

SENATE No. 163

The Commonwealth of Massachusetts

PRESENTED BY:

James T. Welch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing the licensure of interpreters and oral transliterators for the deaf.

PETITION OF:

NAME:

James T. Welch

DISTRICT/ADDRESS:

Hampden

SENATE No. 163

By Mr. Welch, a petition (accompanied by bill, Senate, No. 163) of James T. Welch for legislation to establish the licensure of interpreters and oral transliterators for the deaf. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act establishing the licensure of interpreters and oral transliterators for the deaf.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Definitions

2 (a) “MCDHH” means the Massachusetts Commission for the Deaf and Hard of Hearing.

3 (b) “Deaf person” means a person whose primary means of communication is via a
4 signed or other visually represented means, and whose sense of hearing does not allow for
5 effective auditory-based communication. These means include American Sign Language (ASL),
6 Pidgin Signed English (PSE), Signed English, tactile communication, or any other visual and/or
7 gestural modality. For the purposes of this Act, the word “deaf” encompasses the following
8 groups: deaf, hard-of-hearing, late-deafened, oral deaf and deaf-blind.

9 (c) “Other” means a person who may or may not be deaf, but who has a speech disability
10 or other linguistic processing issue that requires the use of interpretation for his or her
11 communication access.

12 (d) “Interpreting” means the process of providing accessible communication between and
13 among those persons who are deaf or others and those persons who can hear, who do not share a
14 common means of communication. This process includes, but is not limited to, interpreting,
15 transliterating, tactile, iconographic, written, visual, gestural and auditory communication.

16 (e) “Interpreter” means an individual who holds national certification in current and good
17 standing conferred by any of those professional certifying bodies recognized by MCDHH, or
18 who holds the state screening in current and good standing conferred by MCDHH.

19 (f) "Oral Transliterater" means an individual who holds national certification in current
20 and good standing conferred by any of those professional certifying bodies recognized by
21 MCDHH, or who holds the State Screening in current and good standing conferred by MCDHH.

22 SECTION 2. Commencing within one year of enactment, all persons providing
23 interpreting or oral transliterating services for monetary compensation within the Commonwealth
24 of Massachusetts, regardless of setting or the interpreter's or oral transliterater's state of
25 residence, shall be licensed by MCDHH. Such licensure shall be conferred upon completion of
26 forms prescribed or furnished by MCDHH and shall include, but not be limited to, the interpreter
27 or oral transliterater's name, address, phone number, and interpreter certification or credentials.
28 MCDHH shall be responsible for conferring licenses upon all qualified interpreters and oral
29 transliteraters as defined in Section 1(e) upon completion of any and all paperwork required by
30 MCDHH and the Commonwealth of Massachusetts, as well as any other procedures required by
31 MCDHH. MCDHH shall maintain an updated list of all interpreters and oral transliteraters
32 licensed to work within the Commonwealth and shall make that list available to any public
33 accommodation, person or entity who so requests it.

34 SECTION 3. No person shall enter into, engage in or work at the business of interpreting
35 or oral transliterating for monetary compensation, or represent him or herself as an interpreter or
36 oral transliterater, unless such person is duly licensed by the MCDHH in accordance with this
37 chapter.

38 SECTION 4. No public or private entity, place of business, place of public
39 accommodation, government, state or local agency, private or public agency, individual, firm,
40 partnership or corporation shall hire a person to provide interpreting or oral transliterating
41 services for monetary compensation who is not duly licensed by MCDHH in accordance with
42 this chapter.

43 SECTION 5: Any person found to be in violation of Section (2) or (3) is guilty of a
44 misdemeanor and, upon conviction thereof, shall be fined not less than Two Hundred Dollars
45 (\$200.00) nor more than One Thousand Dollars (\$1000.00).

46 SECTION 6: Any deaf person who is denied a licensed interpreter or oral transliterater
47 by a public accommodation or entity and as required by this chapter when the situation
48 necessitates the use of an interpreter or oral transliterater, in accordance with state and federal
49 laws, when such deaf person requests a licensed interpreter or oral transliterater, or the attorney
50 general upon receiving written notice from the Massachusetts Commission for the Deaf and Hard
51 of Hearing, shall have a right of action in the superior court against such public accommodation
52 or entity for declaratory or injunctive relief. A deaf person bringing such action shall not be
53 required to exhaust any administrative remedies that may be available to him and may be
54 awarded damages for any actual harm suffered, but at least \$250 in damages shall be awarded for
55 each violation, together with such costs, including expert fees and attorney's fees, as may be

56 reasonably incurred in such action. Such action shall be brought within three years of any such
57 failure to provide a licensed interpreter or oral transliterator.

58 SECTION 7: Persons, such as interpreting students or recent graduates of interpreter
59 training programs, or volunteer interpreters, providing interpreting or oral transliterating services
60 not for monetary compensation, or in religious settings, are not subject to the requirements of
61 this chapter.

62 SECTION 8: MCDHH shall grant provisional licenses to those persons providing
63 interpreting services to deaf-blind people in deaf-blind only settings that shall exempt them from
64 the requirements of this chapter until such time as MCDHH establishes a deaf-blind interpreter
65 quality assurance program. Persons providing interpreter services to deaf-blind people in settings
66 other than deaf-blind only settings, such as, but not limited to, meetings with health care or other
67 service providers, school meetings, meetings with state or private agencies or entities, meetings
68 or interviews in employment settings, are subject to all of the requirements of this chapter.

69 SECTION 9: MCDHH shall develop and establish a formal grievance procedure
70 regarding individual interpreter or oral transliterator conduct in accordance with the
71 Commonwealth's laws governing executive branch agencies with input and approval from the
72 Massachusetts State Association for the Deaf, Massachusetts Chapter of the Registry of
73 Interpreters for the Deaf, Western Massachusetts Association for the Deaf and Hearing Impaired
74 and all other key Deaf and interpreter consumer and stakeholder groups statewide.

75 SECTION 10: MCDHH shall, with input from the Legal Interpreter Task Force, create
76 administrative regulations outlining all situations that MCDHH determines qualify as out-of-
77 court legal interpreting assignments falling within the protection of M.G.L. ch. 221 § 92A, in
78 addition to those described therein, and shall be responsible for all referral of interpreters for
79 such assignments within the Commonwealth.