

SENATE No. 198

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:	DISTRICT/ADDRESS:	
<i>James T. Welch</i>	<i>Hampden</i>	
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/1/2019</i>
<i>John C. Velis</i>	<i>4th Hampden</i>	<i>2/4/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>6/24/2019</i>

SENATE No. 198

By Mr. Welch, a petition (accompanied by bill, Senate, No. 198) of James T. Welch, Eric P. Lesser and John C. Velis 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 One Hundred and Ninety-First General Court
(2019-2020)

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.

(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 an individual who holds national certification in current and good standing conferred by any of those professional certifying bodies recognized by MCDHH, or who holds the State Screening in current and good standing conferred by MCDHH.

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

SECTION 2. Commencing within one year of enactment, all persons or entities providing interpreting or oral transliterating services for monetary compensation within the Commonwealth of Massachusetts, regardless of setting or the interpreter’s, entity’s, or oral transliterator’s state of residence or incorporation, 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. Any companies, agencies, public or

private entities, corporations, partnerships or any other business entities wishing to provide interpreting or oral transliterating services within the Commonwealth of Massachusetts must submit a notarized letter certifying on pain of perjury that all interpreters hired and utilized by them are certified by RID, Inc. or other national certifying body MCDHH recognizes in accordance with the definition in Section 1 (e). MCDHH shall be responsible for conferring

licenses upon all qualified interpreters, oral transliterators and entities 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, oral transliterators and entities licensed to work or provide interpreting or oral transliterating services within the Commonwealth and shall make that list available to any public accommodation, person or entity who so requests it.

SECTION 3. MCDHH shall be empowered to collect and retain reasonable licensure fees, in accordance with the Commonwealth's laws governing executive branch agencies, for the purposes of overseeing and maintaining a statewide licensure system for interpreters, oral transliterators, and entities providing interpreting and oral transliterating services.

SECTION 4. 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 5. 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 6. Any person found to be in violation of Section (2), (4), or (5) 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). All fines collected shall be remitted

to MCDHH for the purposes of overseeing and maintaining a statewide licensure system for interpreters, oral transliterators, and entities providing interpreting and oral transliterating services.

SECTION 7. 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 reasonably incurred in such action. Such action shall be brought within three years of any such failure to provide a licensed interpreter or oral transliterator.

SECTION 8. Persons, such as interpreting students or recent graduates of interpreter training programs, or volunteer interpreters, providing interpreting or oral transliterating services not for monetary compensation, or in religious settings, are not subject to the requirements of this chapter.

SECTION 9. Interpreters or Oral Transliterators who reside in states other than Massachusetts, who are duly licensed in those states, and whose state licensure requirements

meet or exceed the licensure requirements of this section shall be awarded a Massachusetts License at no cost upon submission to MCDHH of the following:

(1) A signed application which shall include simply the applicant's name, address and contact information;

(2) A copy of the other state's license;

(3) Written verification that the license is in good standing;

(4) Documentation (on the license itself or in another official written form) that the other state's license reflects that the Interpreter or Oral Transliterators holds national certification in current and good standing conferred by any of those professional certifying bodies recognized by MCDHH, or who holds the State Screening in current and good standing conferred by MCDHH.

(a) Interpreters or Oral Transliterators licensed in other states who do not possess the credentials outlined in section (4) above shall not receive a Massachusetts License.

SECTION 10. MCDHH shall develop and establish a formal grievance procedure regarding individual interpreter or oral transliterator conduct in accordance with the Commonwealth's laws governing executive branch agencies with input and approval from the MSAD, MassRID, WMAD and all other key Deaf and interpreter consumer and stakeholder groups statewide. Such procedure shall be executed by an independent council or board made up of Deaf, Deaf Parented and hearing interpreters, oral transliterators and members of the Deaf community, as determined by the organizations listed above. MCDHH shall abide by and carry out the decisions and recommendations of this independent council regarding interpreter or oral transliterators conduct.

98 SECTION 11. MCDHH shall consult with the majority of interpreters currently working
99 in court and legal settings, including at least four freelance court and legal interpreters, to create
100 administrative regulations outlining all situations that MCDHH determines qualify as out-of-
101 court legal interpreting assignments falling within the protection of M.G.L. ch. 221 § 92A, in
102 addition to those described therein, and shall be responsible for all referral of interpreters for
103 such assignments within the Commonwealth.