

2013 -- H 5830 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS

Introduced By: Representatives Handy, Naughton, Jacquard, Williams, and Ajello

Date Introduced: February 28, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-5-8 of the General Laws in Chapter 8-5 entitled "Court
2 Secretaries, Court Reporters, and Electronic Court Reporters" is hereby amended to read as
3 follows:
4 **~~8-5-8. Interpreters for deaf and hearing impaired persons.~~ Sign language**
5 **interpreters/translators and Communication Access Realtime Translation (CART)**
6 **providers for deaf, hard of hearing, and deaf-blind persons.** -- (a) In all civil and criminal
7 cases, in workers' compensation, district, family, and superior court proceedings, mental health
8 court competency hearings, and in the state traffic ~~tribunal~~ tribunals, and in any case in any
9 municipal court, including, but not limited to, on-site court-provided alternative dispute
10 resolution, mediation, arbitration, diversion/intervention program or treatment; and in an
11 administrative, commission, or agency hearing; pursuant to chapter 18 of this title, where a party
12 or a witness is a person who is deaf, ~~or~~ hard of hearing, or deaf-blind or a juvenile whose parent
13 or parents are deaf, hard of hearing, or deaf-blind is brought before a court for any reason, he or
14 she shall have the proceedings ~~of the trial interpreted~~ accessible to him or her in a language that
15 he or she can understand by a ~~qualified interpreter~~ sign language interpreter/transliterator, or a
16 CART provider appointed by the court. In any case where ~~an interpreter~~ a sign language
17 interpreter/transliterator, or a CART provider is required to be appointed by the court under this
18 section, the court shall not commence proceedings until the appointed ~~interpreter~~ sign language
19 interpreter/transliterator, or a CART provider is in court in a position not exceeding ten feet (10')

1 from and in full view of the person who is deaf, ~~or~~ hard of hearing, or deaf-blind ~~or hard of~~
2 ~~hearing~~. The ~~interpreter~~ sign language interpreter/transliterator, or a CART provider appointed
3 under the terms of the section shall be required to take an oath that he or she will ~~make a true~~
4 ~~interpretation to~~ make a legally equivalent, linguistically true interpretation, transliteration, or
5 transcription for the person who is deaf, ~~or~~ hard of hearing, or deaf-blind of all the proceedings or
6 hearings of the case or claim in a language that he or she understands; and will ~~repeat the answer~~
7 orally transfer the meaning of the answer and any other statements of the person who is deaf, ~~or~~
8 hard of hearing, or deaf-blind to questions to counsel, or the court, ~~or jury~~ in the English
9 language, ~~in his or her best skill and judgment~~ with exactitude, while accurately reflecting the
10 form and content of the linguistic and paralinguistic elements of the speaker's discourse.

11 Assistive listening devices are other reasonable and effective auxiliary aids available
12 provided for the deaf, hard of hearing, and deaf-blind who need to maximize their engagement in
13 the proceedings or hearings in addition to interpreters/transliterators and/or CART providers.

14 (b) For the purposes of this section, ~~"person who is hard of hearing" means a person who~~
15 ~~as a result of a hearing impairment, requires sign language and/or speech reading as part of his or~~
16 ~~her communication system. A "qualified interpreter" means an interpreter for the person who is~~
17 ~~hard of hearing skilled in sign language or oral interpretation and transliteration, having the~~
18 ~~ability to communicate accurately with a person who is deaf or hard of hearing. An interpreter~~
19 "sign language interpreter/transliterators" means a person who is a certified interpreter as defined
20 in chapter 5-71 in providing the interpreting and transliterating services for the deaf, hard of
21 hearing, and deaf-blind. "CART provider" means a person who is a qualified communication
22 access realtime translation (CART) service provider certified by the national court reporters
23 association. "Paralinguistic elements" means a non-verbal element of language, including all of
24 the pauses, hedges, self-corrections, hesitations, and emotion as they are conveyed through tone
25 of voice, word choice, level of formality, tone of voice, and intonation. "Assistive listening device
26 (ALD) or assistive listening system (ALS)" means instruments that are designed to improve a
27 person's ability to hear in specific listening situations. Some ALDs amplify a sound signal, but the
28 primary purpose of an ALD is to make the targeted sound easier to hear by isolating the sound
29 source from surrounding noise. Examples are induction loop systems, frequency-modulated (FM)
30 systems, infrared systems, and personal amplifiers. A sign language interpreter/transliterators, or a
31 CART provider shall be deemed qualified in accordance with United States department of justice
32 regulations effectuating Title II of the federal "Americans with disabilities act of 1990", as from
33 time to time may be amended, Pub. L. 101-336, codified at 42 U.S.C. sec. 12101, et. seq.,
34 including regulations, analysis, and technical assistance and as determined by the definition of the

1 Rhode Island general laws 5-71 and the ~~commission on the deaf and hard of hearing~~ Commission
2 on the Deaf and Hard of Hearing, based upon recommendations from the ~~commission and the~~
3 ~~deaf and hard of hearing interpreter screening committee~~, the ~~Rhode Island association of the~~
4 ~~deaf, the national registry of interpreters for the deaf~~, National Association of the Deaf, the
5 National Registry of Interpreters for the Deaf, the National Hearing Loss Association of America
6 and other appropriate agencies. The ~~commission on the deaf and hard of hearing~~ Commission on
7 the Deaf and Hard of Hearing shall coordinate all requests for qualified ~~interpreters~~ sign language
8 interpreters/transliterators and CART providers and shall maintain a list of all such ~~interpreters~~
9 sign language interpreters/transliterators and CART providers from which it shall fill such
10 requests. No ~~interpreter~~ sign language interpreter/transliterator and CART provider is precluded
11 from being further examined by the court system.

12 (c) ~~Interpreters~~ Sign language interpreters/transliterators and CART providers appointed
13 under the terms of the section shall be paid by the state or municipality a reasonable
14 compensation fixed by the court.

15 SECTION 2. Chapter 8-5 of the General Laws entitled "Court Secretaries, Court
16 Reporters, and Electronic Court Reporters" is hereby amended by adding thereto the following
17 sections:

18 **8-5-8.1. Waiver of interpreter/transliterator and CART provider.** – (a) A non-
19 English speaking person may at any point in the proceeding waive the right to the services of an
20 interpreter/transliterator or a CART provider, but only when: (1) The waiver is approved by the
21 appointing authority after explaining on the record to the non-English speaking person through an
22 interpreter/transliterator or a CART provider the nature and effect of the waiver; (2) The
23 appointing authority determines on the record that the waiver has been made knowingly,
24 intelligently, and voluntarily; and (3) The non-English speaking person has been afforded the
25 opportunity to consult with his or her attorney.

26 (b) At any point in any proceeding or hearing, for good cause shown, a non-English
27 speaking person may retract his or her waiver and request an interpreter/transliterator or a CART
28 provider.

29 **8-5-8.2. Privileged communications.** – In the trial of every cause, both civil and
30 criminal, no interpreter/transliterator for the deaf, hard of hearing, and deaf-blind shall be
31 competent to testify concerning any statement made to him or her in connection with the
32 interpreter's or transliterator's interpretation or transliteration for the deaf, hard of hearing, and
33 deaf-blind, without the consent of the person making the statement. No duly licensed
34 interpreter/transliterator for the deaf, hard of hearing, and deaf-blind shall be allowed, in giving

1 testimony to disclose any confidential communication, properly entrusted to him or her in his or
2 her professional capacity, and necessary and proper to enable him or her to discharge the
3 functions of his or her office in the usual course of practice or discipline, without the consent of
4 the person making the communication.

5 **8-5-8.3. Visual recording of testimony.** – At the request of any party to the proceeding
6 or the hearing or on the appointing authority's initiative, the appointing authority may order that
7 the testimony of the person who is deaf, hard of hearing, and deaf-blind and the
8 interpretation/transliteration of the proceeding by the qualified interpreter/transliterator be
9 visually recorded for use in verification of the official transcript of the proceeding or hearing.

10 In any judicial proceeding involving a capital offense, the appointing authority may order
11 that the testimony of the person who is deaf, hard of hearing, and deaf-blind and the
12 interpretation/transliteration of the proceeding or the hearing by the qualified
13 interpreter/transliterator be visually recorded for use in verification of the official transcript of the
14 proceeding or the hearing.

15 SECTION 3. This act shall take effect on July 1, 2014.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would require a sign language or Communication Access Realtime Translation
- 2 (CART) provider for all court proceedings.
- 3 This act would take effect on July 1, 2014.

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