted real-time transcription for people who are deaf or hard-of-hearing who appear before the courts.

4	<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
6	All Other	\$0	\$80,000
8	General Fund Total	<hr/>	<hr/>
		\$0	\$80,000
10	<b>JUDICIAL DEPARTMENT</b>		
12	<b>DEPARTMENT TOTALS</b>	<b>2003-04</b>	<b>2004-05</b>
14	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$80,000</b>
16	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
		<b>\$0</b>	<b>\$80,000</b>

18 **LABOR, DEPARTMENT OF**

20 **Rehabilitation Services 0799**

22 Initiative: Provides for the transfer of funds to the  
 24 Administrative Office of the Courts beginning in fiscal year  
 26 2004-05 for the purpose of funding American Sign Language  
 interpreting and computer-assisted real-time transcription for  
 people who are deaf or hard-of-hearing who appear before the  
 courts.

28	<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
30	All Other	\$0	(\$80,000)
32	General Fund Total	<hr/>	<hr/>
		\$0	(\$80,000)

34 **LABOR, DEPARTMENT OF**  
 36 **DEPARTMENT TOTALS**

36		<b>2003-04</b>	<b>2004-05</b>
38	<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$80,000)</b>
40	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
		<b>\$0</b>	<b>(\$80,000)</b>

42 **SECTION TOTALS**

42		<b>2003-04</b>	<b>2004-05</b>
44	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
46	<b>SECTION TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
		<b>\$0</b>	<b>\$0'</b>

48 Further amend the bill by relettering or renumbering any  
 nonconsecutive Part letter or section number to read  
 consecutively.

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**SUMMARY**

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This amendment rewrites the substantive section of the bill to clarify the qualifications required for persons who interpret for the deaf or hard-of-hearing in legal settings. It also changes the fiscal year in which funds are transferred to the Judicial Department from fiscal year 2003-04 to fiscal year 2004-05.

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**FISCAL NOTE REQUIRED**  
**(See attached)**

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121st Maine Legislature  
Office of Fiscal and Program Review



LD 1688

An Act to Clarify the Law Regarding Interpreting Services for People who are Deaf or Hard of Hearing

LR 2490(02)

Fiscal Note for Bill as Amended by Committee Amendment "A"  
Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$0	\$0	\$0

**Fiscal Detail and Notes**

This bill includes a General Fund appropriation and deappropriation of \$80,000 in fiscal year 2004-05 which transfers funds from the Department of Labor, Bureau of Rehabilitation Services to the Administrative Office of the Courts for the purpose of funding American Sign Language interpreting and computer-assisted real-time transcription for people who are deaf or hard-of-hearing who appear before the courts.