

SENATE No. 205

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. 205

By Mr. Welch, a petition (accompanied by bill, Senate, No. 205) of James T. Welch for legislation to establish the licensure of interpreters and oral transliterators for the deaf. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 163 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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.

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

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

(e) “Interpreter” means a person who has completed a formal course of study and holds certification from the national Registry of Interpreters for the Deaf in current and good standing, or holds State Screening from the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) and who provides the cultural and linguistic transmission of meaning between English and American Sign Language.

(f) “Oral Transliterater” means a person who provides inaudible repetition of a message in a given environment by mouthing the speaker’s words. It is of benefit to persons who are good lip-readers and prefer this mode of communication access. An Oral Transliterater has completed a formal course of study and holds certification from the national Registry of Interpreters for the Deaf in current and good standing, or holds State Screening in current and good standing from MCDHH.

(g) “Transliterater” means a person who has completed a formal course of study and holds certification from the national Registry of Interpreters for the Deaf in current and good standing, or holds State Screening in current and good standing from MCDHH, and who

transmits a message from spoken English to a visual, manually coded version of English and vice versa. A transliterator often includes lip-movement of English words as well as signing.

(h) "Intermediary interpreter" means a person who, because of an intimate acquaintance with deaf or hard of hearing persons who use mainly natural or unusual gestures for communicating, can act as a mediator between the hard of hearing person and the qualified interpreter. Intermediary interpreters or as they are more commonly called, relay interpreters, are trained interpreters who are themselves deaf or hard of hearing persons. An Intermediary Interpreter has completed a formal course of study and holds certification from the national Registry of Interpreters for the Deaf in current and good standing, or holds State Screening in current and good standing from MCDHH.

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

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

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

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

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

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

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

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

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

93 SECTION 10. MCDHH shall, with input from the Legal Interpreter Task Force, create
94 administrative regulations outlining all situations that MCDHH determines qualify as out-of-
95 court legal interpreting assignments falling within the protection of M.G.L. ch. 221 § 92A, in

96 addition to those described therein, and shall be responsible for all referral of interpreters for
97 such assignments within the Commonwealth.